

**SUPPORTING STATEMENT**  
**U.S. Department of Commerce**  
**National Institute of Standards and Technology**  
**CHIPS Streamlined Supply Chain Information Collection Request (ICR)**  
**OMB Control No. 0693-XXXX**

**SUPPORTING STATEMENT PART A**

**Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The CHIPS Incentives Program is authorized by Title XCIX—Creating Helpful Incentives to Produce Semiconductors for America of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283, referred to as the CHIPS Act or Act), as amended by the CHIPS Act of 2022 (Division A of Pub. L. 117-167). The CHIPS Incentives Program is administered by the CHIPS Program Office (CPO) within the National Institute of Standards and Technology (NIST) of the United States Department of Commerce (Department) and requires the submission of an application to the Secretary of Commerce to receive funding under this program.

The CHIPS Incentives Program Facilities for Semiconductor Materials and Manufacturing Equipment Notice of Funding Opportunity (NOFO) seeks applications that will support investments in the construction, expansion, or modernization of commercial facilities in the United States for semiconductor materials and manufacturing equipment for which the capital investment falls below \$300 million.

This NOFO seeks applications in the following categories.

**Semiconductor Materials Facilities** for the manufacture or production, including growth or extraction, of materials used to manufacture semiconductors, which are the chemicals, gases, raw and intermediate materials, and other consumables used in semiconductor manufacturing. Specific examples include but are not limited to polysilicon; photoresists and ancillaries (developers, strippers, litho solvents, and anti-reflective and hardmask layers); sputtering targets (including tantalum, titanium, and aluminum); and materials specifically used in quantum information systems (such as hafnium and niobium).

**Semiconductor Manufacturing Equipment Facilities** for the physical production of specialized equipment integral to the manufacturing of semiconductors and subsystems that enable or are incorporated into the manufacturing equipment. Specific examples of semiconductor manufacturing equipment include but are not limited to deposition equipment, including chemical vapor deposition, physical vapor deposition, and atomic layer deposition; etching equipment (wet etch, dry etch); lithography equipment (steppers, scanners, extreme ultraviolet); wafer slicing equipment, wafer dicing equipment, and wire bonders; inspection and measuring equipment, including scanning electron microscopes, atomic force microscopes,

optical inspection systems, and wafer probes; certain metrology and inspection systems; and ion implantation and diffusion/oxidation furnaces.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Information collected via this ICR will be submitted by applicants via the CHIPS Incentives Program application portal and used by CHIPS Program Office staff to evaluate requests for funding.

A potential applicant must submit a concept plan to be officially considered for a CHIPS Incentive Award. Specifically, the Department will be collecting the following information in the concept plan:

**Cover Page**

The cover page will be input directly via a web form on the CHIPS Incentives Program application portal.

**Consortium Narrative (if applicable)**

Consortium members must also upload a separate consortium narrative of no more than 5 pages. The consortium narrative must include the following information, and each member is responsible for ensuring consistency across all related applications:

- The individual entities that are members or proposed members of the consortium and the roles of each entity
- A narrative description of the consortium's overall strategic vision; how that vision aligns with the Department's economic and national security objectives; and the relevance of each proposed project to that vision
  - Include an explanation of why the proposed projects are necessary to advance the consortium's vision, and why CHIPS funding is necessary to incentivize the relevant investment
  - For consortia that include a state and/or local government (including quasi-governmental) entity, this narrative should also list any actions that entity is taking or intends to take to facilitate cluster development, such as efforts to coordinate with suppliers on site selection, infrastructure development, workforce development, permitting, and/or community engagement
- The structure of the consortium, including how members intend to coordinate and/or collaborate with one another

**Concept Plan Details**

Each applicant must submit a project plan of no more than 15 pages that describes the project for which CHIPS Incentives funds are being requested. Attachments such as the Project Sources and Uses of Funds spreadsheet are not included in this page limit.

