

# Calendar No. 734

118TH CONGRESS  
2D SESSION

# S. 3810

[Report No. 118–314]

To prohibit conflict of interests among consulting firms that simultaneously contract with the Government of the People’s Republic of China and the United States Government, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2024

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

DECEMBER 19 (legislative day, DECEMBER 16), 2024

Reported by Mr. PETERS, with an amendment and an amendment to the title  
[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To prohibit conflict of interests among consulting firms that simultaneously contract with the Government of the People’s Republic of China and the United States Government, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Time to Choose Act  
3 of 2024”.

4 **SEC. 2. FINDINGS.**

5       Congress makes the following findings:

6           (1) The Department of Defense and other agen-  
7       cies in the United States Government regularly  
8       award contracts to firms such as Deloitte, McKinsey  
9       & Company, and others who are simultaneously pro-  
10      viding consulting services to the Government of the  
11      People’s Republic of China and proxies or affiliates  
12      thereof.

13          (2) The provision of such consulting services by  
14      firms like Deloitte, McKinsey & Company, and oth-  
15      ers to entities in the People’s Republic of China di-  
16      rectly supports efforts by that nation’s government  
17      to generate economic and military power that it can  
18      then use to undermine the economic and national se-  
19      curity of the American people, including through  
20      economic coercion and by threatening or using mili-  
21      tary force against us.

22          (3) It is a conflict of interest for firms like  
23      Deloitte, McKinsey & Company, and others to simul-  
24      taneously aid in the efforts of the Government of the  
25      People’s Republic of China to undermine the eco-  
26      nomic and national security of the United States

1 while they are simultaneously contracting with the  
 2 Department of Defense and other United States  
 3 Government agencies responsible for defending the  
 4 United States from foreign threats, above all from  
 5 China.

6 (4) Firms like Deloitte, McKinsey & Company,  
 7 and others should no longer be allowed to engage in  
 8 such a conflict of interest and should instead be re-  
 9 quired to choose between aiding the efforts of the  
 10 Government of the People's Republic of China to  
 11 harm the United States or helping the United States  
 12 Government to defend its citizens against such for-  
 13 eign coercion.

14 **SEC. 3. PROHIBITION ON FEDERAL CONTRACTING WITH**  
 15 **ENTITIES THAT ARE SIMULTANEOUSLY AID-**  
 16 **ING IN THE EFFORTS OF THE PEOPLE'S RE-**  
 17 **PUBLIC OF CHINA TO HARM THE UNITED**  
 18 **STATES.**

19 In order to end conflict of interests in Federal con-  
 20 tracting among consulting firms that simultaneously con-  
 21 tract with the United States Government and covered for-  
 22 eign entities, the Federal Acquisition Regulatory Council  
 23 shall, not later than 180 days after the date of the enact-  
 24 ment of this Act, amend the Federal Acquisition Regula-  
 25 tion—

1           (1) to require any entity that provides the serv-  
 2           ices described in the North American Industry Clas-  
 3           sification System's Industry Group code 5416, prior  
 4           to entering into a Federal contract, to certify that  
 5           neither it nor any of its subsidiaries or affiliates hold  
 6           a contract with one or more covered foreign entities;  
 7           and

8           (2) to prohibit Federal contracts from being  
 9           awarded to an entity that provides the services de-  
 10          scribed under the North American Industry Classi-  
 11          fication System's Industry Group code 5416 if the  
 12          entity or any of its subsidiaries or affiliates are de-  
 13          termined, based on the self-certification required  
 14          under paragraph (1) or other information, to be a  
 15          contractor of, or otherwise providing services to, a  
 16          covered foreign entity.

17 **SEC. 4. PENALTIES FOR FALSE INFORMATION ON CON-**  
 18 **TRACTING WITH THE PEOPLE'S REPUBLIC OF**  
 19 **CHINA.**

20          (a) **TERMINATION, SUSPENSION, AND DEBAR-**  
 21 **MENT.**—If the head of an executive agency determines  
 22 that a consulting firm described in section 3 has knowingly  
 23 submitted a false certification or information on or after  
 24 the date on which the Federal Acquisition Regulatory  
 25 Council amends the Federal Acquisition Regulation pursu-

1 ant to such section, the head of the executive agency shall  
 2 terminate the contract with the consulting firm and con-  
 3 sider suspending or debarring the firm from eligibility for  
 4 future Federal contracts in accordance with subpart 9.4  
 5 of the Federal Acquisition Regulation.

