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118TH CONGRESS  
2D SESSION

# S. 5310

[Report No. 118–296]

To amend title 41, United States Code, to make changes with respect to the Federal Acquisition Security Council, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2024

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

DECEMBER 16, 2024

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To amend title 41, United States Code, to make changes with respect to the Federal Acquisition Security Council, 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 “Federal Acquisition  
5 Security Council Improvement Act of 2024”.

1 **SEC. 2. CHANGES WITH RESPECT TO THE FEDERAL ACQUI-**  
 2 **SITION SECURITY COUNCIL.**

3 (a) DEFINITION OF SOURCE OF CONCERN, COVERED  
 4 SOURCE OF CONCERN, RECOMMENDED ORDER, AND DES-  
 5 IGNATED ORDER.—Section 1321 of title 41, United States  
 6 Code, is amended—

7 (1) by redesignating paragraphs (5) through  
 8 (8) as paragraphs (7) through (10);

9 (2) by inserting after paragraph (4) the fol-  
 10 lowing new paragraph:

11 “(5) COVERED SOURCE OF CONCERN.—The  
 12 term ‘covered source of concern’ means a source of  
 13 concern that is specifically designated as a ‘covered  
 14 source of concern’ by a statute that states that such  
 15 designation is for the purposes of this subchapter.

16 “(6) DESIGNATED ORDER.—The term ‘des-  
 17 ignated order’ means an order described under sec-  
 18 tion 1323(e)(3).”;

19 (3) by adding at the end the following new  
 20 paragraph:

21 “(11) RECOMMENDED ORDER.—The term ‘rec-  
 22 ommended order’ means an order recommended  
 23 under section 1323(e)(2).

24 “(12) SOURCE OF CONCERN.—

25 “(A) IN GENERAL.—The term ‘source of  
 26 concern’ means a source—

1 “(i) subject to the jurisdiction, direc-  
 2 tion, or control of the government of a for-  
 3 eign adversary; or operates on behalf of  
 4 the government of a foreign adversary; or

5 “(ii) that poses a risk to the national  
 6 security of the United States based on col-  
 7 laboration with, whole or partial ownership  
 8 or control by, or being affiliated with a  
 9 military, internal security force, or intel-  
 10 ligence agency of a foreign adversary.

11 “(B) FOREIGN ADVERSARY DEFINED.—In  
 12 this paragraph, the term ‘foreign adversary’ has  
 13 the meaning given the term ‘covered nation’ in  
 14 section 4872(d) of title 10.”

15 (b) ESTABLISHMENT AND MEMBERS OF COUNCIL.—  
 16 Section 1322 of title 41, United States Code, is amend-  
 17 ed—

18 (1) in subsection (a), by striking “executive  
 19 branch” and inserting “Executive Office of the  
 20 President”;

21 (2) in subsection (b)—

22 (A) by amending paragraph (1) to read as  
 23 follows:

24 “(1) IN GENERAL.—The members of the Coun-  
 25 cil shall be as follows:

1           “(A) The Administrator for Federal Pro-  
2           curement Policy.

3           “(B) The Deputy Director for Manage-  
4           ment of the Office of Management and Budget.

5           “(C) The following officials, each of whom  
6           shall occupy a position at the level of Assistant  
7           Secretary or Deputy Assistant Secretary (or  
8           equivalent):

9                   “(i) Two officials from the Office of  
10                   the Director of National Intelligence, one  
11                   of which shall be from the National Coun-  
12                   terintelligence and Security Center.

13                   “(ii) Two officials from the Depart-  
14                   ment of Defense, one of which shall be  
15                   from the National Security Agency.

16                   “(iii) Two officials from the Depart-  
17                   ment of Homeland Security, one of which  
18                   shall be from the Cybersecurity and Infra-  
19                   structure Security Agency.

20                   “(iv) One official from the General  
21                   Services Administration.

22                   “(v) One official from the Office of  
23                   the National Cyber Director.

1           “(vi) Two officials from the Depart-  
2           ment of Justice, one of which shall be from  
3           the Federal Bureau of Investigation.

4           “(vii) Two officials from the Depart-  
5           ment of Commerce, one of which shall be  
6           from the National Institute of Standards  
7           and Technology and one of which shall be  
8           from the Bureau of Industry and Security.

9           “(viii) An official from any executive  
10          agency not listed under clauses (i) through  
11          (vii) whose temporary or permanent par-  
12          ticipation is determined by the Chairperson  
13          of the Council to be necessary to carry out  
14          the functions of the Council while main-  
15          taining the intended balance in subject  
16          matter expertise.”; and

17          (B) in paragraph (2)—

18                 (i) in the heading, by striking “LEAD  
19                 REPRESENTATIVES” and inserting “MEM-  
20                 BERS”;

21                 (ii) by amending subparagraph (A)(i)  
22                 to read as follows:

23                         “(i) IN GENERAL.—The head of each  
24                         executive agency listed under paragraph  
25                         (1)(C) shall designate the official or offi-

1 cials from that agency who shall serve on  
2 the Council in accordance with such para-  
3 graph.”;

4 (iii) by amending subparagraph  
5 (A)(ii) to read as follows:

6 “(ii) REQUIREMENTS.—To the extent  
7 feasible, any official designated under  
8 clause (i) shall have expertise in supply  
9 chain risk management, acquisitions, law,  
10 or information and communications tech-  
11 nology.”; and

12 (iv) by amending subparagraph (B) to  
13 read as follows:

14 “(B) FUNCTIONS.—A member of the  
15 Council shall—

16 “(i) regularly participate in the activi-  
17 ties of the Council;

18 “(ii) ensure that any information re-  
19 quested by the Council from the agency  
20 represented by the member is provided to  
21 the Council; and

22 “(iii) ensure that the head of the  
23 agency represented by the member and  
24 other appropriate personnel of the agency  
25 are aware of the activities of the Council.”;

1           ~~(3)~~ in subsection (c)—

2                   (A) by amending paragraph (1) to read as  
3 follows:

4           ~~“(1) IN GENERAL.—~~The Chairperson of the  
5 Council shall be—

6                   ~~“(A) the National Cyber Director; or~~

7                   ~~“(B) another member of the Council des-~~  
8 ~~ignated by the National Cyber Director.”;~~ and

9           ~~(B) in paragraph (2)—~~

10                   (i) in subparagraph (B), by striking

11                   ~~“(b)(1)(H)”~~ and inserting ~~“(b)(1)(C)(vii)”;~~

12                   and

13                   (ii) in subparagraph (C), by striking

14                   ~~“lead representative of each agency rep-~~

15                   ~~resented on the Council”~~ and inserting

16                   ~~“members of the Council”;~~ and

17           ~~(4) in subsection (d)—~~

18                   (A) by striking ~~“The Council”~~ and insert-

19                   ing the following:

20                   ~~“(1) COUNCIL MEETINGS.—The Council”;~~ and

21                   ~~(B) by adding at the end the following:~~

22                   ~~“(2) OTHER MEETINGS.—The Chairperson of~~

23                   ~~the Council shall meet, not less frequently than~~

24                   ~~semianually, with—~~

1           “(A) the Secretary of Homeland Security,  
2           the Secretary of Defense, and the Director of  
3           National Intelligence; or

4           “(B) in the case that any of the officials  
5           under subparagraph (A) delegated authority to  
6           an official under section 1323(c)(6)(C), with  
7           the delegated official.”.

8           (e) FUNCTIONS AND AUTHORITIES.—Section 1323 of  
9           title 41, United States Code, is amended—

10           (1) in subsection (a)—

11                   (A) by striking “supply chain” each place  
12                   it appears and inserting “acquisition security  
13                   and supply chain”;

14                   (B) in paragraph (1), as amended by sub-  
15                   paragraph (A), by striking “, particularly” and  
16                   inserting “that arise”;

17                   (C) in paragraph (2), as amended by sub-  
18                   paragraph (A), by inserting “associated with  
19                   the acquisition and use of covered articles”  
20                   after “risk”;

21                   (D) in paragraph (6)—

22                           (i) by striking “posed by” and insert-  
23                           ing “associated with”; and

24                           (ii) by inserting “and use” before “of  
25                           covered articles”;



1           (~~E~~) by redesignating paragraph (7) as  
2 paragraph (12);

3           (~~F~~) in paragraph (12), as redesignated by  
4 subparagraph (~~E~~), by striking “posed by acqui-  
5 sitions” and inserting “associated with the ae-  
6 quisition”; and

7           (~~G~~) by inserting after paragraph (6) the  
8 following new paragraphs:

9           “~~(7)~~ Implementing a prioritization scheme for  
10 evaluating the security risks associated with the ae-  
11 quisition and use of covered articles provided or pro-  
12 duced by a covered source of concern.

