

118TH CONGRESS
2D SESSION

H. R. 7085

To prohibit contracting with certain biotechnology providers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2024

Mr. GALLAGHER (for himself, Mr. KRISHNAMOORTHY, Mr. AUCHINCLOSS, Mr. MOULTON, and Mr. DUNN of Florida) introduced the following bill; which was referred to the Committee on Oversight and Accountability

A BILL

To prohibit contracting with certain biotechnology providers, 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 “BIOSECURE Act”.

5 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) The Government of the People’s Republic of
8 China (PRC) seeks to dominate biotechnology as an
9 industry of the future.

1 (2) In recent years, the PRC has pursued a
2 strategy known as “military-civil fusion” that
3 merges public and private industries to enable the
4 military modernization of the People’s Liberation
5 Army (PLA).

6 (3) In the PRC’s 14th Five-Year Plan, the
7 PRC emphasized the use of artificial intelligence for
8 biological discovery and called to accelerate the de-
9 velopment of biotechnology.

10 (4) PRC biotechnology companies have repeat-
11 edly collaborated with PLA entities, including Third
12 Military Medical University and the PLA’s Key Lab-
13 oratory of High-Altitude Medicine.

14 (5) PRC law requires companies that are con-
15 trolled by a PRC entity, like BGI, to comply with
16 PRC national security laws, which provide the Chi-
17 nese Communist Party (CCP) with the power to
18 compel Chinese companies to turn over their data.

19 (6) Pursuant to the PRC’s laws, the PRC can
20 require a company headquartered in the PRC to sur-
21 render all its data to the Government of the PRC,
22 making it an espionage tool of the CCP.

23 (7) The National Intelligence Law, passed in
24 China in 2017, states that “any organization” must
25 assist or cooperate with CCP intelligence work.

1 (8) China’s 2014 counter-espionage law also
2 states that “relevant organizations . . . may not
3 refuse” to collect evidence for an investigation.

4 (9) The PRC’s Data Security Law of 2021
5 states that the Government has the power to access
6 and control private data.

7 (10) The PRC’s counter-espionage law grants
8 PRC state security agencies nearly unfettered discre-
9 tion, if acting under an effectively limitlessly capa-
10 cious understanding of national security, to access
11 data from companies.

12 (11) The executive branch has determined that
13 BGI, formerly known as Beijing Genomics Institute,
14 is a national security threat.

15 (12) In October 2022, the Department of De-
16 fense added BGI Genomics Co., LTD (BGI) to the
17 Department of Defense’s list of PRC Military Com-
18 panies.

19 (13) In March 2023, the Department of Com-
20 merce added BGI Tech Solutions (Hong Kong) a
21 subsidiary of BGI, to the Entity List for concerns
22 the unit poses a significant risk to contributing to
23 PRC Government surveillance.

24 (14) In February 2021, the National Counter-
25 intelligence and Security Center published a public

1 advisory that the Government of the PRC seeks to
2 leverage access to genetic data to conduct repression
3 and surveillance with mention of BGI’s role in this
4 campaign.

5 (15) BGI is engaged in global campaign to col-
6 lect foreign person’s genetic data.

7 (16) As of October 2023, United States press
8 reports BGI operates genetic collection sites or
9 “Fire-Eye” laboratories, in over 30 countries.

10 (17) According to a July 2021 United States
11 press report, BGI collected genetic data from mil-
12 lions of pregnant women through prenatal tests.
13 BGI reportedly has worked with the PLA to improve
14 “population quality” in the PRC.

15 (18) BGI operates the China National
16 GeneBank, the world’s largest repository of genetic
17 data.

18 (19) MGI and Complete Genomics are subsidi-
19 aries and direct affiliates of BGI that have access to
20 the United States market and population.

21 (20) In 2013, BGI purchased United States
22 genomic sequencing firm Complete Genomics.

23 (21) According to MGI’s previous Securities
24 and Exchange Commission disclosures, MGI is “part
25 of the BGI” group and BGI “established” MGI.

