

Comparative Print: Bill to Bill Differences

Comparing the base document 118hr1695ih with H.R. 1695_ANS_xml.

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Offered by Mr. Comer of Kentucky

Strike all after the enacting clause and insert the following:

A BILL

~~To improve the visibility, accountability, and oversight of agency software asset management practices, and for other purposes:~~

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening Agency Management and Oversight of Software Assets Act”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.
- (2) AGENCY.—The term “agency” has the meaning given that term in section 3502 of title 44, United States Code.
- (3) CLOUD COMPUTING.—The term “cloud computing” has the meaning given the term in Special Publication 800–145 of the National Institute of Standards and Technology, or any successor document.
- (4) CLOUD SERVICE PROVIDER.—The term “cloud service provider” ~~means an entity offering cloud computing products or services to agencies~~ *has the meaning given the term in section 3607(b) of title 44, United States Code.*
- (5) COMPREHENSIVE ASSESSMENT.—The term “comprehensive assessment” means a comprehensive assessment conducted pursuant to section 3(a).
- (6) DIRECTOR.—The term “Director” means the Director of the Office of Management and Budget.
- (7) PLAN.—The term “plan” means the plan developed by a Chief Information Officer, or equivalent official, pursuant to section 4(a).
- (8) SOFTWARE ENTITLEMENT.—The term “software entitlement” means any software that—
 - (A) has been purchased, leased, or licensed by or billed to an agency under any contract or other business arrangement; and

(B) is subject to use limitations.

(9) SOFTWARE INVENTORY.—The term “software inventory” means the software inventory of an agency required pursuant to—

(A) section 2(b)(2)(A) of the Making Electronic Government Accountable By Yielding Tangible Efficiencies Act of 2016 (40 U.S.C. 11302 note; Public Law 114–210); or

(B) subsequent guidance issued by the Director pursuant to that Act.

SEC. 3. SOFTWARE ~~ENTITLEMENT AND INVENTORY INTEGRITY~~ INVENTORY UPDATE AND EXPANSION.

(a) IN GENERAL.—As soon as practicable, and not later than ~~1 year~~ 18 months after the date of enactment of this Act, the Chief Information Officer of each agency, in consultation with the Chief Financial Officer, the Chief ~~Procurement~~ Acquisition Officer, the Chief Data Officer, and General Counsel of the agency, or the equivalent officials of the agency, shall complete a comprehensive assessment of the software ~~entitlements and software inventories of~~ paid for by, in use at, or deployed throughout the agency, which shall include—

(1) the current software inventory of the agency, including software entitlements, contracts and other agreements or arrangements of the agency, and a list of the largest software entitlements of the agency separated by ~~vendor~~ provider and category of software;

(2) a comprehensive, detailed accounting of—

(A) any software ~~deployed for the agency~~ used by or deployed within the agency, including software developed or built by the agency, or by another agency for use by the agency, including shared services, as of the date of the comprehensive assessment, including, to the extent identifiable, the contracts and other agreements or arrangements ~~that used by~~ the agency ~~uses~~ to acquire, build, deploy, or use such software;

(B) information and data on software entitlements, which shall include information on any additional fees or costs, including fees or costs for the use of cloud services, that ~~is~~ are not included in the initial costs of the contract, agreement, or arrangement—

(i) for which the agency pays;

(ii) that are not deployed or in use by the agency; and

(iii) that are billed to the agency under any contract or business arrangement that creates ~~redundancy~~ duplication, or are otherwise determined to be unnecessary by the Chief Information Officer of the agency, or the equivalent official, in the deployment or use by the agency; and

(C) the extent—

(i) to which any software paid for, in use, or deployed throughout the agency is interoperable; and

(ii) of the efforts of the agency to improve interoperability of software assets throughout the agency enterprise;

(3) a categorization of software ~~licenses~~ entitlements of the agency by cost, volume, and type of software;

