

AMENDMENT TO RULES COMM. PRINT 117-13
OFFERED BY MR. TORRES OF NEW YORK

At the end of subtitle D of title XV, add the following new section:

1 **SEC. 15 ____ . DEPARTMENT OF HOMELAND SECURITY**
2 **GUIDANCE WITH RESPECT TO CERTAIN IN-**
3 **FORMATION AND COMMUNICATIONS TECH-**
4 **NOLOGY OR SERVICES CONTRACTS.**

5 (a) **GUIDANCE.**—The Secretary of Homeland Security, acting through the Under Secretary, shall issue guidance 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-

1 ing covered contract, each contractor with an existing cov-
2 ered contract shall submit to the covered officer—

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

5 (2) the certification and notifications described
6 in subsection (e).

7 (d) UPDATING BILL OF MATERIALS.—With respect
8 to a covered contract, in the case of a change to the infor-
9 mation included in a bill of materials submitted pursuant
10 to subsections (b)(1) and (c)(1), each contractor shall sub-
11 mit to the covered officer the update to such bill of mate-
12 rials, in a timely manner.

13 (e) CERTIFICATION AND NOTIFICATIONS.—The cer-
14 tification and notifications referred to in subsections
15 (b)(2) and (c)(2), with respect to a covered contract, are
16 the following:

17 (1) A certification that each item listed on the
18 submitted bill of materials is free from all known
19 vulnerabilities or defects affecting the security of the
20 end product or service identified in—

21 (A) the National Institute of Standards
22 and Technology National Vulnerability Data-
23 base; and

24 (B) any database designated by the Under
25 Secretary, in coordination with the Director of

1 the Cybersecurity and Infrastructure Security
2 Agency, that tracks security vulnerabilities and
3 defects in open source or third-party developed
4 software.

5 (2) A notification of each vulnerability or defect
6 affecting the security of the end product or service,
7 if identified, through—

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

10 (B) any other manner of identification.

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

15 (f) ENFORCEMENT.—In developing guidance under
16 subsection (a), the Secretary shall instruct covered officers
17 with respect to—

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

20 (2) when such processes should be used.

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

24 (h) GAO REPORT.—Not later than 1 year after the
25 date of the enactment of this Act, the Comptroller General

1 of the United States shall submit to the Secretary, the
2 Committee on Homeland Security of the House of Rep-
3 resentatives, and the Committee on Homeland Security
4 and Governmental Affairs of the Senate a report that in-
5 cludes—

6 (1) a review of the implementation of this sec-
7 tion;

8 (2) information relating to the engagement of
9 the Department of Homeland Security with indus-
10 try;

11 (3) an assessment of how the guidance issued
12 pursuant to subsection (a) complies with Executive
13 Order 14208 (86 Fed. Reg. 26633; relating to im-
14 proving the nation’s cybersecurity); and

15 (4) any recommendations relating to improving
16 the supply chain with respect to covered contracts.

17 (i) DEFINITIONS.—In this section:

18 (1) The term “bill of materials” means a list of
19 the parts and components (whether new or reused)
20 of an end product or service, including, with respect
21 to each part and component, information relating to
22 the origin, composition, integrity, and any other in-
23 formation as determined appropriate by the Under
24 Secretary.

1 (2) The term “covered contract” means a con-
2 tract relating to the procurement of covered infor-
3 mation and communications technology or services
4 for the Department.

5 (3) The term “covered information and commu-
6 nications technology or 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) The term “covered officer” means—

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

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

1 (5) The term “Department” means the Depart-
2 ment of Homeland Security.

3 (6) The term “software” means computer pro-
4 grams and associated data that may be dynamically
5 written or modified during execution.

6 (7) The term “Under Secretary” means the
7 Under Secretary for Management of the Depart-
8 ment.