13           “~~(8)~~ Evaluating each covered source of concern  
14 to determine whether to issue a designated order  
15 with respect to the covered source of concern or a  
16 covered article produced or provided by the covered  
17 source of concern.

18           “~~(9)~~ Evaluating sources of concern to determine  
19 whether to issue a recommended order with respect  
20 to the source of concern, or any covered article pro-  
21 duced or provided by the source of concern.

22           “~~(10)~~ Monitoring the issuance of designated or-  
23 ders under subsection (e)(6)(B), as required, by the  
24 Secretary of Homeland Security, the Secretary of  
25 Defense, and the Director of National Intelligence

1 with the requirement to issue designated orders  
2 under subsection (e)(6)(B) and providing technical  
3 assistance to those agencies on compliance matters.

4 “(11) Reporting to Congress annually on the  
5 security risks associated with the acquisition and use  
6 of covered articles produced or provided by sources  
7 of concern.”;

8 (2) in subsection (b)—

9 (A) by striking “The Council” and insert-  
10 ing the following:

11 “(1) IN GENERAL.—The Council”; and

12 (B) in paragraph (1), as so redesignated,  
13 by striking “a program office and”; and

14 (C) by adding at the end the following new  
15 paragraph:

16 “(2) FEDERAL ACQUISITION SECURITY COUNCIL  
17 PROGRAM OFFICE.—

18 “(A) ESTABLISHMENT.—The Council shall  
19 establish a Federal Acquisition Security Council  
20 Program Office (referred to in this paragraph  
21 as the ‘Program Office’) within the Office of  
22 the National Cyber Director to carry out the  
23 functions of the Council duties described under  
24 subparagraph (B).

1           “(B) DUTIES.—The Program Office shall  
2 provide to the Council and any committees,  
3 working groups, or other constituent bodies es-  
4 tablished by the Council under paragraph (1)—

5           “(i) administrative, legal, and policy  
6 support; and

7           “(ii) analysis and subject matter ex-  
8 pertise on information communications  
9 technology, acquisition security, and supply  
10 chain risk.

11           “(C) STRUCTURE.—The head of the Pro-  
12 gram Office shall be a senior official from the  
13 Office of the National Cyber Director that occu-  
14 pies a position at the level of Assistant Sec-  
15 retary or Deputy Assistant Secretary (or equiv-  
16 alent).

17           “(D) PROHIBITION.—The Program Office  
18 may not provide administrative support to the  
19 Council for any activities of the Council carried  
20 out pursuant to a provision of law other than  
21 a provision of law under this subchapter.

22           “(E) FUNDING AND RESOURCES.—The  
23 Program Office may use the staff and resources  
24 of the Office of the National Cyber Director or  
25 maintain dedicated staff and resources, as ap-

1           appropriate, in the performance of the duties of  
2           the Office.

3           “(F) SHARED STAFFING AUTHORITY.—

4           “(i) IN GENERAL.—The Program Of-  
5           fice may accept officers or employees of  
6           the United States or members of the  
7           Armed Forces on a detail from an element  
8           of the intelligence community (as such  
9           term is defined in section 3 of the National  
10          Security Act of 1947 (50 U.S.C. 3003)) or  
11          from another element of the Federal Gov-  
12          ernment on a nonreimbursable basis, as  
13          jointly agreed to by the heads of the receiv-  
14          ing and detailing elements, for a period not  
15          to exceed three years.

16          “(ii) RULE OF CONSTRUCTION.—

17          Nothing in this subparagraph may be con-  
18          strued as imposing any limitation on any  
19          other authority for reimbursable or nonre-  
20          imbursable details.

21          “(iii) NONREIMBURSABLE DETAIL.—A

22          nonreimbursable detail made under this  
23          subparagraph shall not be considered an  
24          augmentation of the appropriations of the

1 receiving element of the Program Office or  
 2 the Office of the National Cyber Director.

3 “(G) SUNSET.—The Program Office shall  
 4 terminate on the date described under section  
 5 1328.”;

6 (3) in subsection (c)—

7 (A) in paragraph (1)—

8 (i) in the matter preceding subpara-  
 9 graph (A), by striking “supply chain risk”  
 10 and inserting “acquisition security and  
 11 supply chain risk associated with the ae-  
 12 quisition of covered articles”;

13 (ii) in subparagraph (A), by inserting  
 14 “recommended” before “exclusion orders”;

15 (iii) in subparagraph (B), by inserting  
 16 “recommended” before “removal orders”;

17 (iv) in subparagraph (C), by striking  
 18 “; and” and inserting a semicolon;

19 (v) in subparagraph (D), by striking  
 20 the period at the end and inserting “;  
 21 and”; and

22 (vi) by adding at the end the following  
 23 new subparagraph:

24 “(E) issuing designated orders.”;

25 (B) in paragraph (2)—

- 1 (i) in the heading, by striking “REC-  
2 OMMENDATIONS” and inserting “REC-  
3 OMMENDED ORDERS”;
- 4 (ii) by striking “use” and inserting “,  
5 using”;
- 6 (iii) by striking “subsection (a)(3)”  
7 and inserting “subsection (a)(4)”;
- 8 (iv) by striking “recommendations”  
9 and inserting “recommend orders”;
- 10 (v) by inserting “to the officials de-  
11 scribed under clause (iii) of paragraph  
12 (6)(A) for issuance under such paragraph”  
13 after “thereof,”;
- 14 (vi) by striking “Such recommenda-  
15 tions” and inserting “Any such order rec-  
16 ommended”;
- 17 (vii) in subparagraph (D), by striking  
18 “supply chain risk” and inserting “acquisi-  
19 tion security and supply chain risk associ-  
20 ated with the acquisition of covered arti-  
21 cles”; and
- 22 (viii) in subparagraph (E), by striking  
23 “exclusion or removal”;
- 24 (C) by redesignating paragraphs (3)  
25 through (7) as paragraphs (4) through (8);

1           (D) by inserting after paragraph (2) the  
2 following new paragraph:

3           ~~“(3) DESIGNATED ORDERS.—~~

4           ~~“(A) EXCLUSION OR REMOVAL OF COV-~~  
5 ~~ERED SOURCES OF CONCERN.—~~

6           ~~“(i) IN GENERAL.—Not later than~~  
7 ~~270 days after a source of concern is des-~~  
8 ~~ignated as a covered source of concern pur-~~  
9 ~~suant to paragraph (2), the Council—~~

10           ~~“(I) shall provide to the officials~~  
11 ~~described under clause (iii) of para-~~  
12 ~~graph (6)(B) for issuance under such~~  
13 ~~paragraph orders requiring—~~

14           ~~“(aa) the exclusion of the~~  
15 ~~covered source of concern from~~  
16 ~~any executive agency procure-~~  
17 ~~ment action, including source se-~~  
18 ~~lection and consent for a con-~~  
19 ~~tractor; or~~

20           ~~“(bb) the removal of covered~~  
21 ~~articles produced or provided by~~  
22 ~~the covered source of concern~~  
23 ~~from the information system of~~  
24 ~~executive agencies; or~~

1           “(H) report to Congress why the  
2           Council has determined to not issue  
3           an order described under subclause (I)  
4           with respect to the covered source of  
5           concern or covered articles produced  
6           or provided by the covered source of  
7           concern;

8           “(ii) CONTENTS OF ORDER.—Any  
9           order provided under clause (i) shall in-  
10          clude—

11           “(I) information regarding the  
12           scope and applicability of the order,  
13           including any information necessary  
14           to positively identify the covered  
15           source of concern or covered articles  
16           produced or provided by the covered  
17           source of concern required to be ex-  
18           cluded or removed under the order;

19           “(II) a summary of any risk as-  
20           sessment reviewed or conducted in  
21           support of the order;

22           “(III) a summary of the basis for  
23           the order, including a discussion of  
24           less intrusive measures that were con-  
25           sidered and why such measures were



1 not reasonably available to reduce se-  
 2 curity risk;

3 “(IV) a description of the actions  
 4 necessary to implement the order; and

5 “(V) where practicable, in the  
 6 Council’s sole and unreviewable dis-  
 7 cretion; a description of mitigation  
 8 steps that could be taken by the cov-  
 9 ered source of concern that may result  
 10 in the Council rescinding the order.