1 (22) According to an April 2023 United States
2 press report, BGI founder, Wang Jian, holds 47 per-
3 cent of MGI shares.

4 (23) According to corporate disclosures, Com-
5 plete Genomics is owned by MGI and is therefore
6 owned by BGI.

7 (24) WuXi Apptec presents a national security
8 threat to the United States.

9 (25) According to PRC press, WuXi Apptec has
10 sponsored Military-Civil Fusion events in the PRC.

11 (26) WuXi AppTec has received investments
12 from a “Military-Civil Integration Selected Hybrid
13 Securities Investment Fund”.

14 (27) According to PRC press, WuXi AppTec
15 has granted awards to PLA researchers and invited
16 PLA institutes to participate in the selection process
17 of company awards.

18 (28) Chris Chen, CEO of WuXi Biologics, was
19 previously an adjunct professor at the PLA’s Acad-
20 emy of Military Medical Sciences.

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the time has come to—

23 (1) stop United States taxpayer dollars from
24 flowing to foreign adversary biotech companies like
25 BGI that have ties to the PLA; and

1 (2) prevent United States taxpayers from buy-
2 ing biotech equipment from foreign adversaries that
3 facilitate the transfer of United States persons ge-
4 netic data to a foreign adversary.

5 **SEC. 3. PROHIBITION ON CONTRACTING WITH CERTAIN**
6 **BIOTECHNOLOGY PROVIDERS.**

7 (a) IN GENERAL.—The head of an executive agency
8 may not—

9 (1) procure or obtain any biotechnology equip-
10 ment or service produced or provided by a bio-
11 technology company of concern; or

12 (2) enter into a contract or extend or renew a
13 contract with any entity that—

14 (A) uses biotechnology equipment or serv-
15 ices produced or provided by a biotechnology
16 company of concern and acquired after the ap-
17 plicable effective date in subsection (c) in per-
18 formance of the contract; or

19 (B) enters into any contract the perform-
20 ance of which will require the direct use of bio-
21 technology equipment or services produced or
22 provided by a biotechnology company of concern
23 and acquired after the applicable effective date
24 in subsection (c).

1 (b) PROHIBITION ON LOAN AND GRANT FUNDS.—
2 The head of an executive agency may not obligate or ex-
3 pend loan or grant funds to—

4 (1) procure or obtain any biotechnology equip-
5 ment or services produced or provided by a bio-
6 technology company of concern; or

7 (2) enter into a contract or extend or renew a
8 contract with an entity described in subsection
9 (a)(2).

10 (c) EFFECTIVE DATES.—

11 (1) CERTAIN ENTITIES.—With respect to the
12 biotechnology companies of concern covered by sub-
13 section (f)(2)(A), the prohibitions under subsections
14 (a) and (b) shall take effect 60 days after the
15 issuance of the implementing guidance in subsection
16 (f)(3) or the expiration of the deadline set forth in
17 subsection (f)(3), whichever occurs first.

18 (2) OTHER ENTITIES.—With respect to the bio-
19 technology companies of concern covered by sub-
20 section (f)(2)(B), the prohibitions under subsections
21 (a) and (b) shall take effect 180 days after the
22 issuance of the implementing guidance in subsection
23 (f)(3) .

24 (d) WAIVER AUTHORITIES.—

25 (1) SPECIFIC BIOTECHNOLOGY EXCEPTION.—

1 (A) WAIVER.—The head of an executive
2 agency may waive the prohibition under sub-
3 section (a) and (b) on a case-by-case basis—

4 (i) with the approval of the Director
5 of the Office of Management and Budget,
6 in consultation with the Federal Acquisi-
7 tion Security Council and the Secretary of
8 Defense; and

9 (ii) if such head submits a notification
10 and justification to the appropriate con-
11 gressional committees not later than 30
12 days after granting such waiver.

13 (B) DURATION.—

14 (i) IN GENERAL.—Except as provided
15 in clause (ii), a waiver granted under sub-
16 paragraph (A) shall last for a period of not
17 more than 365 days.

