

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1695
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Strengthening Agency
3 Management and Oversight of Software Assets Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) **ADMINISTRATOR.**—The term “Adminis-
7 trator” means the Administrator of General Serv-
8 ices.

9 (2) **AGENCY.**—The term “agency” has the
10 meaning given that term in section 3502 of title 44,
11 United States Code.

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

17 (4) **CLOUD SERVICE PROVIDER.**—The term
18 “cloud service provider” has the meaning given the

1 term in section 3607(b) of title 44, United States
2 Code.

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

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

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

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

14 (A) has been purchased, leased, or licensed
15 by or billed to an agency under any contract or
16 other business arrangement; and

17 (B) is subject to use limitations.

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

21 (A) section 2(b)(2)(A) of the Making Elec-
22 tronic Government Accountable By Yielding
23 Tangible Efficiencies Act of 2016 (40 U.S.C.
24 11302 note; Public Law 114–210); or

1 (B) subsequent guidance issued by the Di-
2 rector pursuant to that Act.

3 **SEC. 3. SOFTWARE INVENTORY UPDATE AND EXPANSION.**

4 (a) IN GENERAL.—As soon as practicable, and not
5 later than 18 months after the date of enactment of this
6 Act, the Chief Information Officer of each agency, in con-
7 sultation with the Chief Financial Officer, the Chief Ac-
8 quisition Officer, the Chief Data Officer, and General
9 Counsel of the agency, or the equivalent officials of the
10 agency, shall complete a comprehensive assessment of the
11 software paid for by, in use at, or deployed throughout
12 the agency, which shall include—

13 (1) the current software inventory of the agen-
14 cy, including software entitlements, contracts and
15 other agreements or arrangements of the agency,
16 and a list of the largest software entitlements of the
17 agency separated by provider and category of soft-
18 ware;

19 (2) a comprehensive, detailed accounting of—

20 (A) any software used by or deployed with-
21 in the agency, including software developed or
22 built by the agency, or by another agency for
23 use by the agency, including shared services, as
24 of the date of the comprehensive assessment,
25 including, to the extent identifiable, the con-

1 tracts and other agreements or arrangements
2 used by the agency to acquire, build, deploy, or
3 use such software;

4 (B) information and data on software enti-
5 tlements, which shall include information on
6 any additional fees or costs, including fees or
7 costs for the use of cloud services, that are not
8 included in the initial costs of the contract,
9 agreement, or arrangement—

10 (i) for which the agency pays;

11 (ii) that are not deployed or in use by
12 the agency; and

13 (iii) that are billed to the agency
14 under any contract or business arrange-
15 ment that creates duplication, or are other-
16 wise determined to be unnecessary by the
17 Chief Information Officer of the agency, or
18 the equivalent official, in the deployment
19 or use by the agency; and

20 (C) the extent—

21 (i) to which any software paid for, in
22 use, or deployed throughout the agency is
23 interoperable; and

1 (ii) of the efforts of the agency to im-
2 prove interoperability of software assets
3 throughout the agency enterprise;

4 (3) a categorization of software entitlements of
5 the agency by cost, volume, and type of software;

6 (4) a list of any provisions in the software enti-
7 tlements of the agency that may restrict how the
8 software can be deployed, accessed, or used, includ-
9 ing any such restrictions on desktop or server hard-
10 ware, through a cloud service provider, or on data
11 ownership or access; and

12 (5) an analysis addressing—

13 (A) the accuracy and completeness of the
14 comprehensive assessment;

15 (B) agency management of and compliance
16 with all contracts or other agreements or ar-
17 rangements that include or reference software
18 entitlements or software management within
19 the agency;

20 (C) the extent to which the agency accu-
21 rately captures the total cost of software enti-
22 tlements and related costs, including the total
23 cost of upgrades over the life of a contract,
24 cloud usage costs, and any other cost associated

1 with the maintenance or servicing of contracts;
2 and

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

5 (b) CONTRACT SUPPORT.—

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

9 (2) NO CONFLICT OF INTEREST.—Contracts
10 under paragraph (1) shall not include contractors
11 with organizational conflicts of interest, within the
12 meaning given that term under subpart 9.5 of the
13 Federal Acquisition Regulation.