11 “(B) EXCLUSION OR REMOVAL OF SECOND  
 12 ORDER SOURCES OR COVERED ARTICLES.—

13 “(i) ISSUANCE.—In the case that the  
 14 Council provides an order under subpara-  
 15 graph (A), the Council may also provide an  
 16 order to the officials described under para-  
 17 graph (6)(A)(iii) requiring the exclusion of  
 18 sources or covered articles from executive  
 19 agency procurement actions or removal of  
 20 covered articles from executive agency in-  
 21 formation systems if—

22 “(I) such covered articles or such  
 23 sources use a covered source of con-  
 24 cern in the performance of a contract  
 25 with the executive agency; or

1           “(H) such sources enter into a  
2           contract, the performance of which  
3           such source knows or has reason to  
4           believe will require, in the perform-  
5           ance of a contract with the executive  
6           agency; the use of a covered source of  
7           concern or the use of a covered article  
8           produced or provided by a covered  
9           source of concern.

10           “(ii) EFFECTIVE DATE CONSIDER-  
11           ATIONS.—Any effective date prescribed by  
12           the Council for an order issued pursuant  
13           to clause (i) shall take into account—

14           “(I) the risk posed by the covered  
15           source of concern or the covered arti-  
16           cle produced or provided by the cov-  
17           ered source of concern to the national  
18           security of the United States;

19           “(H) the likelihood of the covered  
20           source of concern or the covered arti-  
21           cle produced or provided by the cov-  
22           ered source of concern causing immi-  
23           nent threat to public health and safe-  
24           ty;

1           “(III) the availability of an alter-  
 2           native source or covered article pro-  
 3           duced or provided by an alternative  
 4           source; and

5           “(IV) an assessment of the po-  
 6           tential direct or quantifiable costs  
 7           that may be incurred by the Federal  
 8           Government, a State, local, or Tribal  
 9           government, or by the private sector,  
 10          as a result of compliance by the head  
 11          of an executive agency with such an  
 12          exclusion or removal order, as nec-  
 13          essary.”;

14          (E) in paragraph (4), as so redesignated—

15           (i) in the paragraph heading, by strik-  
 16           ing “OF RECOMMENDATION AND REVIEW”  
 17           and inserting “AND REVIEW OF REC-  
 18           OMMENDED AND DESIGNATED ORDERS”;

19           (ii) by striking “ the recommenda-  
 20           tion” each place it appears, and inserting  
 21           “ the order”;

22           (iii) in the matter preceding subpara-  
 23           graph (A), by striking “A notice of the  
 24           Council’s recommendation under para-  
 25           graph (2)” and inserting “Before the

1 Council recommends an order under para-  
2 graph (2) or issues an order under para-  
3 graph (3); a notice”;

4 (iv) in subparagraph (A), by striking  
5 “a recommendation has been made” and  
6 inserting “the order will be recommended  
7 or issued”;

8 (v) in subparagraph (D), by striking  
9 “paragraph (5); and” and inserting “para-  
10 graph (6);”;

11 (vi) in subparagraph (E), by striking  
12 the period at the end and inserting “;  
13 and”; and

14 (vii) by adding at the end the fol-  
15 lowing new subparagraph:

16 “(F) Until an order is issued pursuant to  
17 paragraph (6), information collected under this  
18 paragraph shall be exempt from public disclo-  
19 sure and shall be treated as information de-  
20 scribed in section 552(b)(3) of title 5, United  
21 States Code (commonly referred to as the  
22 ‘Freedom of Information Act’).”;

23 (F) in paragraph (5), as so redesignated—

24 (i) by striking “paragraph (3)” and  
25 inserting “paragraph (4)”;

1           (ii) in subparagraph (A), by striking  
2           “paragraph (5)” and inserting “paragraph  
3           (6)”; and

4           (iii) in subparagraph (B), by striking  
5           “paragraph (6)” and inserting “paragraph  
6           (7)”;  
7           (G) in paragraph (6), as so redesignated—

8           (i) by amending subparagraph (A) to  
9           read as follows:

10           “(A) ISSUANCE OF RECOMMENDED OR-  
11           DERS.—

12           “(i) MODIFICATIONS TO ORDER.—  
13           After considering any response properly  
14           submitted by a source under paragraph (4)  
15           related to an order to be recommended  
16           under paragraph (2), the Council shall—

17           “(I) make such modifications to  
18           the order as the Council considers ap-  
19           propriate; and

20           “(II) provide the order (together  
21           with any information submitted by a  
22           source under paragraph (4) related to  
23           such order) to the officials described  
24           under clause (iii).

1           “(ii) ORDER.—Not later than 90 days  
2 after receiving a recommended order, the  
3 officials described under clause (iii) shall—

4           “(I) issue the order to the heads  
5 of the applicable agencies; or

6           “(II) submit a notification to the  
7 Council that the order will not be  
8 issued, that includes in the notifica-  
9 tion to the Council, all the reasons for  
10 why the order will not be issued.

11           “(iii) OFFICIALS.—The officials de-  
12 scribed in this clause are as follows:

13           “(I) The Secretary of Homeland  
14 Security, for exclusion and removal  
15 orders applicable to civilian agencies,  
16 to the extent not covered by subclause  
17 (II) or (III).

18           “(II) The Secretary of Defense,  
19 for exclusion and removal orders ap-  
20 plicable to the Department of Defense  
21 and national security systems other  
22 than sensitive compartmented infor-  
23 mation systems.

24           “(III) The Director of National  
25 Intelligence, for exclusion and removal

1 orders applicable to the intelligence  
 2 community and sensitive compart-  
 3 mented information systems; to the  
 4 extent not covered by subclause (H).”;

5 (ii) by redesignating subparagraphs  
 6 (B) through (E) as subparagraphs (C)  
 7 through (F), respectively;

8 (iii) by inserting after subparagraph  
 9 (A) the following new subparagraph:

10 “(B) ISSUANCE OF DESIGNATED ORDER.—

11 “(i) MODIFICATIONS.—After consid-  
 12 ering any response properly submitted by a  
 13 source under paragraph (4) related to a  
 14 designated order, the Council shall—

15 “(I)(aa) make any such modifica-  
 16 tions to the order as the Council con-  
 17 siders appropriate; or

18 “(bb) if the Council determines  
 19 that the issuance of a designated  
 20 order is not warranted, rescind the  
 21 designated order and notify the source  
 22 of the rescission; and

23 “(II) except in the case that the  
 24 Council rescinds the designated order  
 25 under subclause (I)(bb), provide the

1 designated order (including any modi-  
2 fications made to such order by the  
3 Council) to the officials described in  
4 clause (iii).

5 “(ii) ISSUANCE.—The officials de-  
6 scribed in clause (iii) shall, not later than  
7 90 days after receiving a designated order,  
8 issue the order to the heads of the applica-  
9 ble agencies.

10 “(iii) OFFICIALS.—The officials de-  
11 scribed in this clause are as follows:

12 “(I) The Secretary of Homeland  
13 Security, for exclusion and removal  
14 orders applicable to civilian agencies,  
15 to the extent not covered by subclause  
16 (II) or (III).

17 “(II) The Secretary of Defense,  
18 for exclusion and removal orders ap-  
19 plicable to the Department of Defense  
20 and national security systems other  
21 than sensitive compartmented infor-  
22 mation systems.

23 “(III) The Director of National  
24 Intelligence, for exclusion and removal  
25 orders applicable to the intelligence



1 community and sensitive compart-  
2 mented information systems, to the  
3 extent not covered by subclause (H).

4 “(iv) WAIVER.—An official described  
5 under clause (iii) may waive for a period of  
6 not more than 365 days the application of  
7 an order issued by such official under  
8 clause (ii) with respect to a covered source  
9 of concern or a covered article produced or  
10 provided by a covered source of concern if  
11 the official submits, not later than 30 days  
12 after making such waiver, a written notifi-  
13 cation to the Council, the appropriate con-  
14 gressional committees, and leadership that  
15 contains the justification for such waiver,  
16 which may include a classified annex.