The project plan must contain the following information:

- Description of Project: A description of the construction, expansion, or modernization activities proposed, including a description of the facility location and existing or required infrastructure. This description should include the products that the facility produces or will produce and their end market application, along with information on the scale, size, and capacity of production.
- Applicant Profile: A brief description of the applicant, including identification of its headquarters, primary officers, ownership (publicly traded or privately held, including main shareholders), main business lines, and main countries of operation. For applicants that are a subsidiary of another entity, this information should be provided for the ultimate corporate parent as well.
- CHIPS Incentives Justification: A summary narrative explaining how the CHIPS Incentives requested will incentivize the applicant to make investments in the facility and equipment in the United States that would not occur in the absence of the incentives. If relevant, include other ways that the requested incentives would change the nature, scale, or speed of the investment.
- Economic and National Security: A narrative description of how the proposed project will further the economic and national security objectives of the United States, as described in Section I.C.1. Applicants should describe, in particular, how the proposed project will help strengthen supply chain resilience, advance U.S. technology leadership, and/or support vibrant U.S. fab clusters.
- Commercial Viability: A narrative description of the demand drivers for the output of the facility with as much specificity as is available on end markets and customer demand. Evidence of customer demand could include key off-take agreements, letters of reference or intent, or a list of top customers for each major product and associated volumes (any such items should be included in an appendix). The narrative should also explain how the project will reach sufficient scale to be commercially viable over the long term.
- Project Feasibility and Readiness: A narrative description explaining why the proposed project is technically feasible, including a notional construction schedule; an explanation of the experience and qualifications of key management personnel, including experience with projects of similar size and scope; a list of any comparable facilities previously commissioned by the applicant or its parent companies; and any evidence that the applicant has the ability to effectively manage the environmental review process.
- Availability of Funds: Provide the information listed below about capital investment and capital sources via the Project Sources and Uses of Funds spreadsheet template available on the CHIPS Incentives Program application portal. In addition, provide a narrative that details specific, credible evidence of the availability of the listed sources of funds. That evidence could include, for example, company financials demonstrating the availability of cash; commitment letters; or other approaches to accessing the required funding.
  - Capital Investment: The costs required to complete the construction, expansion, or modernization of the project and initiate operation, broken down by category such as land, construction (e.g., labor and material), equipment, infrastructure improvements (e.g., utility plants, access to infrastructure, or wastewater treatment plants), and administrative expenses directly attributable to the

construction, expansion, or modernization (e.g., legal, engineering, and permitting fees).

- o **Project Capital Sources:** Total project capital sources should be greater than the capital investment costs described above (in the full application, the Department will expect total project capital sources to equal the sum of capital investment, operating losses and other cash outflows until cash flow breakeven, and workforce development costs), and should include, for example, CHIPS Incentives; equity from the applicant, its parent, and any third parties; debt financing from the applicant or corporate parents; state and local government incentives; the Investment Tax Credit; and any other sources of funds, such as customer pre-payments.

If applicable, the summary table of the full application structure is provided below.

The full application includes a series of sections, each described below. Page limits are provided where applicable. Sections should be accompanied by relevant attachments that substantiate information in the narrative section, which do not count toward the page limit. All application materials must be submitted through the CHIPS Incentives Program application portal.

Each member of a consortium that seeks CHIPS Incentives for a project to construct, expand, or modernize a facility eligible for funding under this NOFO must submit a separate application. Consortium applicants will be required to provide details about their consortium in a separate consortium narrative.

A summary table of the application structure is provided below:

1. Cover Page
2. Consortium Narrative (if applicable)
3. Covered Incentive
4. Description of Project
5. Applicant Profile
6. Alignment with Economic and National Security Objectives
7. Commercial Strategy
8. Financial Information
9. Project Technical Feasibility
10. Workforce and Community Investments
11. Standard Forms

### **1. Cover Page**

The cover page will be input directly via a web form on the CHIPS Incentives Program application portal.

