

(2) COUNCIL.—The term “Council” means the Federal Acquisition Security Council established under section 1322(a) of this title.

(3) COVERED ARTICLE.—The term “covered article” has the meaning given that term in section 4713 of this title.

(4) COVERED PROCUREMENT ACTION.—The term “covered procurement action” has the meaning given that term in section 4713 of this title.

(5) INFORMATION AND COMMUNICATIONS TECHNOLOGY.—The term “information and communications technology” has the meaning given that term in section 4713 of this title.

(6) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(7) NATIONAL SECURITY SYSTEM.—The term “national security system” has the meaning given that term in section 3552 of title 44.

(8) SUPPLY CHAIN RISK.—The term “supply chain risk” has the meaning given that term in section 4713 of this title.

(Added Pub. L. 115–390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5178.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE

Pub. L. 115–390, title II, §202(c), Dec. 21, 2018, 132 Stat. 5188, provided that: “The amendments made by this section [enacting this subchapter] shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 21, 2018] and shall apply to contracts that are awarded before, on, or after that date.”

Pub. L. 115–390, title II, §205, Dec. 21, 2018, 132 Stat. 5193, provided that: “This title [see section 201 of Pub. L. 115–390, set out as a Short Title of 2018 note under section 101 of this title] shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 21, 2018].”

IMPLEMENTATION

Pub. L. 115–390, title II, §202(d), Dec. 21, 2018, 132 Stat. 5188, provided that:

“(1) INTERIM FINAL RULE.—Not later than one year after the date of the enactment of this Act [Dec. 21, 2018], the Federal Acquisition Security Council shall prescribe an interim final rule to implement subchapter III of chapter 13 of title 41, United States Code, as added by subsection (a).

“(2) FINAL RULE.—Not later than one year after prescribing the interim final rule under paragraph (1) and considering public comments with respect to such interim final rule, the Council shall prescribe a final rule to implement subchapter III of chapter 13 of title 41, United States Code, as added by subsection (a).

“(3) FAILURE TO ACT.—

“(A) IN GENERAL.—If the Council does not issue a final rule in accordance with paragraph (2) on or before the last day of the one-year period referred to in that paragraph, the Council shall submit to the appropriate congressional committees and leadership, not later than 10 days after such last day and every 90 days thereafter until the final rule is issued, a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued.

“(B) APPROPRIATE CONGRESSIONAL COMMITTEES AND LEADERSHIP DEFINED.—In this paragraph, the term ‘appropriate congressional committees and leadership’ has the meaning given that term in section 1321 of title 41, United States Code, as added by subsection (a).”

§ 1322. Federal Acquisition Security Council establishment and membership

(a) ESTABLISHMENT.—There is established in the executive branch a Federal Acquisition Security Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The following agencies shall be represented on the Council:

(A) The Office of Management and Budget.

(B) The General Services Administration.

(C) The Department of Homeland Security, including the Cybersecurity and Infrastructure Security Agency.

(D) The Office of the Director of National Intelligence, including the National Counterintelligence and Security Center.

(E) The Department of Justice, including the Federal Bureau of Investigation.

(F) The Department of Defense, including the National Security Agency.

(G) The Department of Commerce, including the National Institute of Standards and Technology.

(H) Such other executive agencies as determined by the Chairperson of the Council.

(2) LEAD REPRESENTATIVES.—

(A) DESIGNATION.—

(i) IN GENERAL.—Not later than 45 days after the date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018, the head of each agency represented on the Council shall designate a representative of that agency as the lead representative of the agency on the Council.

(ii) REQUIREMENTS.—The representative of an agency designated under clause (i) shall have expertise in supply chain risk management, acquisitions, or information and communications technology.

(B) FUNCTIONS.—The lead representative of an agency designated under subparagraph (A) shall ensure that appropriate personnel, including leadership and subject matter experts of the agency, are aware of the business of the Council.

(c) CHAIRPERSON.—

(1) DESIGNATION.—Not later than 45 days after the date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018, the Director of the Office of Management and Budget shall designate a senior-level official from the Office of Management and Budget to serve as the Chairperson of the Council.

