AMENDMENT TO THE RULES COMMITTEE PRINT
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OFFERED BY MS. CLARKE OF NEW YORK

Add at the end of subtitle E of title VIII the following new section:

SEC. 8. LIMITATION ON THE AVAILABILITY OF FUNDS FOR PROCUREMENT FROM COMPANIES THAT FACILITATE CHINESE, RUSSIAN, AND CERTAIN OTHER FOREIGN EFFORTS TO EXTRATERRITORIALLY CENSOR FREE SPEECH AND INHIBIT LAWFUL ADVOCACY WITHIN THE UNITED STATES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) foreign governments, most notably the government of the People’s Republic of China, have increasingly sought to economically coerce private American entities into policing the free speech rights of their employees and contractors on topics such governments deem sensitive;

(2) international advocacy for human rights is a core tenet of American foreign policy and central to American national security; and
(3) the Department of Defense should seek to combat efforts to silence those who speak out regarding conditions in countries such as China and Russia by not procuring from private entities that facilitate such extraterritorial censorship.

(b) PROHIBITION.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2021 for the Department of Defense may knowingly be obligated or expended to procure, purchase, lease, or otherwise obtain any good or service, the value of which exceeds $1,000, from any person conducting business within the United States which the Secretary of Defense has reason to believe has, at any date following the date of the enactment of this Act, discharged, suspended, ceased contracting with, failed to pursue future contracts with, or adversely altered the terms, conditions, or privileges of employment or contract of an employee or contractor on the basis of activities protected under the First Amendment of the Constitution, in the case that—

(1) such employment or contractual action was undertaken because the government of China, Russia, or any country which the Secretary of State determines has repeatedly provided support for acts of international terrorism for purposes of section 1754(e) of the Export Control Reform Act of 2018
(50 U.S.C. 4813(c)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40 of the Arms Export Control Act (22 U.S.C. 2780) explicitly or implicitly requested such an action be undertaken, or because such person presumed such government desired such an action be undertaken; and

(2) such First Amendment protected activity occurred within the United States and related to conditions within or activities of the country which desired such employment or contractual action be undertaken, and such activity does not otherwise violate any law or regulation of the United States or the State or locality where such activity occurred.

(c) WAIVER.—The Secretary may waive, on a case-by-case basis, the requirements of this section if the Secretary determines, after considering the availability of such goods or services from alternative suppliers, that the acquisition of such goods or services from a particular person or entity conducting business within the United States is critical to the national security of the United States, and provides a notification to such effect to the Armed Services Committees of the House and the Senate within 30 days of such determination.