

Calendar No. 191

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-87

SUPPLY CHAIN COUNTERINTELLIGENCE
TRAINING ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1388

TO MANAGE SUPPLY CHAIN RISK THROUGH
COUNTERINTELLIGENCE TRAINING, AND FOR OTHER PURPOSES



SEPTEMBER 10, 2019.—Ordered to be printed

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SUPPLY CHAIN COUNTERINTELLIGENCE TRAINING ACT
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SEPTEMBER 10, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1388]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1388) to manage supply chain risk through counterintelligence training, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 1388, the Supply Chain Counterintelligence Training Act of 2019, requires the Director of the Office of Management and Budget (OMB), in coordination with the Director of National Intelligence (DNI), the Secretary of the Department of Homeland Security (DHS), and the Administrator of the General Services Administration (GSA), to develop and implement a counterintelligence training program for Federal Government officials with supply chain risk management responsibilities at Federal agencies. The applica-

ble officials include those with programmatic, information communications technology, and acquisition responsibilities.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Foreign adversaries have a long history of hacking into Federal information technology systems to steal information and cause other disruptions.¹ A growing area of concern is the infiltration by adversaries of the sprawling Federal supply chain, which could create a backdoor into Federal systems through more difficult to detect means.² In response to this growing threat, this Committee approved S. 3085, the Federal Acquisition Supply Chain Security Act of 2018, which was later signed into law by President Trump as part of the SECURE Act.³ This law established the Federal Acquisition Security Council to coordinate Federal efforts related to supply chain security and to establish a process to exclude bad actors from the Federal supply chain.⁴

Meanwhile, there have been new concerns raised that Federal acquisition officials, while well-trained in aspects of the Federal Acquisition Regulation and the general process for acquiring information technology goods and services, have little to no training regarding the potential counterintelligence risks that could be posed by acquiring those same goods and services.⁵

Recognizing this threat to Federal systems, S. 1388 requires OMB—in coordination with DHS, DNI, and GSA, to establish a counterintelligence training program for officials with supply chain risk management responsibilities, including program staff, information communications technologists, and acquisition officials at Executive agencies. It provides broad authority regarding the development of this training program to provide flexibility to ensure it meets the needs of the agencies and can be adapted as threats change and emerge. The legislation also requires biannual reports to Congress for the three years following its enactment.

III. LEGISLATIVE HISTORY

Ranking Member Gary Peters (D–MI) introduced S. 1388, the Supply Chain Counterintelligence Act of 2019, on May 9, 2019, with Chairman Ron Johnson (R–WI) and Senator Maggie Hassan (D–NH). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1388 at a business meeting on May 15, 2019. The bill was ordered reported favorably *en bloc* by voice vote. Senators Johnson, Paul, Lankford, Scott, Peters, Carper, Hassan, and Rosen were present for the vote.

¹See, e.g., Ellen Nakashima, *Chinese Breach Data of 4 Million Federal Workers*, Wash. Post (June 4, 2015), https://www.washingtonpost.com/world/national-security/chinese-hackers-breach-federal-governments-personnel-office/2015/06/04/889c0e52-0af7-11e5-95fd-d580f1c5d44e_story.html?noredirect=on&utm_term=.70a790564974.

²Tara Benny et al., Inferos Solutions, Inc., *Supply Chain Vulnerabilities from China in U.S. Federal Information and Communications Technology*, <https://docs.house.gov/meetings/IF/IF16/20180516/108301/HHRG-115-IF16-20180516-SD105-U105.pdf>.

³Strengthening and Enhancing Cyber-Capabilities by Utilizing Risk Exposure Technology Act, Pub. L. No. 115–39, 132 Stat. 5173 (2018).

⁴*Id.*

⁵Bridget Johnson, *Evanina: Root Out Supply Chain’s Weak Links in Private Sector, Procurement Departments*, Homeland Sec. Today (Apr. 7, 2019), <https://www.hstoday.us/subject-matter-areas/cybersecurity/evanina-root-out-supply-chains-weak-links-in-private-sector-procurement-departments/>.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides the bill’s short title, the Supply Chain Counterintelligence Training Act of 2019”.