6 (b) FALSE CLAIMS ACT.—A consulting firm de-  
 7 scribed in section 3 that, for the purposes of the False  
 8 Claims Act, intentionally hides or misrepresents one or  
 9 more contracts with covered foreign entities shall be sub-  
 10 ject to the penalties and corrective actions described in  
 11 the False Claims Act, including liability for three times  
 12 the amount of damages which the United States Govern-  
 13 ment sustains, including funds or other resources ex-  
 14 pended on or in support of the solicitation, selection, and  
 15 performance of such contracts.

16 **SEC. 5. DEFINITIONS.**

17 In this Act:

18 (1) COVERED FOREIGN ENTITY.—The term  
 19 “covered foreign entity” means—

20 (A) a person, business trust, business asso-  
 21 ciation, company, institution, government agen-  
 22 cy, university, partnership, limited liability com-  
 23 pany, corporation, or any other individual or or-  
 24 ganization that can legally enter into contracts;

own properties, or pay taxes on behalf of, the  
Government of the People's Republic of China;

(B) the Chinese Communist Party;

(C) the People's Republic of China's  
United Front;

(D) an entity owned or controlled by, or  
that performs activities on behalf of, a person  
or entity described in subparagraph (A), (B), or  
(C); and

(E) an individual that is a member of the  
board of directors, an executive officer, or a  
senior official of an entity described in subpara-  
graph (A), (B), (C), or (D).

(2) EXECUTIVE AGENCY.—The term “executive  
agency” has the meaning given the term in section  
133 of title 41, United States Code.

(3) FALSE CLAIMS ACT.—The term “False  
Claims Act” means sections 3729 through 3733 of  
title 31, United States Code.

(4) NORTH AMERICAN INDUSTRY CLASSIFICA-  
TION SYSTEM'S INDUSTRY GROUP CODE 5416.—The  
term “North American Industry Classification Sys-  
tem's Industry Group code 5416” refers to the  
North American Industry Classification System cat-  
egory that covers Management, Scientific, and Tech-

1        nical Consulting Services as Industry Group code  
 2        5416, including industry codes 54151, 541611,  
 3        541612, 541613, 541614, 541618, 54162, 541620,  
 4        54169, 541690.

5    **SECTION 1. SHORT TITLE.**

6        *This Act may be cited as the “Time to Choose Act of*  
 7    *2024”.*

8    **SEC. 2. FINDINGS.**

9        *Congress makes the following findings:*

10            (1) *The Department of Defense and other agen-*  
 11        *cies in the United States Government regularly*  
 12        *award contracts to firms that are simultaneously pro-*  
 13        *viding consulting services to foreign governments and*  
 14        *proxies or affiliates thereof.*

15            (2) *The provision of such consulting services to*  
 16        *covered foreign entities may support efforts by certain*  
 17        *foreign governments to generate economic and mili-*  
 18        *tary power that they can then use to undermine the*  
 19        *economic and national security of the American peo-*  
 20        *ple.*

21            (3) *It is a conflict of interest for consulting firms*  
 22        *to simultaneously aid in the efforts of certain foreign*  
 23        *governments to undermine the economic and national*  
 24        *security of the United States while they are simulta-*  
 25        *neously contracting with Federal agencies responsible*

1     *for protecting and defending the United States from*  
 2     *foreign threats.*

3             *(4) Firms should be prevented from engaging in*  
 4     *such a conflict of interest and should instead be re-*  
 5     *quired to choose between aiding the efforts of certain*  
 6     *foreign governments or helping the United States*  
 7     *Government to support and defend its citizens.*

8     **SEC. 3. PROHIBITION ON FEDERAL CONTRACTING WITH EN-**  
 9             **TITIES THAT ARE SIMULTANEOUSLY AIDING**  
 10            **IN THE EFFORTS OF COVERED FOREIGN EN-**  
 11            **TITIES.**

12     *(a) IN GENERAL.—In order to end conflicts of interest*  
 13     *in Federal contracting among consulting firms that simul-*  
 14     *taneously contract with the United States Government and*  
 15     *covered foreign entities, the Federal Acquisition Regulatory*  
 16     *Council shall, not later than 1 year after the date of the*  
 17     *enactment of this Act, amend the Federal Acquisition Regu-*  
 18     *lation—*

19             *(1) to require any entity that makes an offer or*  
 20     *quotation to provide consulting services to an execu-*  
 21     *tive agency, including services described in the North*  
 22     *American Industry Classification System’s Industry*  
 23     *Group code 5416, prior to entering into a Federal*  
 24     *contract, to certify that neither it nor any of its sub-*