(4) a list of any provisions in the software ~~licenses~~ entitlements of the agency that may restrict how the software can be deployed, accessed, or used, including any such restrictions on desktop or server ~~hardware~~ or hardware, through a cloud service provider, or on data ownership or access; and

(5) an analysis addressing—

(A) the accuracy and completeness of the ~~software inventory and software entitlements of the agency before and after the~~ comprehensive assessment;

(B) agency management ~~by the agency~~ of and compliance ~~by the agency~~ with all contracts or other agreements or arrangements that include or ~~implicate~~ reference software ~~licensing~~ entitlements or software management within the agency;

(C) the extent to which the agency accurately captures the total cost of ~~enterprise licenses~~ agreements, software entitlements and related costs, including the total cost of upgrades over the life

of a contract, cloud usage ~~cost per user~~ costs, and any other cost associated with the maintenance or servicing of contracts; and

(D) compliance with software license management policies of the agency.

(b) CONTRACT SUPPORT.—

(1) AUTHORITY.—The head of an agency may enter into 1 or more contracts to support the requirements of subsection (a).

(2) NO CONFLICT OF INTEREST.—Contracts under paragraph (1) shall not include contractors with ~~organization~~ organizational conflicts of interest, within the meaning given that term under subpart 9.5 of the Federal Acquisition Regulation.

(3) OPERATIONAL INDEPENDENCE.—Over the course of a comprehensive assessment, contractors hired pursuant to paragraph (1) shall maintain operational independence from the integration, management, and operations of the software inventory and software entitlements of the agency.

(c) SUBMISSION.—On the date on which the Chief Information Officer, Chief Financial Officer, Chief ~~Procurement~~ Acquisition Officer, the Chief Data Officer, and General Counsel of an agency, or the equivalent officials of the agency, complete the comprehensive assessment, ~~and not later than 1 year after the date of enactment of this Act, the Chief Information Officer shall submit~~ the Chief Information Officer shall submit the comprehensive assessment to the head of the agency.

(d) Subsequent Submission.—Not later than 30 days after the date on which the head of an agency receives the comprehensive assessment ~~to—~~

~~(1)~~

under subsection (c), the head of the

agency;

agency shall submit the comprehensive assessment to—

~~(1)~~ the Director;

~~(2)~~ the Administrator;

~~(3)~~ the Comptroller General of the United States;

~~(4)~~ the Committee on Homeland Security and Governmental Affairs of the Senate; and

~~(5)~~ the Committee on Oversight and Accountability of the House of Representatives.

~~(e)~~ CONSULTATION.—In order to ensure the utility and standardization of the comprehensive assessment of each agency, including to support the development of each plan and the ~~Government-wide strategy described in report required under~~ section 5,4(e)(2), the Director, in consultation with the Administrator, ~~may~~ shall share information, best practices, and recommendations relating to the activities performed in the course of a comprehensive assessment of an agency.

SEC. 4. ~~ENTERPRISE LICENSING POSITIONING~~ SOFTWARE MODERNIZATION PLANNING AT AGENCIES.

(a) IN GENERAL.—The Chief Information Officer of each agency, in consultation with the Chief Financial ~~Officer and~~ Officer, the Chief ~~Procurement Officer~~ Acquisition Officer, the Chief Data Officer, and the General Counsel of the agency, or the equivalent officials of the agency, shall use the information developed pursuant to the comprehensive assessment of the agency to develop a plan for the agency—

(1) to consolidate software ~~licenses~~ entitlements of the agency; ~~and~~

(2) to ~~the greatest extent practicable~~ ensure that, in order to improve the performance of, and reduce unnecessary costs to, the agency, ~~to adopt enterprise license agreements across the agency, by type or category of software.~~