17 “(v) RENEWAL OF WAIVER.—An offi-  
18 cial described under clause (iii) may renew  
19 a waiver under clause (iv) for an additional  
20 period of not more than 365 days if—

21 “(I) the renewal of the waiver is  
22 in the national security interests of  
23 the United States; and

24 “(II) the official submits, not  
25 later than 30 days after renewing

1 such waiver, a written notification to  
2 the Council, the appropriate congress-  
3 sional committees, and leadership that  
4 includes the justification for renewing  
5 the waiver.

6 “(vi) NATIONAL SECURITY WAIVER.—

7 An official described under clause (iii) may  
8 waive the application of an order issued by  
9 such official under clause (ii) with respect  
10 to a covered source of concern or a covered  
11 article produced or provided by a covered  
12 source of concern for any activity subject  
13 to the reporting requirements under title V  
14 of the National Security Act of 1947 (50  
15 U.S.C. 3091 et seq.) or any authorized in-  
16 telligence activities of the United States.

17 “(vii) RESCISSION OF ORDER.—An ex-  
18 clusion or removal order issued under this  
19 subparagraph by an official may be re-  
20 scinded only by the Council.”;

21 (iv) in subparagraph (C), as so reded-  
22 igned—

23 (I) by striking “subparagraph  
24 (A)” and inserting “subparagraph  
25 (A)(iii) or (B)(iii)”;

1 (II) by striking “this subpara-  
 2 graph” and inserting “subparagraph  
 3 (A)(iii) or (B)(iii)”; and

4 (III) by striking “, except” and  
 5 all that follows through “Deputy  
 6 Commander”;

7 (v) in subparagraph (D), as so redesi-  
 8 gnated—

9 (I) by striking “this paragraph”  
 10 and inserting “subparagraph (A)(iii)  
 11 or (B)(iii)”; and

12 (II) by striking “help”;

13 (vi) in subparagraph (E), as so redesi-  
 14 gnated, by striking “this paragraph” and  
 15 inserting “subparagraph (A)”; and

16 (vii) by adding after subparagraph  
 17 (F), as so redesignated, the following new  
 18 subparagraph:

19 “(G) EFFECTIVE DATE OF ORDERS.—The  
 20 effective date of an order issued under this  
 21 paragraph may not be more than one year after  
 22 the order is issued.”;

23 (H) in paragraph (7), as so redesignated,  
 24 by striking “paragraph (5)(A)” and inserting

1 “subparagraph (A) or (B) of paragraph (6)”;  
2 and

3 (I) in paragraph (8), as so redesignated,  
4 by striking “paragraph (5)” and inserting  
5 “paragraph (6)”;

6 (4) in subsection (e), by inserting “the Chief  
7 Data Officers Council,” before “the Chief Acquisi-  
8 tion”; and

9 (5) in subsection (f)(2), by striking the period  
10 at the end and inserting “unless such source is spe-  
11 cifically designated by statute as a covered source of  
12 concern for the purposes of this subchapter.”.

13 (d) STRATEGIC PLAN.—Section 1324(a) of title 41,  
14 United States Code, is amended—

15 (1) by inserting “, and periodically thereafter”  
16 after “2018”;

17 (2) in the matter preceding paragraph (1), by  
18 inserting “acquisition security and” before “supply  
19 chain risks”;

20 (3) in paragraph (8), by inserting “acquisition  
21 security and” before “supply chain risks”; and

22 (4) in paragraph (9)(A), by inserting “acquisi-  
23 tion security and” before “supply chain risk”.

1       (e) REQUIREMENTS FOR EXECUTIVE AGENCIES.—  
 2 Section 1326 of title 41, United States Code, is amend-  
 3 ed—

4           (1) by striking “supply chain” each place such  
 5 term appears and inserting “security and supply  
 6 chain”;

7           (2) in subsection (a)—

8               (A) in paragraph (1), by striking “; and”  
 9 and inserting a semicolon;

10              (B) in paragraph (2), by striking the pe-  
 11 riod at the end and inserting “; and”;

12              (C) by adding at the end the following:

13           “~~(3)~~ providing any information requested by the  
 14 Chairperson of the Council for the purpose of ear-  
 15 rying out activities of this subchapter, subject to ap-  
 16 plicable law or policy on control and handling of  
 17 classified, sensitive, or proprietary information.”;  
 18 and

19           ~~(3)~~ in subsection (b)(6), by striking “may pose”  
 20 and all that follows through “risk” and inserting  
 21 “may pose a security or supply chain risk”.

22       (f) JUDICIAL PROCEDURE.—Section 1327(b) of title  
 23 41, United States Code, is amended—

24           (1) in paragraph (1), by striking “section  
 25 1323(c)(6)” and inserting “section 1323(c)(7)”;

1           (2) in paragraph (3), by striking “sections  
2   1323(e)(5)” and inserting “sections 1323(e)(6)”;  
3   and

4           (3) in paragraph (4), by amending subpara-  
5   graph (B)(i) to read as follows:

6                   “(i) FILING OF RECORD.—The United  
7                   States shall file with the court an adminis-  
8                   trative record, which shall consist of—

9                           “(I) the information the Council  
10                           relied upon in issuing a designated  
11                           order under section 1323(e)(6); and

12                           “(II) the information that the ap-  
13                           propriate official relied upon in  
14                           issuing an exclusion or removal order  
15                           under section 1323(e)(6) or a covered  
16                           procurement action under section  
17                           4713.”.

18           (g) ADDITIONAL PROVISIONS.—Subchapter III of  
19   chapter 13 of title 41, United States Code, is amended  
20   by adding at the end the following new section:

21   **“§ 1329. Additional provisions**

22                   “(a) COMPLIANCE WITH EXISTING PROHIBITIONS.—  
23   In implementing this subchapter, the Council shall coordi-  
24   nate, as applicable and practicable, with the head of an  
25   agency to assist with compliance by the agency with—

1           “(1) section 889 of the John S. McCain Na-  
2           tional Defense Authorization Act of 2019 (Public  
3           Law 115–232; 41 U.S.C. 3901 note);

4           “(2) section 5949 of the James M. Inhofe Na-  
5           tional Defense Authorization Act of 2023 (Public  
6           Law 117–263; 41 U.S.C. 4713 note); and

7           “(3) sections 1821 through 1833 of the Amer-  
8           ican Security Drone Act of 2023 (Public Law 118–  
9           31).

10          “(b) UPDATE TO REGULATIONS.—Not later than two  
11         years after the date of the enactment of this section, the  
12         Federal Acquisition Security Council shall update any reg-  
13         ulations the Council determines necessary.”.

14          (h) TECHNICAL AND CONFORMING CHANGES.—Sub-  
15         chapter III of chapter 13 of title 41, United States Code,  
16         is amended—

17                 (1) in the table of sections for the subchapter  
18                 by adding after the item related to section 1328 the  
19                 following:

                  “1329. Additional provisions.”;

20                 (2) in section 1321(1)(B), by striking “Govern-  
21                 ment Reform” and inserting “Accountability”; and

22                 (3) by striking “of this title” each place the  
23                 term appears.

1 **SEC. 3. REALLOCATING EXISTING RESOURCES.**

2 Section 5949(1) of the James M. Inhofe National De-  
 3 fense Authorization Act for Fiscal Year 2023 (Public Law  
 4 117-263) is amended—

5 (1) in paragraph (1), by striking “Office of  
 6 Management and Budget” and inserting “Office of  
 7 the National Cyber Director”; and

8 (2) in paragraph (2), by striking “Office of  
 9 Management and Budget” and inserting “Office of  
 10 the National Cyber Director”.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Federal Acquisition Se-*  
 13 *curity Council Improvement Act of 2024”.*

14 **SEC. 2. CHANGES WITH RESPECT TO THE FEDERAL ACQUI-**  
 15 **SITION SECURITY COUNCIL.**

16 (a) *DEFINITION OF SOURCE OF CONCERN, COVERED*  
 17 *SOURCE OF CONCERN, RECOMMENDED ORDER, AND DES-*  
 18 *IGNATED ORDER.*—Section 1321 of title 41, United States  
 19 Code, is amended—

20 (1) *by redesignating paragraphs (5) through (8)*  
 21 *as paragraphs (7) through (10);*

22 (2) *by inserting after paragraph (4) the fol-*  
 23 *lowing:*

24 “(5) *COVERED SOURCE OF CONCERN.*—*The term*  
 25 *‘covered source of concern’ means a source of concern*  
 26 *that is specifically designated as a ‘covered source of*



1       concern’ by a statute that states that such designation  
2       is for the purposes of this subchapter.