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

20 (c) SUBMISSION.—On the date on which the Chief In-
21 formation Officer, Chief Financial Officer, Chief Acquisi-
22 tion Officer, the Chief Data Officer, and General Counsel
23 of an agency, or the equivalent officials of the agency,
24 complete the comprehensive assessment, the Chief Infor-

1 mation Officer shall submit the comprehensive assessment
2 to the head of the agency.

3 (d) SUBSEQUENT SUBMISSION.—Not later than 30
4 days after the date on which the head of an agency re-
5 ceives the comprehensive assessment under subsection (c),
6 the head of the agency shall submit the comprehensive as-
7 sessment to—

8 (1) the Director;

9 (2) the Administrator;

10 (3) the Comptroller General of the United
11 States;

12 (4) the Committee on Homeland Security and
13 Governmental Affairs of the Senate; and

14 (5) the Committee on Oversight and Account-
15 ability of the House of Representatives.

16 (e) CONSULTATION.—In order to ensure the utility
17 and standardization of the comprehensive assessment of
18 each agency, including to support the development of each
19 plan and the report required under section 4(e)(2), the
20 Director, in consultation with the Administrator, shall
21 share information, best practices, and recommendations
22 relating to the activities performed in the course of a com-
23 prehensive assessment of an agency.

1 **SEC. 4. SOFTWARE MODERNIZATION PLANNING AT AGEN-**
2 **CIES.**

3 (a) IN GENERAL.—The Chief Information Officer of
4 each agency, in consultation with the Chief Financial Offi-
5 cer, the Chief Acquisition Officer, the Chief Data Officer,
6 and the General Counsel of the agency, or the equivalent
7 officials of the agency, shall use the information developed
8 pursuant to the comprehensive assessment of the agency
9 to develop a plan for the agency—

10 (1) to consolidate software entitlements of the
11 agency;

12 (2) to ensure that, in order to improve the per-
13 formance of, and reduce unnecessary costs to, the
14 agency, the Chief Information Officer, Chief Data
15 Officer, and Chief Acquisition Officer of the agency,
16 or the equivalent officers, develop criteria and proce-
17 dures for how the agency will adopt cost-effective ac-
18 quisition strategies, including enterprise licensing,
19 across the agency that reduce costs, eliminate excess
20 licenses, and improve performance; and

21 (3) to restrict the ability of a bureau, program,
22 component, or operational entity within the agency
23 to acquire, use, develop, or otherwise leverage any
24 software entitlement (or portion thereof) without the
25 approval of the Chief Information Officer of the
26 agency, in consultation with the Chief Acquisition

1 Officer of the agency, or the equivalent officers of
2 the agency.

3 (b) PLAN REQUIREMENTS.—The plan of an agency
4 shall—

5 (1) include a detailed strategy for—

6 (A) the remediation of any software asset
7 management deficiencies found during the com-
8 prehensive assessment of the agency;

9 (B) the ongoing maintenance of software
10 asset management upon the completion of the
11 remediation;

12 (C) automation of software license man-
13 agement processes and incorporation of dis-
14 covery tools across the agency;

15 (D) ensuring that officers and employees
16 of the agency are adequately trained in the poli-
17 cies, procedures, rules, regulations, and guid-
18 ance relating to the software acquisition and
19 development of the agency before entering into
20 any agreement relating to any software entitle-
21 ment (or portion thereof) for the agency, in-
22 cluding training on—

23 (i) negotiating options within con-
24 tracts to address and minimize provisions
25 that restrict how the agency may deploy,

1 access, or use the software, including re-
2 strictions on deployment, access, or use on
3 desktop or server hardware and restric-
4 tions on data ownership or access;

5 (ii) the differences between acquiring
6 commercial software products and services
7 and acquiring or building custom software;
8 and

9 (iii) determining the costs of different
10 types of licenses and options for adjusting
11 licenses to meet increasing or decreasing
12 demand; and

13 (E) maximizing the effectiveness of soft-
14 ware deployed by the agency, including, to the
15 extent practicable, leveraging technologies
16 that—

17 (i) measure actual software usage via
18 analytics that can identify inefficiencies to
19 assist in rationalizing software spending;

20 (ii) allow for segmentation of the user
21 base;

22 (iii) support effective governance and
23 compliance in the use of software; and