~~(b) PLAN REQUIREMENTS.—The plan of an agency shall—~~

~~(1) include a detailed strategy for—~~

- ~~(A) the remediation of any software asset management deficiencies found during the comprehensive assessment of the agency;~~
- ~~(B) the ongoing maintenance of software asset management upon the completion of the remediation; and~~
- ~~(C) maximizing the effectiveness of software deployed by~~

the Chief Information Officer, Chief Data Officer, and Chief Acquisition Officer of the agency, or the equivalent officers, develop criteria and procedures for how the agency will adopt cost-effective acquisition strategies, including enterprise licensing, across the agency that reduce costs, eliminate excess licenses, and improve performance; and

(3) to restrict the ability of a bureau, program, component, or operational entity within the agency to acquire, use, develop, or otherwise leverage any software entitlement (or portion thereof) without the approval of the Chief Information Officer of the agency, in consultation with the Chief Acquisition Officer of the agency, or the equivalent officers of the agency.

~~(b) Plan Requirements.—The plan of an agency shall—~~

~~(1) include a detailed strategy for—~~

(A) the remediation of any software asset management deficiencies found during the comprehensive assessment of the agency;

(B) the ongoing maintenance of software asset management upon the completion of the remediation;

(C) automation of software license management processes and incorporation of discovery tools across the agency;

(D) ensuring that officers and employees of the agency are adequately trained in the policies, procedures, rules, regulations, and guidance relating to the software acquisition and development of the agency before entering into any agreement relating to any software entitlement (or portion thereof) for the agency, including; ~~to the extent practicable, leveraging technologies that—training on—~~

(i) negotiating options within contracts to address and minimize provisions that restrict how the agency may deploy, access, or use the software, including restrictions on deployment, access, or use on desktop or server hardware and restrictions on data ownership or access;

(ii) ~~provide in-depth analysis of user behaviors and collect user feedback;~~the differences between acquiring commercial software products and services and acquiring or building custom software; and

(iii) determining the costs of different types of licenses and options for adjusting licenses to meet increasing or decreasing demand; and

(E) maximizing the effectiveness of software deployed by the agency, including, to the extent practicable, leveraging technologies that—

(ii) measure actual software usage via analytics that can identify inefficiencies to assist in rationalizing software spending;

(iii) allow for segmentation of the user base;

(iv) support effective governance and compliance in the use of software; and

(v) support interoperable capabilities between software;

(2) identify ~~not fewer than 5~~ categories of software the agency ~~will~~could prioritize for conversion to more cost-effective software licenses, including enterprise licenses, as the software entitlements, contracts, and other agreements or arrangements ~~for those categories~~ come up for renewal or renegotiation;

(3) provide an estimate of the costs to move ~~to~~toward more enterprise, open-source, or other licenses that do not restrict the use of software by the agency, and the projected cost savings, efficiency measures, and improvements to agency performance throughout the total software lifecycle;

(4) identify potential mitigations to minimize software license restrictions on how such software can be deployed, accessed, or used, including any mitigations that would minimize any such restrictions on desktop or server ~~hardware or hardware~~, through a cloud service provider, or on data ownership or access;

(5) ensure that the purchase by the agency of any ~~enterprise license or other~~ software is based on publicly available criteria that are not unduly structured to favor any specific vendor, unless prohibited by law (including regulation);

(6) include any estimates for additional resources, services, or support the agency may need to ~~execute the enterprise licensing position~~ implement the plan;

(7) provide information on the prevalence of software products in use across multiple software categories; and

(8) include any additional information, data, or analysis determined necessary by the Chief Information Officer, or other equivalent official, of the agency.

(c) Support.—The Chief Information Officer, or other equivalent official, of an agency may request support from the Director and the Administrator for any analysis or developmental needs to create the plan of the agency.

(d) AGENCY SUBMISSION.—Not later than 1 year after the date on which the head of an agency submits the comprehensive assessment pursuant to section 3(d), the head of the agency shall submit to the Director, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Accountability of the House of Representatives the plan of the agency.