3               “(6) *DESIGNATED ORDER*.—The term ‘designated  
4       order’ means an order described under section  
5       1323(c)(3).”; and

6               (3) by adding at the end the following:

7               “(11) *RECOMMENDED ORDER*.—The term ‘rec-  
8       ommended order’ means an order recommended under  
9       section 1323(c)(2).

10              “(12) *SOURCE OF CONCERN*.—

11              “(A) *IN GENERAL*.—The term ‘source of  
12       concern’ means a source—

13              “(i) subject to the jurisdiction, direc-  
14       tion, or control of the government of a for-  
15       eign adversary, or operates on behalf of the  
16       government of a foreign adversary; or

17              “(ii) that poses a risk to the national  
18       security of the United States based on col-  
19       laboration with, whole or partial ownership  
20       or control by, or being affiliated with a  
21       military, internal security force, or intel-  
22       ligence agency of a foreign adversary.

23              “(B) *FOREIGN ADVERSARY DEFINED*.—In  
24       this paragraph, the term ‘foreign adversary’ has

1           *the meaning given the term ‘covered nation’ in*  
2           *section 4872(d) of title 10.’’.*

3           **(b) ESTABLISHMENT AND MEMBERS OF COUNCIL.—**

4           *Section 1322 of title 41, United States Code, is amended—*

5           *(1) in subsection (a), by striking “executive*  
6           *branch” and inserting “Executive Office of the Presi-*  
7           *dent”;*

8           *(2) in subsection (b)—*

9                   *(A) by amending paragraph (1) to read as*  
10           *follows:*

11                   *“(1) IN GENERAL.—The members of the Council*  
12           *shall be as follows:*

13                           *“(A) The Administrator for Federal Pro-*  
14                   *curement Policy.*

15                           *“(B) The Deputy Director for Management*  
16                   *of the Office of Management and Budget.*

17                           *“(C) The following officials, each of whom*  
18                   *shall occupy a position at the level of Assistant*  
19                   *Secretary or Deputy Assistant Secretary (or*  
20                   *equivalent):*

21                                   *“(i) Two officials from the Office of the*  
22                   *Director of National Intelligence, one of*  
23                   *which shall be from the National Counter-*  
24                   *intelligence and Security Center.*

1           “(ii) Two officials from the Depart-  
2           ment of Defense, one of which shall be one  
3           from the National Security Agency.

4           “(iii) Two officials from the Depart-  
5           ment of Homeland Security, one of which  
6           shall be one from the Cybersecurity and In-  
7           frastructure Security Agency.

8           “(iv) An official from the General  
9           Services Administration.

10          “(v) An official from the Office of the  
11          National Cyber Director.

12          “(vi) Two officials from the Depart-  
13          ment of Justice, one of which shall be one  
14          from the Federal Bureau of Investigation.

15          “(vii) Two officials from the Depart-  
16          ment of Commerce, one of which shall be  
17          from the National Institute of Standards  
18          and Technology and one of which shall be  
19          from the Bureau of Industry and Security.

20          “(viii) An official from any executive  
21          agency not listed under clauses (i) through  
22          (vii) whose temporary or permanent par-  
23          ticipation is determined by the Chairperson  
24          of the Council to be necessary to carry out  
25          the functions of the Council while maintain-

1            *ing the intended balance in subject matter*  
2            *expertise.”; and*

3            *(B) in paragraph (2)—*

4                    *(i) in the heading, by striking “LEAD*  
5                    *REPRESENTATIVES” and inserting “MEM-*  
6                    *BERS”;*

7                    *(ii) by amending subparagraph (A)(i)*  
8                    *to read as follows:*

9                    *“(i) IN GENERAL.—The head of each*  
10                    *executive agency listed under paragraph*  
11                    *(1)(C) shall designate the official or officials*  
12                    *from that agency who shall serve on the*  
13                    *Council in accordance with such para-*  
14                    *graph.”;*

15                    *(iii) by amending subparagraph*  
16                    *(A)(ii) to read as follows:*

17                    *“(ii) REQUIREMENTS.—To the extent*  
18                    *feasible, any official designated under clause*  
19                    *(i) shall have expertise in supply chain risk*  
20                    *management, acquisitions, law, or informa-*  
21                    *tion and communications technology.”;*

22                    *(iv) by amending subparagraph (B) to*  
23                    *read as follows:*

24                    *“(B) FUNCTIONS.—A member of the Council*  
25                    *shall—*

1                   “(i) regularly participate in the activi-  
2                   ties of the Council;

3                   “(ii) ensure that any information re-  
4                   quested by the Council from the agency rep-  
5                   resented by the member is provided to the  
6                   Council; and

7                   “(iii) ensure that the head of the agen-  
8                   cy represented by the member and other ap-  
9                   propriate personnel of the agency are aware  
10                  of the activities of the Council.”;

11                  (3) in subsection (c)—

12                   (A) by amending paragraph (1) to read as  
13                  follows:

14                   “(1) IN GENERAL.—The Chairperson of the  
15                  Council shall be—

16                   “(A) the National Cyber Director; or

17                   “(B) another member of the Council des-  
18                  ignated by the National Cyber Director.”; and

19                   (B) in paragraph (2)—

20                   (i) in subparagraph (B), by striking

21                   “(b)(1)(H)” and inserting “(b)(1)(C)(viii)”;

22                   and

23                   (ii) in subparagraph (C), by striking

24                   “lead representative of each agency rep-

1           resented on the Council” and inserting  
2           “members of the Council”; and

3           (4) in subsection (d)—

4           (A) by striking “The Council” and insert-  
5           ing the following:

6           “(1) COUNCIL MEETINGS.—The Council”; and

7           (B) by adding at the end the following:

8           “(2) OTHER MEETINGS.—The Chairperson of the  
9           Council shall meet, not less frequently than semiannu-  
10          ally, with—

11           “(A) the Secretary of Homeland Security,  
12           Secretary of Defense, and Director of National  
13           Intelligence; or

14           “(B) in the case that any of the officials  
15           under subparagraph (A) delegated authority to  
16           an official under section 1323(c)(6)(C), with the  
17           delegated official.”.

18          (c) FUNCTIONS AND AUTHORITIES.—Section 1323 of  
19          title 41, United States Code is amended—

20          (1) in subsection (a)—

21           (A) by striking “supply chain” each place  
22           it appears and inserting “acquisition security  
23           and supply chain”;

1           (B) in paragraph (1), as amended by sub-  
2           paragraph (A), by striking “, particularly” and  
3           inserting “that arise”;

4           (C) in paragraph (2), as amended by sub-  
5           paragraph (A), by inserting “associated with the  
6           acquisition and use of covered articles” after  
7           “risk”;

8           (D) in paragraph (6), as amended by sub-  
9           paragraph (A)—

10           (i) by striking “posed by” and insert-  
11           ing “associated with”; and

12           (ii) by inserting “and use” before “of  
13           covered articles”;

14           (E) in paragraph (7), by striking “posed by  
15           acquisitions” and inserting “associated with the  
16           acquisition”;

17           (F) by redesignating paragraph (7) as  
18           paragraph (12); and

19           (G) by inserting after paragraph (6) the fol-  
20           lowing:

21           “(7) Implementing a prioritization scheme for  
22           evaluating the security risks associated with the ac-  
23           quisition and use of covered articles provided or pro-  
24           duced by a covered source of concern.