24 (iv) support interoperable capabilities
25 between software;

1 (2) identify categories of software the agency
2 could prioritize for conversion to more cost-effective
3 software licenses, including enterprise licenses, as
4 the software entitlements, contracts, and other
5 agreements or arrangements come up for renewal or
6 renegotiation;

7 (3) provide an estimate of the costs to move to-
8 ward more enterprise, open-source, or other licenses
9 that do not restrict the use of software by the agen-
10 cy, and the projected cost savings, efficiency meas-
11 ures, and improvements to agency performance
12 throughout the total software lifecycle;

13 (4) identify potential mitigations to minimize
14 software license restrictions on how such software
15 can be deployed, accessed, or used, including any
16 mitigations that would minimize any such restric-
17 tions on desktop or server hardware, through a cloud
18 service provider, or on data ownership or access;

19 (5) ensure that the purchase by the agency of
20 any software is based on publicly available criteria
21 that are not unduly structured to favor any specific
22 vendor, unless prohibited by law (including regula-
23 tion);

1 (6) include any estimates for additional re-
2 sources, services, or support the agency may need to
3 implement the plan;

4 (7) provide information on the prevalence of
5 software products in use across multiple software
6 categories; and

7 (8) include any additional information, data, or
8 analysis determined necessary by the Chief Informa-
9 tion Officer, or other equivalent official, of the agen-
10 cy.

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

15 (d) AGENCY SUBMISSION.—Not later than 1 year
16 after the date on which the head of an agency submits
17 the comprehensive assessment pursuant to section 3(d),
18 the head of the agency shall submit to the Director, the
19 Committee on Homeland Security and Governmental Af-
20 fairs of the Senate, and the Committee on Oversight and
21 Accountability of the House of Representatives the plan
22 of the agency.

23 (e) CONSULTATION AND COORDINATION.—The Di-
24 rector—

1 (1) in coordination with the Administrator, the
2 Chief Information Officers Council, the Chief Acqui-
3 sition Officers Council, the Chief Data Officers
4 Council, the Chief Financial Officers Council, and
5 other government and industry representatives iden-
6 tified by the Director, shall establish processes,
7 using existing reporting functions, as appropriate, to
8 identify, define, and harmonize common definitions,
9 terms and conditions, standardized requirements,
10 and other information and criteria to support agency
11 heads in developing and implementing the plans re-
12 quired by this section; and

13 (2) in coordination with the Administrator, and
14 not later than 2 years after the date of enactment
15 of this Act, submit to the Committee on Homeland
16 Security and Governmental Affairs of the Senate
17 and the Committee on Oversight and Accountability
18 of the House of Representatives a report detailing
19 recommendations to leverage Government procure-
20 ment policies and practices with respect to software
21 acquired by, developed by, deployed within, or in use
22 at 1 or more agencies to—

23 (A) increase the interoperability of soft-
24 ware licenses, including software entitlements
25 and software built by Government agencies;

- 1 (B) consolidate licenses, as appropriate;
- 2 (C) reduce costs;
- 3 (D) improve performance; and
- 4 (E) modernize the management and over-
- 5 sight of software entitlements and software
- 6 built by Government agencies, as identified
- 7 through an analysis of agency plans.

8 **SEC. 5. GAO REPORT.**

9 Not later than 3 years after the date of enactment

10 of this Act, the Comptroller General of the United States

11 shall submit to the Committee on Homeland Security and

12 Governmental Affairs of the Senate and the Committee

13 on Oversight and Accountability of the House of Rep-

14 resentatives a report on—

- 15 (1) Government-wide trends in agency software
- 16 asset management practices;
- 17 (2) comparisons of software asset management
- 18 practices among agencies;
- 19 (3) the establishment by the Director of proc-
- 20 esses to identify, define, and harmonize common
- 21 definitions, terms, and conditions under section 4(e);
- 22 (4) agency compliance with the restrictions on
- 23 contract support under section 3(b); and

1 (5) other analyses of and findings regarding the
2 plans of agencies, as determined by the Comptroller
3 General of the United States.

4 **SEC. 6. NO ADDITIONAL FUNDS.**

5 No additional funds are authorized to be appro-
6 priated for the purpose of carrying out this Act.