1        *subsidiaries or affiliates hold a consulting contract with*  
 2        *one or more covered foreign entities; and*

3            *(2) to prohibit Federal contracts for consulting*  
 4        *services from being awarded to an entity that pro-*  
 5        *vides consulting services, including services described*  
 6        *under the North American Industry Classification*  
 7        *System's Industry Group code 5416 if the entity or*  
 8        *any of its subsidiaries or affiliates are determined,*  
 9        *based on the self-certification required under para-*  
 10       *graph (1), to be a contractor of, or are otherwise pro-*  
 11       *viding consulting services to, a covered foreign entity.*

12       *(b) WAIVER.—*

13            *(1) IN GENERAL.—Subject to the limitations in*  
 14        *paragraph (2), the head of an executive agency may*  
 15        *waive the conflict of interest restrictions under this*  
 16        *section on a case-by-case basis if—*

17            *(A) the agency head, in consultation with*  
 18        *the Secretary of Defense and the Director of Na-*  
 19        *tional Intelligence, determines the waiver to be*  
 20        *in the national security interests of the United*  
 21        *States;*

22            *(B) the agency head determines that no*  
 23        *other entity without a conflict of interest under*  
 24        *this section can perform the work for the Federal*  
 25        *contract;*

1           (C) the head of the executive agency submits  
2 to the Director of the Office of Management and  
3 Budget a notification of such waiver at least 5  
4 days prior to issuing the waiver;

5           (D) the head of the executive agency submits  
6 to the appropriate congressional committees a  
7 notification of such waiver within 30 days in  
8 unclassified form (accompanied by a classified  
9 annex if necessary) and offers a briefing to those  
10 committees on the information included in the  
11 notification; and

12           (E) the contracting agency publishes in an  
13 easily accessible location on the agency's public  
14 website a list of the names of the covered foreign  
15 entities to which the entity receiving a waiver  
16 provides consulting services, unless the head of  
17 the applicable executive agency, with the ap-  
18 proval of the Director of the Office of Manage-  
19 ment and Budget, and in consultation with the  
20 Secretary of Defense and Director of National  
21 Intelligence, determines that such public disclo-  
22 sure would directly harm the national security  
23 interests of the United States.

24           (2) LIMITATIONS.—

1           (A) *DURATION.*—A waiver granted under  
2           paragraph (1) shall last for a period of not more  
3           than 365 days. The head of the applicable execu-  
4           tive agency, with the approval of the Director of  
5           the Office of Management and Budget, and in  
6           consultation with the Secretary of Defense and  
7           Director of National Intelligence, may extend a  
8           waiver granted under such paragraph one time,  
9           for a period up to 180 days after the date on  
10          which the waiver would otherwise expire, if such  
11          an extension is in the national security interests  
12          of the United States and the Director submits to  
13          the appropriate congressional committees a noti-  
14          fication of such waiver and offers a briefing to  
15          those committees on the information included in  
16          the notification.

17          (B) *NUMBER.*—Not more than one total  
18          waiver across all executive agencies may be  
19          granted under paragraph (1) to a single entity  
20          at a given time.

21          (C) *NOTIFICATION REQUIREMENTS.*—The  
22          notification required under subparagraphs (C)  
23          and (D) of paragraph (1) shall include the fol-  
24          lowing information:

1           (i) *Information on the contractor, in-*  
2           *cluding—*

3                   (I) *the name, address, and cor-*  
4                   *porate structure of the contractor;*

5                   (II) *the name, address, and cor-*  
6                   *porate structure of any subsidiaries or*  
7                   *subcontractors involved;*

8                   (III) *all foreign ownership of the*  
9                   *contractor;*

10                  (IV) *all foreign real estate owned*  
11                  *by the contractor; and*

12                  (V) *an employee designated as re-*  
13                  *sponsible for managing any conflict of*  
14                  *interests that may arise as part of the*  
15                  *contract.*

16           (ii) *Information on the covered foreign*  
17           *entities involved to the extent known by the*  
18           *contractor, including—*

19                   (I) *the name and address of the*  
20                   *covered foreign entity;*

21                   (II) *the name and address of any*  
22                   *subsidiaries or subcontractors involved;*

23                   (III) *a complete history of any*  
24                   *contracts between the covered foreign*  
25                   *entity and the contractor;*

1                   (IV) *all ownership of the covered*  
2                   *foreign entity; and*

3                   (V) *any legal authorities pro-*  
4                   *viding a foreign government with ac-*  
5                   *cess or control over the covered foreign*  
6                   *entity.*