### **2. Consortium Narrative (if applicable)**

Consortium members must also upload a separate consortium narrative of no more than 8 pages. The consortium narrative must include the following information, and each member is responsible for ensuring consistency across all related applications. If there have been no

updates, consortium members may simply resubmit the narrative they submitted as part of the concept plan:

- The individual entities that are members of the consortium and the roles of each entity
- A narrative description of the consortium's overall strategic vision; how that vision aligns with the Department's economic and national security objectives; and the relevance of each proposed project to that vision.
  - Include an explanation of why each proposed project within the consortium is necessary to advance the consortium's vision, and why CHIPS funding is necessary to incentivize the relevant investment.
  - For consortia that include a state and/or local government entity, this narrative should also list any actions that entity is taking or intends to take to facilitate cluster development, such as any efforts to coordinate with suppliers on site selection, infrastructure development, workforce development, permitting, and/or community engagement.
- The structure of the consortium, including how members intend to coordinate and/or collaborate with one another.
- If applicable, any documentation and evidence of the planned operating model, such as the governance structure, decision-making authority/rights, contractual obligations, financial obligations, roles and responsibilities, and any memoranda of understanding

Letters of commitment must be attached from all entities responsible for executing portions of the proposed scope of work. For consortium applicants, this includes letters from other applicants in the consortium confirming their participation in the consortium.

### **3. Covered Incentive**

Each applicant must provide a letter from a state or local government entity offering a qualifying covered incentive, indicating the estimated size and nature of the incentive. For consortium applicants, the covered incentive requirement may be satisfied by one offer letter that names all facilities in the consortium applying for CHIPS Incentives funding.

### **4. Description of Project**

The applicant must submit a detailed description of the project proposed in the application. The description should be no longer than 3 pages and contain the following information:

- Description of Project: A description of the construction, expansion, or modernization activities proposed, including a description of the facility location and existing or required infrastructure. This description should include the products that the facility produces or will produce and the end market application and top customers for those products, along with information on the scale, size, and capacity of production.
- Project Timeline: A detailed description of the overall timeline and key milestones inclusive for the project, for both the capital expenditure components of the project and the workforce development and/or operational cost components of the project.

## 5. Applicant Profile

Provide the following information for the applicant. If the applicant is a subsidiary, this information should be provided for the applicant, its ultimate corporate parent, and any key intermediate entities:

- Descriptive Information About the Applicant: Information related to the applicant's businesses, including but not limited to company name, corporate form, jurisdiction of formation, description of key business activities, year established, headquarters country/state/city, countries/U.S. states of operation, and number of employees. In addition, the application should include a brief description of the applicant's and its parent company's business profile, key products manufactured, end markets, and competitors, as well as any existing or planned business operations in foreign countries of concern.
- Ownership, Legal Entity, and Organizational Structure: The applicant should provide a formal legal entity and organizational structure detailing all parent companies, subsidiaries, and affiliates and other relevant entities, including associated ownership of those entities, up to the top shareholder(s) and the ultimate corporate parent (if applicable). In addition, the applicant should outline recent and upcoming organizational changes, including mergers and acquisitions and any recent or proposed changes to corporate structure. Applicants should provide this information in the form of detailed charts and accompanying narrative explaining the legal entity and organizational structure.
- Past Project History: A summary of any facilities comparable to the proposed project facility commissioned by the applicant or its parent companies in the last five years, including details on type of production and output, years in operation, location, project cost, and summary financials.
- Covered Entity Status: An explanation of how the applicant qualifies as a "covered entity," including a demonstration of the applicant's ability to substantially finance, construct, expand, or modernize the facility proposed. Such a showing could include, for example, evidence of prior experience successfully managing and completing comparable projects, expertise of a scientific and technical nature that is applicable to the proposed project, or sufficient committed financing for the project outside of CHIPS Incentive Request.
- Company Financials: If available, audited consolidated financial statements at fiscal year-end for each of the last two years, and interim financial statements for the current fiscal year.
- Equity Capital Structure: Information on major shareholders, number of shares outstanding, share price history, and market valuation (or estimated private valuation) at year-end for the last two years, if available.
- Outstanding Debt: Schedule listing outstanding debt, lines of credit, other material indebtedness, guarantees, or (material) off-balance sheet liabilities, along with the expected cost for those liabilities.

## 6. Alignment with Economic and National Security Objectives

Describe how the project meets economic and national security objectives in no more than 10 pages. Consistent with the program priorities set forth in Section I.C.1, this should include how the project will (a) support vibrant U.S. clusters and/or the broader U.S. ecosystem, (b) strengthen supply chain resilience, and/or (c) advance U.S. technology leadership. Applicants should note any commitments that have made or intend to make in CHIPS R&D initiatives, including commitments to participate in the NSTC.