1           “(8) *Evaluating each covered source of concern*  
2           *to determine whether to issue a designated order with*  
3           *respect to the covered source of concern or a covered*  
4           *article produced or provided by the covered source of*  
5           *concern.*

6           “(9) *Evaluating sources of concern to determine*  
7           *whether to issue a recommended order with respect to*  
8           *the source of concern, or any covered article produced*  
9           *or provided by the source of concern.*

10           “(10) *Monitoring and evaluating compliance by*  
11           *the Secretary of Homeland Security, Secretary of De-*  
12           *fense, and Director of National Intelligence with the*  
13           *requirement to issue designated orders under sub-*  
14           *section (c)(6)(B).*

15           “(11) *Reporting to Congress annually on the se-*  
16           *curity risks associated with the acquisition and use of*  
17           *covered articles produced or provided by sources of*  
18           *concern.”;*

19           (2) *in subsection (b)—*

20                   (A) *by striking “The Council” and insert-*  
21                   *ing the following:*

22                   “(1) *IN GENERAL.—The Council*”; *and*

23                   (B) *in paragraph (1), as so redesignated, by*  
24                   *striking “a program office and”;* *and*

25                   (C) *by adding at the end the following:*



1           “(2) *FEDERAL ACQUISITION SECURITY COUNCIL*  
2           *PROGRAM OFFICE.*—

3           “(A) *ESTABLISHMENT.*—*The Council shall*  
4           *establish a Federal Acquisition Security Council*  
5           *Program Office (referred to in this paragraph as*  
6           *the ‘Program Office’) within the Office of the Na-*  
7           *tional Cyber Director to carry out the functions*  
8           *of the Council duties described under subpara-*  
9           *graph (B).*

10          “(B) *DUTIES.*—*The Program Office shall*  
11          *provide to the Council, including any commit-*  
12          *tees, working groups, or other constituent bodies*  
13          *established by the Council under paragraph*  
14          *(1)—*

15                 “(i) *administrative, legal, and policy*  
16                 *support; and*

17                 “(ii) *analysis and subject matter ex-*  
18                 *pertise on information communications*  
19                 *technology, acquisition security, and supply*  
20                 *chain risk.*

21          “(C) *STRUCTURE.*—*The head of the Pro-*  
22          *gram Office shall be a senior official from the Of-*  
23          *fice of the National Cyber Director that occupies*  
24          *a position at the level of Assistant Secretary or*  
25          *Deputy Assistant Secretary (or equivalent).*

1           “(D) *PROHIBITION.*—*The Program Office*  
2           *may not provide administrative support to the*  
3           *Council for any activities of the Council carried*  
4           *out pursuant to a provision of law other than a*  
5           *provision of law under this subchapter.*

6           “(E) *FUNDING AND RESOURCES.*—*The Pro-*  
7           *gram Office may use the staff and resources of*  
8           *the Office of the National Cyber Director or*  
9           *maintain dedicated staff and resources, as ap-*  
10           *propriate, in the performance of the duties of the*  
11           *Office.*

12           “(F) *SHARED STAFFING AUTHORITY.*—

13           “(i) *IN GENERAL.*—*The Program Of-*  
14           *fice may accept officers or employees of the*  
15           *United States or members of the Armed*  
16           *Forces on a detail from an element of the*  
17           *intelligence community (as such term is de-*  
18           *finied in section 3 of the National Security*  
19           *Act of 1947 (50 U.S.C. 3003)) or from an-*  
20           *other element of the Federal Government on*  
21           *a nonreimbursable basis, as jointly agreed*  
22           *to by the heads of the receiving and detail-*  
23           *ing elements, for a period not to exceed*  
24           *three years.*

1           “(ii) *RULE OF CONSTRUCTION.*—*Noth-*  
2           *ing in this subparagraph may be construed*  
3           *as imposing any limitation on any other*  
4           *authority for reimbursable or nonreimburs-*  
5           *able details.*

6           “(iii) *NONREIMBURSABLE DETAIL.*—*A*  
7           *nonreimbursable detail made under this*  
8           *subparagraph shall not be considered an*  
9           *augmentation of the appropriations of the*  
10           *receiving element of the Program Office or*  
11           *the Office of the National Cyber Director.*

12           “(G) *SUNSET.*—*The Program Office shall*  
13           *terminate on the date described under section*  
14           *1328.”;*

15           (3) *in subsection (c)*—

16           (A) *in paragraph (1)*—

17           (i) *in the matter preceding subpara-*  
18           *graph (A), by striking “supply chain risk”*  
19           *and inserting “acquisition security and*  
20           *supply chain risk associated with the acqui-*  
21           *sition of covered articles”;*

22           (ii) *in subparagraph (A), by inserting*  
23           *“recommended” before “exclusion orders”;*

24           (iii) *in subparagraph (B), by inserting*  
25           *“recommended” before “removal orders”;*

1           (iv) in subparagraph (C), by striking  
2           “; and” and inserting a semicolon;

3           (v) in subparagraph (D), by striking  
4           the period at the end and inserting “; and”;  
5           and

6           (vi) by adding at the end the following:  
7           “(E) issuing designated orders.”;

8           (B) in paragraph (2)—

9           (i) in the heading, by striking “REC-  
10           COMMENDATIONS” and inserting “REC-  
11           COMMENDED ORDERS”;

12           (ii) by striking “use” and inserting “,  
13           using”;

14           (iii) by striking “subsection (a)(3)”  
15           and inserting “subsection (a)(4)”;

16           (iv) by striking “to issue recommenda-  
17           tions” and inserting “, recommend orders”;

18           (v) by striking “Such recommenda-  
19           tions” and inserting “Any such order rec-  
20           ommended”;

21           (vi) by inserting “to the officials de-  
22           scribed under clause (iii) of paragraph  
23           (6)(A) for issuance under such paragraph”  
24           after “thereof,”;

1                   (vii) in subparagraph (D), by striking  
2                   “supply chain risk” and inserting “acqui-  
3                   sition security and supply chain risk associ-  
4                   ated with the acquisition of covered arti-  
5                   cles”; and

6                   (viii) in subparagraph (E), by striking  
7                   “exclusion or removal”;

8                   (C) by redesignating paragraphs (3)  
9                   through (7) as paragraphs (4) through (8);

10                  (D) by inserting after paragraph (2) the fol-  
11                  lowing:

12                  “(3) DESIGNATED ORDERS.—

13                         “(A) EXCLUSION OR REMOVAL OF COVERED  
14                         SOURCES OF CONCERN.—

15                                 “(i) IN GENERAL.—Not later than 270  
16                                 days after a source of concern is designated  
17                                 as a covered source of concern, the Coun-  
18                                 cil—

19                                         “(I) shall provide to the officials  
20                                         described under clause (iii) of para-  
21                                         graph (6)(B) for issuance under such  
22                                         paragraph orders requiring—

23                                                 “(aa) the exclusion of the  
24                                                 covered source of concern from  
25                                                 any executive agency procurement

1                    *action, including source selection*  
2                    *and consent for a contractor; or*

3                    *“(bb) the removal of covered*  
4                    *articles produced or provided by*  
5                    *the covered source of concern from*  
6                    *the information system of execu-*  
7                    *tive agencies; or*

8                    *“(II) report to Congress why the*  
9                    *Council has determined to not issue an*  
10                   *order described under subclause (I)*  
11                   *with respect to the covered source of*  
12                   *concern or covered articles produced or*  
13                   *provided by the covered source of con-*  
14                   *cern.*

15                   *“(ii) CONTENTS OF ORDER.—Any*  
16                   *order provided under clause (i) shall in-*  
17                   *clude—*

18                   *“(I) information regarding the*  
19                   *scope and applicability of the order,*  
20                   *including any information necessary to*  
21                   *positively identify the covered source of*  
22                   *concern or covered articles produced or*  
23                   *provided by the covered source of con-*  
24                   *cern required to be excluded or removed*  
25                   *under the order;*

1           “(II) a summary of any risk as-  
2           sessment reviewed or conducted in sup-  
3           port of the order;

4           “(III) a summary of the basis for  
5           the order, including a discussion of less  
6           intrusive measures that were consid-  
7           ered and why such measures were not  
8           reasonably available to reduce security  
9           risk;

10          “(IV) a description of the actions  
11          necessary to implement the order; and

12          “(V) where practicable, in the  
13          Council’s sole and unreviewable discre-  
14          tion, a description of mitigation steps  
15          that could be taken by the covered  
16          source of concern that may result in  
17          the Council rescinding the order.