(e) CONSULTATION AND COORDINATION.—The ~~Director, Director~~

(1) in coordination with ~~the Administrator~~, the Chief Information Officers Council, the Chief Acquisition Officers Council, the ~~Administrator~~ Chief Data Officers Council, the Chief Financial Officers Council, and other government and industry representatives identified by the Director, ~~may shall~~ establish processes, using existing reporting functions, as appropriate, to identify, define, and harmonize common definitions, terms and conditions, standardized requirements, and other information and criteria to support agency heads in developing and implementing the plans required by this ~~section~~ section; and

(2) Support.—The Chief Information Officer, or ~~in coordination with the Administrator, and not later than 2 years after the date of enactment of this Act, submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a report~~ developmental needs to create the plan of the agency.

(e) SUBMISSION.—Not later than 120 days after the date on which the Chief Information Officer, or other equivalent official, of an agency submits the comprehensive assessment pursuant to section 3(c), the head of the agency shall submit to the Director, the Committee on Homeland Security

detailing recommendations to leverage Government procurement policies and practices with respect to software acquired by, developed by, deployed within, or in use at 1 or more agencies to—

(A) increase the interoperability of software licenses, including software entitlements and software built by Government agencies;

(B) consolidate licenses, as appropriate;

(C) reduce costs;

(D) improve performance; and

(E) modernize the management and ~~Governmental Affairs of the~~ oversight of software ~~Senate, and the Committee on Oversight and Accountability of the House of Representatives the plan of the agency~~ entitlements and software built by Government agencies, as identified through an analysis of agency plans.

SEC. 5. GOVERNMENT-WIDE STRATEGY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director, in consultation with the Administrator and the Federal Chief Information Officers Council, shall submit to the

~~Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a strategy that includes—~~

- ~~(1) proposals to support the adoption of Government-wide enterprise licenses for software entitlements identified through the comprehensive assessments and plans, including, where appropriate, a cost-benefit analysis;~~
- ~~(2) opportunities to leverage Government procurement policies and practices to increase interoperability of software entitlements acquired and deployed to reduce costs and improve performance;~~
- ~~(3) the incorporation of data on spending by agencies on, the performance of, and management by agencies of software entitlements as part of the information required under section 11302(e)(3)(B) of title 40, United States Code;~~
- ~~(4) where applicable, directions to agencies to examine options and relevant criteria for transitioning to open-source software; and~~
- ~~(5) any other information or data collected or analyzed by the Director.~~

~~(b) BUDGET SUBMISSION.—~~

~~(1) FIRST BUDGET.—With respect to the first budget of the President submitted under section 1105(a) of title 31, United States Code, on or after the date that is 2 years after the date of enactment of this Act, the Director shall ensure that the strategy required under subsection (a) of this section and the plan of each agency are included in the budget justification materials of each agency submitted in conjunction with that budget.~~

~~(2) SUBSEQUENT 5 BUDGETS.—With respect to the first 5 budgets of the President submitted under section 1105(a) of title 31, United States Code, after the budget described in paragraph (1), the Director shall—~~

~~(A) designate performance metrics for agencies for common software licensing, management, and cost criteria; and~~

~~(B) ensure that the progress of each agency toward the performance metrics is included in the budget justification materials of the agency submitted in conjunction with that budget.~~

SEC. ~~6-5~~. GAO REPORT.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives a report on—

~~(1) Government-wide trends, comparisons among agencies, and other analyses of plans and the strategy required under section 5(a) trends in agency software asset management practices;~~

~~(2) comparisons of software asset management practices among agencies;~~

~~(3) the establishment by the Director of processes to identify, define, and harmonize common definitions, terms, and conditions under section 4(e);~~

~~(4) agency compliance with the restrictions on contract support under section 3(b); and~~

~~(5) other analyses of and findings regarding the plans of agencies, as determined by the Comptroller General of the United States.~~

SEC. 6. NO ADDITIONAL FUNDS.

No additional funds are authorized to be appropriated for the purpose of carrying out this Act.

About this report

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