Section 2. Counterintelligence Training Program to manage supply chain risk

This section tasks the Director of OMB, DNI, Secretary of DHS, and Administrator of GSA to create and implement a program centered on counterintelligence for officials with supply chain risk management policies at Executive agencies within 180 days.⁶ The bill also dictates the program prepare personnel to identify and mitigate counterintelligence threats that arise from the use and acquisition of information and communication technology.

Section 3. Reports on Implementation of the Program

This section requires the Director of the OMB consult with the executive officials tasked in Section 2 to brief appropriate congressional leadership and committees on the implementation of the program no later than 18 days after enactment of this bill. The Director of the OMB is to continue these briefings every 180 for the next three years.

Section 4. Definitions

The first subsection stipulates “appropriate Congressional Committees and leadership” and “information and communications technology” is given the meaning of the same terms as in 41 U.S.C. § 4713(k).

The second subsection gives “executive agency” the same meaning as that used in 41 U.S.C § 133.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

⁶This includes “programmatic, information communications technology, and acquisition officials”.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 28, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1388, the Supply Chain Counterintelligence Training Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is William Ma.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1388, Supply Chain Counterintelligence Training Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Deficit Effect	0	*	*
Spending Subject to Appropriation (Outlays)	4	27	n.e.
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
n.e. = not estimated; * = between -\$500,000 and \$500,000.			

S. 1388 would require the Office of Management and Budget (OMB) to establish a program to train federal employees to identify and defend against counterintelligence threats to the federal supply chain. Acquisition officials at all federal agencies who are involved with managing the supply chain for information and communications technology programs would be required to attend that training. The bill also would require OMB to report to the Congress on the implementation of that training program. CBO estimates that implementing the bill would cost \$27 million over the 2020–2024 period (see Table 1); that spending would be subject to the availability of appropriated funds.

The Department of Defense (DoD) has about 150,000 employees in its acquisition workforce and DoD's contracts account for about 60 percent of all federal contracts. On that basis, CBO estimates that the acquisition workforce of the federal government totals about 250,000 people. CBO expects that 10 percent of them would require training every two years under the bill and that training for the first group of employees would begin in 2021. Using infor-

mation on the costs of other federal training programs, CBO estimates that delivering that training to an average of 12,500 individuals each year would cost \$10 million over the 2020–2024 period.

CBO expects that some of the information provided in that training would be classified; thus, trainees would be required to hold security clearances. The number of acquisition employees in the federal government who have security clearances is unknown. Given that lack of information, CBO assumes that 50 percent of the people who would receive training as a result of S. 1388 already possess clearances at the secret level or higher. Thus, 12,500 people would require new clearances initially and about 600 additional clearances would be processed each year beginning in 2022 as a result of personnel turnover. Background investigations for a secret clearance cost about \$800. On that basis, CBO estimates that it would cost \$12 million to conduct background investigations on those trainees over the 2020–2024 period.

In addition to the above costs, CBO estimates that it would cost \$1 million to develop the training curriculum and \$1 million annually thereafter to continually update it to incorporate information on the latest counterintelligence threats.

Using information about the costs of similar reports, CBO estimates that satisfying the reporting requirements in S. 1388 would cost less than \$500,000.

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1388

	By fiscal year, millions of dollars—						
	2019	2020	2021	2022	2023	2024	2019–2024
Training:							
Estimated Authorization Level	0	5	8	3	3	3	22
Estimated Outlays	0	3	8	5	3	3	22
Course Development and Update:							
Estimated Authorization Level	0	1	1	1	1	1	5
Estimated Outlays	0	1	1	1	1	1	5
Totals:							
Estimated Authorization Level ...	0	6	9	4	4	4	27
Estimated Outlays	0	4	9	6	4	4	27

Enacting S. 1388 also would increase expenses for agencies not funded through annual appropriations. Such spending is considered direct spending. However, because those agencies are able to increase the fees that provide their funding as necessary to cover their costs, CBO estimates that the net difference in spending from those agencies would be insignificant over the 2020–2029 period.

This estimate is uncertain primarily because the bill would give OMB broad latitude in designing the training program. The frequency of the training, the number of acquisition employees who would be trained, and the number of personnel who would require new security clearances could differ significantly from CBO's estimate.

The CBO staff contact for this estimate is William Ma. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because this legislation would not repeal or amend any provision of current law, it would not make changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.