(2) FUNCTIONS.—The Chairperson shall perform functions that include—

(A) subject to subsection (d), developing a schedule for meetings of the Council;

(B) designating executive agencies to be represented on the Council under subsection (b)(1)(H);

(C) in consultation with the lead representative of each agency represented on

the Council, developing a charter for the Council; and

(D) not later than 7 days after completion of the charter, submitting the charter to the appropriate congressional committees and leadership.

(d) MEETINGS.—The Council shall meet not later than 60 days after the date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018 and not less frequently than quarterly thereafter.

(Added Pub. L. 115-390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5178.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018, referred to in subsecs. (b)(2)(A)(i), (c)(1), and (d), is the date of enactment of Pub. L. 115-390, which was approved Dec. 21, 2018.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115-390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115-390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115-390, set out as a note under section 1321 of this title.

§ 1323. Functions and authorities

(a) IN GENERAL.—The Council shall perform functions that include the following:

(1) Identifying and recommending development by the National Institute of Standards and Technology of supply chain risk management standards, guidelines, and practices for executive agencies to use when assessing and developing mitigation strategies to address supply chain risks, particularly in the acquisition and use of covered articles under section 1326(a) of this title.

(2) Identifying or developing criteria for sharing information with executive agencies, other Federal entities, and non-Federal entities with respect to supply chain risk, including information related to the exercise of authorities provided under this section and sections 1326 and 4713 of this title. At a minimum, such criteria shall address—

(A) the content to be shared;

(B) the circumstances under which sharing is mandated or voluntary; and

(C) the circumstances under which it is appropriate for an executive agency to rely on information made available through such sharing in exercising the responsibilities and authorities provided under this section and section 4713 of this title.

(3) Identifying an appropriate executive agency to—

(A) accept information submitted by executive agencies based on the criteria established under paragraph (2);

(B) facilitate the sharing of information received under subparagraph (A) to support supply chain risk analyses under section 1326 of this title, recommendations under this

section, and covered procurement actions under section 4713 of this title;

(C) share with the Council information regarding covered procurement actions by executive agencies taken under section 4713 of this title; and

(D) inform the Council of orders issued under this section.

(4) Identifying, as appropriate, executive agencies to provide—

(A) shared services, such as support for making risk assessments, validation of products that may be suitable for acquisition, and mitigation activities; and

(B) common contract solutions to support supply chain risk management activities, such as subscription services or machine-learning-enhanced analysis applications to support informed decision making.

(5) Identifying and issuing guidance on additional steps that may be necessary to address supply chain risks arising in the course of executive agencies providing shared services, common contract solutions, acquisitions vehicles, or assisted acquisitions.

(6) Engaging with the private sector and other nongovernmental stakeholders in performing the functions described in paragraphs (1) and (2) and on issues relating to the management of supply chain risks posed by the acquisition of covered articles.

(7) Carrying out such other actions, as determined by the Council, that are necessary to reduce the supply chain risks posed by acquisitions and use of covered articles.

(b) PROGRAM OFFICE AND COMMITTEES.—The Council may establish a program office and any committees, working groups, or other constituent bodies the Council deems appropriate, in its sole and unreviewable discretion, to carry out its functions.

(c) AUTHORITY FOR EXCLUSION OR REMOVAL ORDERS.—

(1) CRITERIA.—To reduce supply chain risk, the Council shall establish criteria and procedures for—

(A) recommending orders applicable to executive agencies requiring the exclusion of sources or covered articles from executive agency procurement actions (in this section referred to as “exclusion orders”);

(B) recommending orders applicable to executive agencies requiring the removal of covered articles from executive agency information systems (in this section referred to as “removal orders”);

(C) requesting and approving exceptions to an issued exclusion or removal order when warranted by circumstances, including alternative mitigation actions or other findings relating to the national interest, including national security reviews, national security investigations, or national security agreements; and

(D) ensuring that recommended orders do not conflict with standards and guidelines issued under section 11331 of title 40 and that the Council consults with the Director of the National Institute of Standards and Technology regarding any recommended orders