

117TH CONGRESS  
1ST SESSION

# H. R. 4611

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2021

Mr. TORRES of New York (for himself and Mr. GARBARINO) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DHS Software Supply  
5 Chain Risk Management Act of 2021”.

1 **SEC. 2. DEPARTMENT OF HOMELAND SECURITY GUIDANCE**  
2 **WITH RESPECT TO CERTAIN INFORMATION**  
3 **AND COMMUNICATIONS TECHNOLOGY OR**  
4 **SERVICES CONTRACTS.**

5 (a) GUIDANCE.—The Secretary of Homeland Secu-  
6 rity, acting through the Under Secretary, shall issue guid-  
7 ance with respect to new and existing covered contracts.

8 (b) NEW COVERED CONTRACTS.—In developing  
9 guidance under subsection (a), with respect to each new  
10 covered contract, as a condition on the award of such a  
11 contract, each contractor responding to a solicitation for  
12 such a contract shall submit to the covered officer—

13 (1) a planned bill of materials when submitting  
14 a bid proposal; and

15 (2) the certification and notifications described  
16 in subsection (e).

17 (c) EXISTING COVERED CONTRACTS.—In developing  
18 guidance under subsection (a), with respect to each exist-  
19 ing covered contract, each contractor with an existing cov-  
20 ered contract shall submit to the covered officer—

21 (1) the bill of materials used for such contract,  
22 upon the request of such officer; and

23 (2) the certification and notifications described  
24 in subsection (e).

25 (d) UPDATING BILL OF MATERIALS.—With respect  
26 to a covered contract, in the case of a change to the infor-

1 mation included in a bill of materials submitted pursuant  
2 to subsections (b)(1) and (c)(1), each contractor shall sub-  
3 mit to the covered officer the update to such bill of mate-  
4 rials, in a timely manner.

5 (e) CERTIFICATION AND NOTIFICATIONS.—The cer-  
6 tification and notifications referred to in subsections  
7 (b)(2) and (c)(2), with respect to a covered contract, are  
8 the following:

9 (1) A certification that each item listed on the  
10 submitted bill of materials is free from all known se-  
11 curity vulnerabilities or defects identified in—

12 (A) the National Institute of Standards  
13 and Technology National Vulnerability Data-  
14 base; and

15 (B) any database designated by the Under  
16 Secretary, in coordination with the Director of  
17 the Cybersecurity and Infrastructure Security  
18 Agency, that tracks security vulnerabilities and  
19 defects in open source or third-party developed  
20 software.

21 (2) A notification of each security vulnerability  
22 or defect, if identified, through—

23 (A) the certification of such submitted bill  
24 of materials required under paragraph (1); or

25 (B) any other manner of identification.

1           (3) A notification relating to the plan to miti-  
2       gate, repair, or resolve each security vulnerability or  
3       defect listed in the notification required under para-  
4       graph (2).

5       (f) ENFORCEMENT.—In developing guidance under  
6       subsection (a), the Secretary shall instruct covered officers  
7       with respect to—

8           (1) the processes available to such officers en-  
9       forcing subsections (b) and (c); and

10          (2) when such processes should be used.

11       (g) EFFECTIVE DATE.—The guidance required under  
12       subsection (a) shall take effect on the date that is 180  
13       days after the date of the enactment of this section.

14       (h) DEFINITIONS.—In this section:

15           (1) BILL OF MATERIALS.—The term “bill of  
16       materials” means a list of the parts and components  
17       of an end product or service, including, with respect  
18       to each part and component, information relating to  
19       the origin, composition, integrity, and any other in-  
20       formation as determined appropriate by the Under  
21       Secretary.

22           (2) COVERED CONTRACT.—The term “covered  
23       contract” means a contract relating to the procure-  
24       ment of covered information and communications

1 technology or services for the Department of Home-  
2 land Security.

3 (3) COVERED INFORMATION AND COMMUNICA-  
4 TIONS TECHNOLOGY OR SERVICES.—The term “cov-  
5 ered information and communications technology or  
6 services” means the terms—

7 (A) “information technology” (as such  
8 term is defined in section 11101(6) of title 40,  
9 United States Code);

10 (B) “information system” (as such term is  
11 defined in section 3502(8) of title 44, United  
12 States Code);

13 (C) “telecommunications equipment” (as  
14 such term is defined in section 3(52) of the  
15 Communications Act of 1934 (47 U.S.C.  
16 153(52))); and

17 (D) “telecommunications service” (as such  
18 term is defined in section 3(53) of the Commu-  
19 nications Act of 1934 (47 U.S.C. 153(53))).

20 (4) COVERED OFFICER.—The term “covered of-  
21 ficer” means—

22 (A) a contracting officer of the Depart-  
23 ment; and

24 (B) any other official of the Department as  
25 determined appropriate by the Under Secretary.

1           (5) SOFTWARE.—The term “software” means  
2       computer programs and associated data that may be  
3       dynamically written or modified during execution.

4           (6) UNDER SECRETARY.—The term “Under  
5       Secretary” means the Under Secretary for Manage-  
6       ment of the Department of Homeland Security.

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