7                   (iii) *Information on the nature of the*  
8                   *work performed for the covered foreign enti-*  
9                   *ties, including—*

10                   (I) *the projected and actual dollar*  
11                   *value of the contract;*

12                   (II) *the projected and actual du-*  
13                   *ration of the contract;*

14                   (III) *the projected and actual*  
15                   *number of employees to work on the*  
16                   *contract;*

17                   (IV) *the projected and actual*  
18                   *number of employees who are United*  
19                   *States citizens who work on the con-*  
20                   *tract;*

21                   (V) *the projected and actual num-*  
22                   *ber of employees who currently or for-*  
23                   *merly held security clearances with the*  
24                   *United States Government who work*  
25                   *on the contract;*

1                   (VI) *the subject matter of the con-*  
2                   *tract;*

3                   (VII) *any materials provided to*  
4                   *the covered foreign entity in order to*  
5                   *secure the contract;*

6                   (VIII) *any tracking number used*  
7                   *by the covered foreign entity to identify*  
8                   *the contract;*

9                   (IX) *any tracking number or in-*  
10                  *formation used by the contractor to*  
11                  *identify the contract; and*

12                  (X) *any military or intelligence*  
13                  *applications that could benefit from the*  
14                  *contract.*

15                  (iv) *Justification of the executive agen-*  
16                  *cy's need for providing the waiver.*

17                  (v) *An acceptable management over-*  
18                  *sight plan to ensure that the work per-*  
19                  *formed for the covered foreign entities does*  
20                  *not compromise the work being performed*  
21                  *for the Federal Government or harm the na-*  
22                  *tional security of the United States, to be*  
23                  *approved at not lower than the Deputy Sec-*  
24                  *retary level at the contracting agency.*

1           (3) *CONTRACTOR REPORTING.*—*The executive*  
 2           *agency granting a waiver under this subsection shall*  
 3           *require the contractor, in the event the contractor*  
 4           *identifies any of the following during the performance*  
 5           *of the contract, to report the following information to*  
 6           *the executive agency:*

7                   (A) *Any human rights violations that are*  
 8                   *known to the contractor through information*  
 9                   *provided to the contractor in the course of the*  
 10                  *contract.*

11                  (B) *Any religious liberty violations that are*  
 12                  *known to the contractor through information*  
 13                  *provided to the contractor in the course of the*  
 14                  *contract.*

15                  (C) *Any risks to United States economic or*  
 16                  *national security identified by the contractor in*  
 17                  *the course of the contract.*

18 **SEC. 4. PENALTIES FOR FALSE INFORMATION.**

19           (a) *TERMINATION, SUSPENSION, AND DEBARMENT.*—  
 20           *If the head of an executive agency determines that a con-*  
 21           *sulting firm described in section 3(a)(1) has knowingly sub-*  
 22           *mitted a false certification or information on or after the*  
 23           *date on which the Federal Acquisition Regulatory Council*  
 24           *amends the Federal Acquisition Regulation pursuant to*  
 25           *such section, the head of the executive agency shall termi-*

1 *nate the contract with the consulting firm and consider sus-*  
 2 *pending or debarring the firm from eligibility for future*  
 3 *Federal contracts in accordance with subpart 9.4 of the*  
 4 *Federal Acquisition Regulation.*

5 (b) *FALSE CLAIMS ACT.*—*A consulting firm described*  
 6 *in section 3(a)(1) that, for the purposes of the False Claims*  
 7 *Act, knowingly hides or misrepresents one or more contracts*  
 8 *with covered foreign entities, or otherwise violates the False*  
 9 *Claims Act, shall be subject to the penalties and corrective*  
 10 *actions described in the False Claims Act, including liabil-*  
 11 *ity for three times the amount of damages which the United*  
 12 *States Government sustains.*

13 **SEC. 5. DEFINITIONS.**

14 *In this Act:*

15 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*  
 16 *TEES.*—*The term “appropriate congressional commit-*  
 17 *tees” means the Committee on Homeland Security*  
 18 *and Governmental Affairs of the Senate and the Com-*  
 19 *mittee on Oversight and Accountability of the House*  
 20 *of Representatives.*

21 (2) *CONSULTING SERVICES.*—*The term “con-*  
 22 *sulting services” means advisory or assistance services*  
 23 *similar to those defined in Federal Acquisition Regu-*  
 24 *lation 2.101, but for the purposes of this Act includes*  
 25 *services provided to covered foreign entities, except*



1       *that the term does not include the provision of prod-*  
2       *ucts or services related to—*