In addition, applicants should specifically discuss the following aspects of their project:

- **Cybersecurity.** Applicants should review the NIST Framework for Improving Critical Infrastructure Cybersecurity and describe their cybersecurity practices. Applicants should cite applicable laws, regulations, standards, NIST guidance or Cybersecurity and Infrastructure Security Agency (CISA) recommendations and cybersecurity performance goals. The applicant should provide a brief assessment of any major risks identified, including mitigation strategies (e.g., access control, network segmentation, contingency planning, disaster recovery plans, redundant capacity, cyber insurance, employee training, and continuous monitoring).

Applicants should also detail operational security measures and efforts to continuously assess and protect data.

- **Supply Chain Resilience and Risk Management.** An application must demonstrate, with respect to the project proposed, that the applicant has an executable plan to identify and mitigate relevant supply chain security risks, such as risks associated with access, availability, confidentiality, integrity, and a lack of geographic diversification in its supply chain. This plan should provide information addressing its organizational approach to managing supply chain risk, resilience, and security, and how this will support the proposed project. The applicant should demonstrate its ability to continue operating in the United States without access to non-U.S. facilities and personnel. The applicant should also identify key suppliers, demonstrate access to power, water, air strips, and material transportation channels; and list its risk management strategies to minimize and mitigate adversarial attempts to degrade, exploit, or compromise the supply chain, including the introduction of counterfeit and/or malicious items into the supply chain.

The applicant should also identify its corporate approach to managing supply chain risk, resilience, and security, including any senior executive leaders responsible for managing supply chain risk. The applicant should also include information about its relationship with suppliers (such as long-term contracts and/or mechanisms for information-sharing) to prevent and promote agile response to unexpected situations.

- **Foreign Control.** Each applicant should identify any foreign entity that exercises control over the applicant or a proposed project or has access to confidential information about the proposed project. The applicant should also identify any potential transactions occurring during the application process that could result in such control by a foreign entity or sharing of confidential information with a foreign entity.

## 7. Commercial Strategy

An application must demonstrate that the applicant has an executable plan to sustain the proposed facility without additional CHIPS Incentives. A sound commercial strategy is a component of having an executable plan. Each applicant must describe its commercial strategy, including information on customer and end-market demand, volume growth, pricing dynamics, competitive positioning, and supply dynamics, for the proposed project. This strategy must identify the type of semiconductor materials or equipment the applicant will produce at the project facility and the customers, or categories of customers, for those materials or equipment. In no more than 3 pages, this section should discuss the following topics:

- **End-Market Demand**: Information on end market industries and projected growth. Specify what percentage of the project's output will serve the semiconductor industry, and explicitly reference the top customers for each major product and associated volumes (to the extent known). In an appendix, provide any concrete evidence of customer demand, such as off-take agreements, letters of reference or intent, or other pre-purchase commitments.
- **Market Position and Competitor Landscape**: Include an assessment of key competitors, market dynamics (including the applicant's relative place in the market), supply and demand dynamics over time, and pricing trends and exposure to pricing pressure during downturns.

## 8. Financial Information

A sound financial plan is also a component of having an executable plan to sustain the proposed facility without additional CHIPS Incentives. Each applicant must provide a financial plan in no more than 5 pages (excluding attachments and appendices). The plan should include sources and uses of funds, cash flow projections, key return and debt service metrics, and the amount of the CHIPS Incentives request. The applicant should also provide supporting evidence for any key assumptions.

- **Project Sources and Uses of Funds**: Provide the information listed below about project costs and capital sources via a descriptive narrative and by filling out and uploading the Project Sources and Uses of Funds spreadsheet template available on the CHIPS Incentives Program application portal.
  - **Project Costs**: Project costs should include, but are not limited to:
    - **Capital Investment**: Costs required to complete construction of the project and initiate operation, broken down by category such as land, construction, equipment, infrastructure improvements, and administrative expenses directly attributable to the project construction.
    - **Operating Losses and Other Cash Outflows until Cash Flow Breakeven**: Estimated operating losses/cash outflows, including upgrade investments, maintenance, interest expenses, and working capital once the project is operationalized until cash flow breakeven.
    - **Workforce Development Costs**: Spending by the applicant on workforce development activities to support the proposed project.