18 (ii) EXTENSION.—The Director of the
19 Office of Management and Budget, in con-
20 sultation with the Federal Acquisition Se-
21 curity Council and the Secretary of De-
22 fense, may extend a waiver granted under
23 subparagraph (A) one time, for a period
24 up to 180 days after the date on which the
25 waiver would otherwise expire, if such an

1 extension is in the national security inter-
2 ests of the United States and the Director
3 submits to the appropriate congressional
4 committees a notification of such waiver.

5 (2) OVERSEAS HEALTH CARE SERVICES.—The
6 head of an executive agency may waive the prohibi-
7 tions under subsections (a) and (b) with respect to
8 a contract, subcontract, or transaction for the acqui-
9 sition or provision of health care services overseas on
10 a case-by-case basis—

11 (A) if the head of such executive agency
12 determines that the waiver is—

13 (i) necessary to support the mission or
14 activities of the employees of such execu-
15 tive agency described in subsection
16 (e)(2)(A); and

17 (ii) in the interest of the United
18 States;

19 (B) with the approval of the Director of
20 the Office of Management and Budget, in con-
21 sultation with the Federal Acquisition Security
22 Council and the Secretary of Defense; and

23 (C) if such head submits a notification and
24 justification to the appropriate congressional

1 committees not later than 30 days after grant-
2 ing such waiver.

3 (e) EXCEPTIONS.—The prohibitions under sub-
4 sections (a) and (b) shall not apply to—

5 (1) any activity subject to the reporting require-
6 ments under title V of the National Security Act of
7 1947 (50 U.S.C. 3091 et seq.) or any authorized in-
8 telligence activities of the United States;

9 (2) the acquisition or provision of health care
10 services overseas for—

11 (A) employees of the United States, includ-
12 ing members of the uniformed services (as de-
13 fined in section 101(a) of title 10, United
14 States Code), whose official duty stations are
15 located overseas or are on permissive temporary
16 duty travel overseas; or

17 (B) employees of contractors or sub-
18 contractors of the United States—

19 (i) who are performing under a con-
20 tract that directly supports the missions or
21 activities of individuals described in sub-
22 paragraph (A); and

23 (ii) whose primary duty stations are
24 located overseas or are on permissive tem-
25 porary duty travel overseas; or

1 (3) the acquisition, use, or distribution of
2 human multiomic data, however compiled, that is
3 commercially or publicly available.

4 (f) EVALUATION OF CERTAIN BIOTECHNOLOGY EN-
5 TITIES.—

6 (1) ENTITY CONSIDERATION.—Not later than
7 120 days after the date of the enactment of this Act,
8 the Director of the Office of Management and Budg-
9 et, in consultation with the Secretary of Defense, the
10 Attorney General, the Secretary of Health and
11 Human Services, the Secretary of Commerce, the
12 Director of National Intelligence, the Secretary of
13 Homeland Security, and the Secretary of State, shall
14 develop a list of the entities that constitute bio-
15 technology companies of concern.

16 (2) BIOTECHNOLOGY COMPANIES OF CONCERN
17 DEFINED.—The term “biotechnology company of
18 concern” means—

19 (A) BGI, MGI, Complete Genomics, Wuxi
20 Apptec, and any subsidiary, parent affiliate, or
21 successor of such entities; and

22 (B) any entity that—

23 (i) is subject to the jurisdiction, direc-
24 tion, control, or operates on behalf of the
25 government of a foreign adversary;

1 (ii) is to any extent involved in the
2 manufacturing, distribution, provision, or
3 procurement of a biotechnology equipment
4 or service; and

5 (iii) poses a risk to the national secu-
6 rity of the United States based on—

7 (I) engaging in joint research
8 with, being supported by, or being af-
9 filiated with a foreign adversary's
10 military, internal security forces, or
11 intelligence agencies;

12 (II) providing multiomic data ob-
13 tained via biotechnology equipment or
14 services to the government of a for-
15 eign adversary; or

16 (III) obtaining human multiomic
17 data via the biotechnology equipment
18 or services without express and in-
19 formed consent.