3               *(A) compliance with legal, audit, account-*  
4               *ing, tax, reporting, or other requirements of the*  
5               *laws and standards of countries; or*

6               *(B) participation in a judicial, legal, or eq-*  
7               *uitable dispute resolution proceeding.*

8               *(3) COVERED FOREIGN ENTITY.—The term “cov-*  
9       *ered foreign entity” means any of the following:*

10              *(A) The Government of the People’s Repub-*  
11              *lic of China, the Chinese Communist Party, the*  
12              *People’s Liberation Army, the Ministry of State*  
13              *Security, or other security service or intelligence*  
14              *agency of the People’s Republic of China.*

15              *(B) The Government of the Russian Federa-*  
16              *tion or any entity sanctioned by the Secretary of*  
17              *the Treasury under Executive Order 13662 titled*  
18              *“Blocking Property of Additional Persons Con-*  
19              *tributing to the Situation in Ukraine” (79 Fed.*  
20              *Reg. 16169).*

21              *(C) The government of any country if the*  
22              *Secretary of State determines that such govern-*  
23              *ment has repeatedly provided support for acts of*  
24              *international terrorism pursuant to any of the*  
25              *following:*

1                   (i) *Section 1754(c)(1)(A) of the Export*  
2                   *Control Reform Act of 2018 (50 U.S.C.*  
3                   *4318(c)(1)(A)).*

4                   (ii) *Section 620A of the Foreign Assist-*  
5                   *ance Act of 1961 (22 U.S.C. 2371).*

6                   (iii) *Section 40 of the Arms Export*  
7                   *Control Act (22 U.S.C. 2780).*

8                   (iv) *Any other provision of law.*

9                   (D) *Any entity included on any of the fol-*  
10                  *lowing lists maintained by the Department of*  
11                  *Commerce:*

12                  (i) *The Entity List set forth in Supple-*  
13                  *ment No. 4 to part 744 of the Export Ad-*  
14                  *ministration Regulations.*

15                  (ii) *The Denied Persons List as de-*  
16                  *scribed in section 764.3(a)(2) of the Export*  
17                  *Administration Regulations.*

18                  (iii) *The Unverified List set forth in*  
19                  *Supplement No. 6 to part 744 of the Export*  
20                  *Administration Regulations.*

21                  (iv) *The Military End User List set*  
22                  *forth in Supplement No. 7 to part 744 of*  
23                  *the Export Administration Regulations.*

24                  (E) *Any entity identified by the Secretary*  
25                  *of Defense pursuant to section 1237(b) of the*

1        *Strom Thurmond National Defense Authoriza-*  
 2        *tion Act for Fiscal Year 1999 (Public Law 105-*  
 3        *261; 50 U.S.C. 1701 note).*

4            *(F) Any entity on the Non-SDN Chinese*  
 5        *Military-Industrial Complex Companies List*  
 6        *(NS-CMIC List) maintained by the Office of*  
 7        *Foreign Assets Control of the Department of the*  
 8        *Treasury under Executive Order 14032 (86 Fed.*  
 9        *Reg. 30145; relating to addressing the threat*  
 10       *from securities investments that finance certain*  
 11       *companies of the People’s Republic of China), or*  
 12       *any successor order.*

13        *(4) EXECUTIVE AGENCY.—The term “executive*  
 14        *agency” has the meaning given the term in section*  
 15        *133 of title 41, United States Code.*

16        *(5) FALSE CLAIMS ACT.—The term “False*  
 17        *Claims Act” means sections 3729 through 3733 of*  
 18        *title 31, United States Code.*

19        *(6) NORTH AMERICAN INDUSTRY CLASSIFICATION*  
 20        *SYSTEM’S INDUSTRY GROUP CODE 5416.—The term*  
 21        *“North American Industry Classification System’s*  
 22        *Industry Group code 5416” refers to the North Amer-*  
 23        *ican Industry Classification System category that*  
 24        *covers Management, Scientific, and Technical Con-*  
 25        *sulting Services as Industry Group code 5416, includ-*

1        *ing industry codes 54151, 541611, 541612, 541613,*  
2        *541614, 541618, 54162, 541620, 54169, and 541690.*

3    ***SEC. 6. NO ADDITIONAL FUNDING.***

4        *No additional funds are authorized to be appropriated*  
5    *for the purpose of carrying out this Act.*

Amend the title so as to read: “A bill to prohibit conflicts of interest among consulting firms that simultaneously contract with covered foreign entities and the United States Government, and for other purposes.”.



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Reported with an amendment and an amendment to the title