

117TH CONGRESS
2D SESSION

S. 4908

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2022

Mr. PETERS (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To improve the visibility, accountability, and oversight of agency software asset management practices, 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 “Strengthening Agency
5 Management and Oversight of Software Assets Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of General Serv-
3 ices.

4 (2) AGENCY.—The term “agency” has the
5 meaning given the term “establishment” in section
6 12 of the Inspector General Act of 1978 (5 U.S.C.
7 App.).

8 (3) CLOUD COMPUTING.—The term “cloud
9 computing” has the meaning given the term in Spe-
10 cial Publication 800–145 of the National Institute of
11 Standards and Technology, or any successor docu-
12 ment.

13 (4) CLOUD SERVICE PROVIDER.—The term
14 “cloud service provider” means an entity offering
15 cloud computing products or services to agencies.

16 (5) COMPREHENSIVE ASSESSMENT.—The term
17 “comprehensive assessment” means a comprehensive
18 assessment conducted pursuant to section 3(a).

19 (6) DIRECTOR.—The term “Director” means
20 the Director of the Office of Management and Budg-
21 et.

22 (7) PLAN.—The term “plan” means the plan
23 developed by a Chief Information Officer, or equiva-
24 lent official, pursuant to section 4(a).

1 (8) SOFTWARE ENTITLEMENT.—The term
2 “software entitlement” means any software that—

3 (A) has been purchased, leased, or licensed
4 by or billed to an agency under any contract or
5 other business arrangement; and

6 (B) is subject to use limitations.

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

10 (A) section 2(b)(2)(A) of the Making Elec-
11 tronic Government Accountable By Yielding
12 Tangible Efficiencies Act of 2016 (40 U.S.C.
13 11302 note; Public Law 114–210); or

14 (B) subsequent guidance issued by the Di-
15 rector of the Office of Management and Budget
16 pursuant to that Act.

17 **SEC. 3. SOFTWARE ENTITLEMENT AND INVENTORY INTEG-**
18 **RITY.**

19 (a) IN GENERAL.—As soon as practicable, and not
20 later than 1 year after the date of enactment of this Act,
21 the Chief Information Officer of each agency, in consulta-
22 tion with the Chief Financial Officer, the Chief Procure-
23 ment Officer, and General Counsel of the agency, or the
24 equivalent officials of the agency, shall complete a com-

1 prehensive assessment of the software entitlements and
2 software inventories of the agency, which shall include—

3 (1) the current software inventory of the agen-
4 cy, including software entitlements, contracts and
5 other agreements or arrangements of the agency,
6 and a list of the largest software entitlements of the
7 agency separated by vendor;

8 (2) a comprehensive, detailed accounting of—

9 (A) any software deployed for the agency
10 as of the date of the comprehensive assessment,
11 including, to the extent identifiable, the con-
12 tracts and other agreements or arrangements
13 that the agency uses to acquire, deploy, or use
14 such software;

15 (B) information and data on software enti-
16 tlements—

17 (i) for which the agency pays;

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

20 (iii) that are billed to the agency
21 under any contract or business arrange-
22 ment that creates redundancy in the de-
23 ployment or use by the agency; and

24 (C) the extent—

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

4 (ii) of the efforts of the agency to im-
5 prove interoperability of software assets
6 throughout the agency enterprise;

7 (3) a categorization of software licenses of the
8 agency by costs and volume;

9 (4) a list of any provisions in the software li-
10 censes of the agency that may restrict how the soft-
11 ware can be deployed or accessed, either on desktop
12 or server hardware or through a cloud service pro-
13 vider; and

14 (5) an analysis addressing—

15 (A) the accuracy and completeness of the
16 software inventory and software entitlements of
17 the agency before and after the comprehensive
18 assessment;

19 (B) management by the agency of and
20 compliance by the agency with all contracts or
21 other agreements or arrangements that include
22 or implicate software licensing or software man-
23 agement within the agency;

1 (C) the extent to which the agency accu-
2 rately captures the total costs of enterprise li-
3 censes agreements and related costs; and

4 (D) compliance with software license man-
5 agement policies of the agency.

6 (b) CONTRACT SUPPORT.—

7 (1) AUTHORITY.—The head of an agency may
8 enter into 1 or more contracts to support the re-
9 quirements of subsection (a).

10 (2) NO CONFLICT OF INTEREST.—Contracts
11 under paragraph (1) shall not include contractors
12 with organization conflicts of interest.

13 (3) OPERATIONAL INDEPENDENCE.—Over the
14 course of a comprehensive assessment, contractors
15 hired pursuant to paragraph (1) shall maintain oper-
16 ational independence from the integration, manage-
17 ment, and operations of the software inventory and
18 software entitlements of the agency.

19 (c) SUBMISSION.—On the date on which the Chief In-
20 formation Officer, Chief Financial Officer, Chief Procure-
21 ment Officer, and General Counsel of an agency, or the
22 equivalent officials of the agency, complete the comprehen-
23 sive assessment, and not later than 1 year after the date
24 of enactment of this Act, the Chief Information Officer
25 shall submit the comprehensive assessment to—

- 1 (1) the head of the agency;
- 2 (2) the Director;
- 3 (3) the Administrator;
- 4 (4) the Comptroller General of the United
5 States;
- 6 (5) the Committee on Homeland Security and
7 Governmental Affairs of the Senate; and
- 8 (6) the Committee on Oversight and Reform of
9 the House of Representatives.

