

117TH CONGRESS
2D SESSION

S. 4546

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.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2022

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Time to Choose Act
5 of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

17 (3) It is a conflict of interest for firms like
18 Deloitte, McKinsey & Company, and others to simul-
19 taneously aid in the efforts of the Government of the
20 People's Republic of China to undermine the eco-
21 nomic and national security of the United States
22 while they are simultaneously contracting with the
23 Department of Defense and other United States
24 Government agencies responsible for defending the

1 United States from foreign threats, above all from
2 China.

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

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

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

23 (1) to require any entity that provides the serv-
24 ices described in the North American Industry Clas-
25 sification System's Industry Group code 5416, prior

1 to entering into a Federal contract, to certify that
2 neither it nor any of its subsidiaries or affiliates hold
3 a contract with one or more covered foreign entities;
4 and

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

14 **SEC. 4. PENALTIES FOR FALSE INFORMATION ON CON-**
15 **TRACTING WITH THE PEOPLE'S REPUBLIC OF**
16 **CHINA.**

17 (a) TERMINATION, SUSPENSION, AND DEBAR-
18 MENT.—If the head of an executive agency determines
19 that a consulting firm described in section 3 has knowingly
20 submitted a false certification or information on or after
21 the date on which the Federal Acquisition Regulatory
22 Council amends the Federal Acquisition Regulation pursu-
23 ant to such section, the head of the executive agency shall
24 terminate the contract with the consulting firm and con-
25 sider suspending or debarring the firm from eligibility for

1 future Federal contracts in accordance with subpart 9.4
 2 of the Federal Acquisition Regulation.

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

13 **SEC. 5. DEFINITIONS.**

14 In this Act:

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

17 (A) a person, business trust, business asso-
 18 ciation, company, institution, government agen-
 19 cy, university, partnership, limited liability com-
 20 pany, corporation, or any other individual or or-
 21 ganization that can legally enter into contracts,
 22 own properties, or pay taxes on behalf of, the
 23 Government of the People’s Republic of China;

24 (B) the Chinese Communist Party;

1 (C) the People’s Republic of China’s
2 United Front;

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

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

11 (2) EXECUTIVE AGENCY.—The term “executive
12 agency” has the meaning given the term in section
13 133 of title 41, United States Code.

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

17 (4) NORTH AMERICAN INDUSTRY CLASSIFICA-
18 TION SYSTEM’S INDUSTRY GROUP CODE 5416.—The
19 term “North American Industry Classification Sys-
20 tem’s Industry Group code 5416” refers to the
21 North American Industry Classification System cat-
22 egory that covers Management, Scientific, and Tech-
23 nical Consulting Services as Industry Group code
24 5416, including industry codes 54151, 541611,

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- 1 541612, 541613, 541614, 541618, 54162, 541620,
- 2 54169, 541690.

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