18          “(B) *EXCLUSION OR REMOVAL OF SECOND*  
19          *ORDER SOURCES OR COVERED ARTICLES.—*

20                 “(i) *ISSUANCE.—In the case that the*  
21                 *Council provides an order under subpara-*  
22                 *graph (A), the Council may also provide an*  
23                 *order to the officials described under para-*  
24                 *graph (6)(A)(iii) requiring the exclusion of*  
25                 *sources or covered articles from executive*

1            *agency procurement actions or removal of*  
2            *covered articles from executive agency infor-*  
3            *mation systems if—*

4                    *“(I) such covered articles or such*  
5                    *sources use a covered source of concern*  
6                    *in the performance of a contract with*  
7                    *the executive agency; or*

8                    *“(II) such sources enter into a*  
9                    *contract, the performance of which*  
10                   *such source knows or has reason to be-*  
11                   *lieve will require, in the performance*  
12                   *of a contract with the executive agency,*  
13                   *the use of a covered source of concern*  
14                   *or the use of a covered article produced*  
15                   *or provided by a covered source of con-*  
16                   *cern.*

17                   *“(ii) EFFECTIVE DATE CONSIDER-*  
18                   *ATIONS.—Any effective date prescribed by*  
19                   *the Council for an order issued pursuant to*  
20                   *clause (i) shall take into account—*

21                   *“(I) the risk posed by the covered*  
22                   *source of concern or the covered article*  
23                   *produced or provided by the covered*  
24                   *source of concern to the national secu-*  
25                   *rity of the United States;*



1           “(II) the likelihood of the covered  
2           source of concern or the covered article  
3           produced or provided by the covered  
4           source of concern causing imminent  
5           threat to public health and safety;

6           “(III) the availability of an alter-  
7           native source or covered article pro-  
8           duced or provided by an alternative  
9           source; and

10          “(IV) an assessment of the poten-  
11          tial direct or quantifiable costs that  
12          may be incurred by the Federal Gov-  
13          ernment, a State, local, or Tribal gov-  
14          ernment, or by the private sector, as a  
15          result of compliance by the head of an  
16          executive agency with such an exclu-  
17          sion or removal order.”;

18          (E) in paragraph (4), as so redesignated—

19           (i) in the heading, by striking “OF  
20           RECOMMENDATION AND REVIEW” and in-  
21           serting “AND REVIEW OF RECOMMENDED  
22           AND DESIGNATED ORDERS”;

23           (ii) by striking “the recommendation”  
24           each place the term appears, and inserting  
25           “the order”;

1           (iii) in the matter preceding subpara-  
2 graph (A), by striking “A notice of the  
3 Council’s recommendation under paragraph  
4 (2)” and inserting “Before the Council rec-  
5 ommends an order under paragraph (2) or  
6 issues an order under paragraph (3), a no-  
7 tice”;

8           (iv) in subparagraph (A), by striking  
9 “a recommendation has been made” and in-  
10 sserting “the order will be recommended or  
11 issued”;

12           (v) in subparagraph (D), by striking  
13 “paragraph (5)” and inserting “paragraph  
14 (6)”; and

15           (vi) by inserting a new subparagraph  
16 to read as follows:

17           “(F) Until an order is issued pursuant to  
18 paragraph (6), information collected under this  
19 paragraph shall be exempt from public disclosure  
20 and shall be exempt from disclosure under sec-  
21 tion 552(b)(3)(B) of title 5, United States Code  
22 (commonly referred to as the ‘Freedom of Infor-  
23 mation Act’).”;

24           (F) in paragraph (5), as so redesignated—

1                   (i) by striking “paragraph (3)” and  
2 inserting “paragraph (4)”;

3                   (ii) in subparagraph (A), by striking  
4 “paragraph (5)” and inserting “paragraph  
5 (6)”;

6                   (iii) in subparagraph (B), by striking  
7 “paragraph (6)” and inserting “paragraph  
8 (7)”;

9 (G) in paragraph (6), as so redesignated—

10                   (i) by amending subparagraph (A) to  
11 read as follows:

12                   “(A) ISSUANCE OF RECOMMENDED OR-  
13 DERS.—

14                   “(i) MODIFICATIONS TO ORDER.—After  
15 considering any response properly sub-  
16 mitted by a source under paragraph (4) re-  
17 lated to an order to be recommended under  
18 paragraph (2), the Council shall—

19                   “(I) make such modifications to  
20 the order as the Council considers ap-  
21 propriate; and

22                   “(II) provide the order (together  
23 with any information submitted by a  
24 source under paragraph (4) related to

1           such order) to the officials described  
2           under clause (iii).

3           “(ii) *ORDER.*—Not later than 90 days  
4           after receiving a recommended order, the of-  
5           ficials described under clause (iii) shall—

6                     “(I) issue the order to the heads of  
7                     the applicable agencies; or

8                     “(II) submit a notification to the  
9                     Council that the order will not be  
10                    issued, that includes in the notification  
11                    to the Council, all the reasons for why  
12                    the order will not be issued.

13           “(iii) *OFFICIALS.*—The officials de-  
14           scribed in this clause are as follows:

15                    “(I) The Secretary of Homeland  
16                    Security, for exclusion and removal or-  
17                    ders applicable to civilian agencies, to  
18                    the extent not covered by subclause (II)  
19                    or (III).

20                    “(II) The Secretary of Defense, for  
21                    exclusion and removal orders applica-  
22                    ble to the Department of Defense and  
23                    national security systems other than  
24                    sensitive compartmented information  
25                    systems.

1                   “(III) *The Director of National*  
2                   *Intelligence, for exclusion and removal*  
3                   *orders applicable to the intelligence*  
4                   *community and sensitive compart-*  
5                   *mented information systems, to the ex-*  
6                   *tent not covered by subclause (II).’;*

7                   *(ii) by redesignating subparagraphs*  
8                   *(B) through (E) as subparagraphs (C)*  
9                   *through (F), respectively;*

10                   *(iii) by inserting after subparagraph*  
11                   *(A) the following:*

12                   “(B) *ISSUANCE OF DESIGNATED ORDER.—*

13                    “(i) *MODIFICATIONS.—After consid-*  
14                    *ering any response properly submitted by a*  
15                    *source under paragraph (4) related to a des-*  
16                    *ignated order, the Council shall—*

17                    “(I)(aa) *make any such modifica-*  
18                    *tions to the order as the Council con-*  
19                    *siders appropriate; or*

20                    “(bb) *if the Council deter-*  
21                    *mines that the issuance of a des-*  
22                    *ignated order is not warranted,*  
23                    *rescind the designated order and*  
24                    *notify the source of the rescission;*  
25                    *and*

1           “(II) *except in the case that the*  
2           *Council rescinds the designated order*  
3           *under subclause (I)(bb), provide the*  
4           *designated order (including any modi-*  
5           *fications made to such order by the*  
6           *Council) to the officials described in*  
7           *clause (iii).*

8           “(ii) *ISSUANCE.—The officials de-*  
9           *scribed in clause (iii) shall, not later than*  
10           *90 days after receiving a designated order,*  
11           *issue the order to the heads of the applicable*  
12           *agencies.*

13           “(iii) *OFFICIALS.—The officials de-*  
14           *scribed in this clause are as follows:*

15           “(I) *The Secretary of Homeland*  
16           *Security, for exclusion and removal or-*  
17           *ders applicable to civilian agencies, to*  
18           *the extent not covered by subclause (II)*  
19           *or (III).*

20           “(II) *The Secretary of Defense, for*  
21           *exclusion and removal orders applica-*  
22           *ble to the Department of Defense and*  
23           *national security systems other than*  
24           *sensitive compartmented information*  
25           *systems.*

1                   “(III) *The Director of National*  
2                   *Intelligence, for exclusion and removal*  
3                   *orders applicable to the intelligence*  
4                   *community and sensitive compart-*  
5                   *mented information systems, to the ex-*  
6                   *tent not covered by subclause (II).*

7                   “(iv) *WAIVER.—An official described*  
8                   *under clause (iii) may waive for a period*  
9                   *of not more than 365 days the application*  
10                  *of an order issued by such official under*  
11                  *clause (ii) with respect to a covered source*  
12                  *of concern or a covered article produced or*  
13                  *provided by a covered source of concern if*  
14                  *the official submits, not later than 30 days*  
15                  *after making such waiver, a written notifi-*  
16                  *cation to the Council, appropriate congres-*  
17                  *sional committees, and leadership that con-*  
18                  *tains the justification for such waiver.*