20 (3) GUIDANCE.—Not later than 120 days after
21 the date of the enactment of this Act, the Director
22 of the Office of Management and Budget, in con-
23 sultation with the Secretary of Defense, the Attor-
24 ney General, the Secretary of Health and Human
25 Services, the Secretary of Commerce, the Director of

1 National Intelligence, the Secretary of Homeland Se-
2 curity, and the Secretary of State, shall establish
3 guidance necessary to implement the requirements of
4 this section.

5 (4) UPDATES.—The Director of the Office of
6 Management and Budget, in consultation with the
7 Secretary of Defense, the Attorney General, the Sec-
8 retary of Health and Human Services, the Secretary
9 of Commerce, the Director of National Intelligence,
10 the Secretary of Homeland Security, and the Sec-
11 retary of State, shall periodically, though not less
12 than annually, review and, as appropriate, make a
13 determination to modify the list of biotechnology
14 companies of concern.

15 (g) REGULATIONS.—Not later than one year after the
16 date of establishment of guidance required under sub-
17 section (f)(3), the Federal Acquisition Regulatory Council
18 shall revise the Federal Acquisition Regulation as nec-
19 essary to implement the requirements of this section.

20 (h) NO ADDITIONAL FUNDS.—No additional funds
21 are authorized to be appropriated for the purpose of car-
22 rying out this section.

23 (i) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services and
5 the Committee on Homeland Security and Gov-
6 ernmental Affairs of the Senate; and

7 (B) the Committee on Armed Services, the
8 Committee on Foreign Affairs, the Committee
9 on Oversight and Accountability, the Committee
10 on Energy and Commerce, and the Select Com-
11 mittee on Strategic Competition between the
12 United States and the Chinese Communist
13 Party of the House of Representatives.

14 (2) BIOTECHNOLOGY EQUIPMENT OR SERV-
15 ICE.—The term “biotechnology equipment or serv-
16 ice” means—

17 (A) equipment, including genetic sequenc-
18 ers, mass spectrometers, polymerase chain reac-
19 tion machines, or any other instrument, appa-
20 ratus, machine, or device, including components
21 and accessories thereof, that is designed for use
22 in the research, development, production, or
23 analysis of biological materials as well as any
24 software, firmware, or other digital components

1 that are specifically designed for use in, and
2 necessary for the operation of, such equipment;

3 (B) any service for the research, develop-
4 ment, production, analysis, detection, or provi-
5 sion of information, including data storage and
6 transmission related to biological materials, in-
7 cluding—

8 (i) advising, consulting, or support
9 services with respect to the use or imple-
10 mentation of a instrument, apparatus, ma-
11 chine, or device described in subparagraph
12 (A); and

13 (ii) disease detection, genealogical in-
14 formation, and related services; and

15 (C) any other service, instrument, appa-
16 ratus, machine, component, accessory, device,
17 software, or firmware that the Director of the
18 Office of Management and Budget, in consulta-
19 tion with the heads of Executive agencies, as
20 determined appropriate by the Director of the
21 Office of Management and Budget, determines
22 appropriate.

23 (3) CONTROL.—The term “control” has the
24 meaning given to that term in section 800.208 of

1 title 31, Code of Federal Regulations, or any suc-
2 cessor regulations.

3 (4) EXECUTIVE AGENCY.—The term “executive
4 agency” has the meaning given the term “Executive
5 agency” in section 105 of title 5, United States
6 Code.

7 (5) FOREIGN ADVERSARY.—The term “foreign
8 adversary” has the meaning given the term “covered
9 nation” in section 4872(d) of title 10, United States
10 Code.

11 (6) MULTIOMIC.—The term “multiomic” means
12 data types that include genomics, epigenomics,
13 transcriptomics, proteomics, and metabolomics.

14 (7) OVERSEAS.—The term “overseas” means
15 any area outside of the United States, the Common-
16 wealth of Puerto Rico, or a territory or possession
17 of the United States.

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