10 (d) CONSULTATION.—In order to ensure the utility
11 and standardization of the comprehensive assessment of
12 each agency, including to support the development of each
13 plan and the governmentwide strategy described in section
14 5, the Director, in consultation with the Administrator,
15 may share information, best practices, and recommenda-
16 tions relating to the activities performed in the course of
17 a comprehensive assessment of an agency.

18 **SEC. 4. ENTERPRISE LICENSING POSITIONING AT AGEN-**
19 **CIES.**

20 (a) IN GENERAL.—The Chief Information Officer of
21 each agency, in consultation with the Chief Financial Offi-
22 cer and the Chief Procurement Officer of the agency, or
23 the equivalent officials of the agency, shall use the infor-
24 mation developed pursuant to the comprehensive assess-

1 ment of the agency under section 3(a) to develop a plan
2 for the agency to—

3 (1) consolidate software licenses of the agency;

4 and

5 (2) to the greatest extent practicable, in order
6 to improve the performance of, or reduce unneces-
7 sary costs to, the agency, adopt enterprise license
8 agreements across the agency.

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

11 (1) include a detailed strategy for—

12 (A) the remediation of any software asset
13 management deficiencies found during the com-
14 prehensive assessment of the agency;

15 (B) the ongoing maintenance of software
16 asset management upon the completion of the
17 remediation; and

18 (C) maximizing the effectiveness of soft-
19 ware deployed by the agency, including, to the
20 extent practicable, leveraging technologies
21 that—

22 (i) provide in-depth analysis of user
23 behaviors and collect user feedback;

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

4 (iii) allow for segmentation of the user
5 base; and

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

8 (2) identify not fewer than 5 categories of soft-
9 ware the agency will prioritize for conversion to en-
10 terprise licenses as the software entitlements, con-
11 tracts, and other agreements or arrangements for
12 those categories come up for renewal or renegoti-
13 ation;

14 (3) provide an estimate of the costs to move to
15 enterprise, open-source, or other licenses that do not
16 restrict the use of software by the agency, and any
17 projected cost savings or efficiency measures;

18 (4) identify potential mitigations to minimize
19 software license restrictions on how such software
20 can be deployed or accessed, either on desktop or
21 server hardware or through a cloud service provider;

22 (5) include any estimates for additional re-
23 sources, services, or support the agency may need to
24 execute the enterprise licensing position plan; and

1 (6) include any additional information, data, or
2 analysis determined necessary by the Chief Informa-
3 tion Officer, or other equivalent official, of the agen-
4 cy.

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

9 (d) SUBMISSION.—Not later than 120 days after the
10 date on which the Chief Information Officer, or other
11 equivalent official, of an agency submits the comprehen-
12 sive assessment pursuant to section 3(c), the head of the
13 agency shall submit to the Director, the Committee on
14 Homeland Security and Governmental Affairs of the Sen-
15 ate, and the Committee on Oversight and Reform of the
16 House of Representatives the plan of the agency.

17 **SEC. 5. GOVERNMENTWIDE STRATEGY.**

18 (a) IN GENERAL.—Not later than 2 years after the
19 date of enactment of this Act, the Director, in consultation
20 with the Administrator and the Federal Chief Information
21 Officers Council, shall submit to the Committee on Home-
22 land Security and Governmental Affairs of the Senate and
23 the Committee on Oversight and Reform of the House of
24 Representatives a strategy that includes—

1 (1) proposals to support the adoption of govern-
2 mentwide enterprise licenses on the most widely used
3 and most costly software entitlements identified
4 through the comprehensive assessment and plans,
5 including, where appropriate, a cost-benefit analysis;

6 (2) opportunities to leverage Government pro-
7 curement policies and practices to increase inter-
8 operability of software entitlements acquired and de-
9 ployed to reduce costs and improve performance;

10 (3) the incorporation of data on spending by
11 agencies on, the performance of, and management
12 by agencies of software entitlements as part of the
13 information required under section 11302(c)(3)(B)
14 of title 40, United States Code;

15 (4) where applicable, directions to agencies to
16 transition to open-source software to obtain cost sav-
17 ings and performance improvement; and

18 (5) any other information or data collected or
19 analyzed by the Director.

20 (b) BUDGET SUBMISSION.—

21 (1) FIRST BUDGET.—With respect to the first
22 budget of the President submitted under section
23 1105(a) of title 31, United States Code, on or after
24 the date that is 2 years after the date of enactment
25 of this Act, the Director shall ensure that the strat-

1 egy required under subsection (a) of this section and
2 the plan of each agency are included in the budget
3 justification materials of each agency submitted in
4 conjunction with that budget.

5 (2) **SUBSEQUENT 5 BUDGETS.**—With respect to
6 the first 5 budgets of the President submitted under
7 section 1105(a) of title 31, United States Code,
8 after the budget described in paragraph (1), the Di-
9 rector shall—

10 (A) designate performance metrics for
11 agencies for common software licensing, man-
12 agement, and cost criteria; and

13 (B) ensure that the progress of each agen-
14 cy toward the performance metrics is included
15 in the budget justification materials of the
16 agency submitted in conjunction with that
17 budget.

18 **SEC. 6. GAO REPORT.**

19 Not later than 3 years after the date of enactment
20 of this Act, the Comptroller General of the United States
21 shall submit to the Committee on Homeland Security and
22 Governmental Affairs of the Senate and the Committee
23 on Oversight and Reform of the House of Representatives
24 a report on governmentwide trends, comparisons among
25 agencies, and other analyses of plans and the strategy re-

1 quired under section 5(a) by the Comptroller General of
2 the United States.

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