19                  “(v) *RENEWAL OF WAIVER.—An offi-*  
20                  *cial described under clause (iii) may renew*  
21                  *a waiver under clause (iv) for an additional*  
22                  *period of not more than 180 days if—*

23                               “(I) *the renewal of the waiver is*  
24                               *in the national security interests of the*  
25                               *United States; and*

1                   “(II) *the official submits, not later*  
2                   *than 30 days after renewing such*  
3                   *waiver, a written notification to the*  
4                   *Council, appropriate congressional*  
5                   *committees, and leadership that in-*  
6                   *cludes the justification for renewing the*  
7                   *wavier.*

8                   “(vi) *NATIONAL SECURITY WAIVER.—*  
9                   *An official described under clause (iii) may*  
10                  *waive the application of an order issued by*  
11                  *such official under clause (ii) with respect*  
12                  *to a covered source of concern or a covered*  
13                  *article produced or provided by a covered*  
14                  *source of concern for any activity subject to*  
15                  *the reporting requirements under title V of*  
16                  *the National Security Act of 1947 (50*  
17                  *U.S.C. 3091 et seq.) or any authorized in-*  
18                  *telligence activities of the United States.*

19                  “(vii) *RESCISSION OF ORDER.—An ex-*  
20                  *clusion or removal order issued under this*  
21                  *subparagraph by an official may be re-*  
22                  *scinded only by the Council.”.*

23                  *(iv) in subparagraph (C), as so reded-*  
24                  *ignated—*



1                   (I) by striking “subparagraph  
2                   (A)” and inserting “subparagraph  
3                   (A)(iii) or (B)(iii)”;

4                   (II) by striking “this subpara-  
5                   graph” and inserting “subparagraph  
6                   (A)(iii) or (B)(iii)”; and

7                   (III) by striking “, except” and  
8                   all that follows before the period at the  
9                   end;

10                  (v) in subparagraph (D), as so redesi-  
11                  gnated—

12                   (I) by striking “this paragraph”  
13                   and inserting “subparagraph (A)(iii)  
14                   or (B)(iii)”; and

15                   (II) by striking “help”;

16                   (vi) in subparagraph (E), as so redesi-  
17                   gnated, by striking “this paragraph” and  
18                   inserting “subparagraph (A)”; and

19                   (vii) by adding after subparagraph  
20                   (F), as so redesignated, the following:

21                   “(G) *EFFECTIVE DATE OF ORDERS.*—The  
22                   effective date of an order issued under this para-  
23                   graph may not be more than 365 days after the  
24                   order is issued.”;

1           (H) in paragraph (7), as so redesignated,  
2           by striking “paragraph (5)(A)” and inserting  
3           “subparagraph (A) or (B) of paragraph (6)”;  
4           and

5           (I) in paragraph (8), as so redesignated, by  
6           striking “paragraph (5)” and inserting “para-  
7           graph (6)”;

8           (4) in subsection (e), by inserting “the Chief  
9           Data Officers Council,” before “the Chief Acquisi-  
10          tion”; and

11          (5) in subsection (f)(2), by striking the period at  
12          the end and inserting “unless such source is specifi-  
13          cally designated by statute as a covered source of con-  
14          cern for the purposes of this subchapter.”.

15          (d) *STRATEGIC PLAN*.—Section 1324(a) of title 41,  
16          *United States Code*, is amended—

17               (1) by inserting “, and periodically thereafter”  
18               after “2018”;

19               (2) in the matter preceding paragraph (1), by  
20               inserting “acquisition security and” before “supply  
21               chain risks”;

22               (3) in paragraph (8), by inserting “acquisition  
23               security and” before “supply chain risks”; and

24               (4) in paragraph (9)(A), by inserting “acquisi-  
25               tion security and” before “supply chain risk”.

1           (e) *REQUIREMENTS FOR EXECUTIVE AGENCIES.*—Section  
2 *tion 1326 of title 41, United States Code, is amended—*

3           (1) *in subsection (a)—*

4                   (A) *in paragraph (1), by striking “; and”*  
5 *and inserting a semicolon;*

6                   (B) *in paragraph (2), by striking the period*  
7 *at the end and inserting “; and”; and*

8                   (C) *by adding at the end the following:*

9                   “(3) *providing any information requested by the*  
10 *Chairperson of the Council for the purpose of car-*  
11 *rying out activities of this subchapter, subject to ap-*  
12 *licable law or policy on the control and handling of*  
13 *classified, sensitive, or proprietary information.’”;*

14                   (2) *by striking “supply chain” each place such*  
15 *term appears and inserting “security and supply*  
16 *chain”; and*

17                   (3) *in subsection (b)(6), by striking “supply*  
18 *chain” and inserting “security or supply chain”.*

19           (f) *JUDICIAL PROCEDURE.*—Section 1327(b) of title  
20 *41, United States Code, is amended—*

21                   (1) *in paragraph (1), by striking “section*  
22 *1323(c)(6)” and inserting “section 1323(c)(7)”;*

23                   (2) *in paragraph (3), by striking “section*  
24 *1323(c)(5)” and inserting “sections 1323(c)(6)”;* and

1           (3) in paragraph (4), by amending subpara-  
2           graph (B)(i) to read as follows:

3                   “(i) *FILING OF RECORD.*—The United  
4                   States shall file with the court an adminis-  
5                   trative record, which shall consist of—

6                           “(I) the information the Council  
7                           relied upon in issuing a designated  
8                           order under 1323(c)(6); and

9                           “(II) the information that the ap-  
10                          propriate official relied upon in  
11                          issuing an exclusion or removal order  
12                          under section 1323(c)(6) or a covered  
13                          procurement action under section  
14                          4713.”.

15           (g) *ADDITIONAL PROVISIONS.*—Subchapter III of  
16 chapter 13 of title 41, United States Code, is amended by  
17 adding at the end the following:

18           **“§ 1329. Additional provisions**

19                   “(a) *COMPLIANCE WITH EXISTING PROHIBITIONS.*—  
20 In implementing this subchapter, the Council shall coordi-  
21 nate, as applicable and practicable, with the head of an  
22 agency to assist with compliance by the agency with—

23                           “(1) section 889 of the John S. McCain National  
24                          Defense Authorization Act of 2019 (Public Law 115-  
25                          232; 41 U.S.C. 3901 note);

1           “(2) section 5949 of the James M. Inhofe Na-  
2           tional Defense Authorization Act of 2023 (Public Law  
3           117–263; 41 U.S.C. 4713 note); and

4           “(3) sections 1821 through 1833 of the American  
5           Security Drone Act of 2023 (Public Law 118–31).

6           “(b) UPDATE TO REGULATIONS.—The Federal Acqui-  
7           sition Security Council shall update, within two years after  
8           the date of the enactment of this section, any regulations  
9           of the Council as necessary.”.

10          (h) TECHNICAL AND CONFORMING CHANGES.—Sub-  
11          chapter III of chapter 13 of title 41, United States Code,  
12          is amended—

13                 (1) in the table of sections for the subchapter by  
14                 adding after the item related to section 1328 the fol-  
15                 lowing:

               “1329. Additional provisions.”;

16                 (2) in section 1321(1)(B), by striking “Govern-  
17                 ment Reform” and inserting “Accountability”; and

18                 (3) by striking “of this title” each place the term  
19                 appears.

20          **SEC. 3. REALLOCATING EXISTING RESOURCES.**

21                 Section 5949(l) of the James M. Inhofe National De-  
22                 fense Authorization Act for Fiscal Year 2023 (Public Law  
23                 117–263) is amended—

1           (1) *in paragraph (1), by striking “Office of*  
2           *Management and Budget” and inserting “Office of*  
3           *the National Cyber Director”;* and

4           (2) *in paragraph (2), by striking “Office of*  
5           *Management and Budget” and inserting “Office of*  
6           *the National Cyber Director”.*



Calendar No. 702

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 5310**

[Report No. 118-296]

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## A BILL

To amend title 41, United States Code, to make changes with respect to the Federal Acquisition Security Council, and for other purposes.

DECEMBER 16, 2024

Reported with an amendment