- Project Capital Sources: Total project capital sources should equal the project costs described above and should include, as applicable, any sponsor equity; debt funding; third-party equity; state and local government incentives; the Investment Tax Credit; CHIPS Incentives; and any other sources of funds, such as from customers or suppliers.
- Financial Model: Applicants may submit their own financial model but have the option of using the Pre-Application Example Financial Model available on CHIPS.gov. Financial models must include a summary of the expected revenues (broken down by number of units sold and price per unit), costs, and cash flows for the project, including key income statement, cash flow statement, and balance sheet information. Also provide a summary narrative and supporting evidence for key assumptions underlying these projections.
- CHIPS Incentives Request:
  - Provide a narrative description for how the financial information submitted for the project supports a conclusion that a CHIPS Direct Funding award will incentivize the applicant to make investments in facilities and equipment in the United States that would not occur in the absence of the incentives.
  - Applicants requesting an award of more than 10 percent of project capital expenditures must explain (a) why their project is particularly compelling from an economic and national security perspective and (b) why the additional incremental amount of CHIPS Incentives is necessary to make the project commercially viable.
  - Provide a description of specific efforts to date to bring other capital (debt, state and local incentives, other private capital) into the project and how the CHIPS Incentives request would enable and not displace those other funding sources. In addition, applicants requesting an award of more than 10 percent of project capital expenditures must explain how they intend to fill the funding gap if the Department ultimately issues them an award of only 10 percent.

## **9. Project Technical Feasibility**

The applicant must demonstrate the technical feasibility of the proposed project. In no more than 8 pages (excluding attachments to support details), the applicant should include the following:

- A description of the product to be made and the applicant's relevant experience and expertise to support successful execution at the scale envisioned in the application
- A construction plan, including the location of project facilities, a detailed description of the major engineering, construction, and site preparation activities linked to specified cost and other milestones and performance guarantees; a construction schedule; a list of key management personnel, partners, contractors, and suppliers; and an inventory of all Federal, state, and local permits, licenses, and approvals required to site, construct, implement, and operate the facility. The applicant should include one-page resumes for (a) all key construction management personnel and (b) all key personnel of contractors and any other entities that will play substantial roles in the construction of the project.
- An operation management plan, including a description of the managerial oversight and governance for the operation of the project from the completion of construction through the life of the facility. Include an organizational chart of management and other key personnel for the facility, including contractors and any other entities that will play

substantial roles in operating the proposed project. List the experience and qualifications of key management personnel, including experience with projects of similar size and scope.

- A description of whether and how they intend to utilize domestically produced iron, steel, and construction materials as part of their projects.

Environmental Questionnaire: Each applicant must also provide the requested information in the Environmental Questionnaire using the appropriate template on the CHIPS Incentives Program application portal: one template is for applicants proposing to construct a new facility, and one is for applicants proposing to expand or modernize an existing facility. The purpose of the Environmental Questionnaire is to ensure that the Department is aware of relevant environmental considerations and can work with the applicant to ensure that they can provide all required environmental information during application review and due diligence. While the applicant is not expected to have complete information regarding all questions, more thorough responses will reduce the likelihood of unexpected delays at later phases, which may result if the Department determines that the project poses environmental concerns that have not been adequately disclosed, or that the information submitted is insufficient to assess the potential environmental impacts. The Department will fund only activities for which it is able to complete any necessary environmental review. The Department encourages applicants to consult with internal or external subject matter experts in preparing answers to the questionnaire.

## **1. Workforce and Community Investment Plan**

Each applicant must submit a workforce and community investment plan with the components set forth below.

The plan for workforce and community investment should not exceed 8 pages in total, excluding any attachments. As appropriate, it should also identify any strategic partners the applicant has worked with in crafting workforce strategies, including but not limited to labor unions, workforce development organizations, state and local workforce boards, educational institutions, semiconductor fabrication facilities, and other relevant entities.

### **a. Facility Workforce**

The portion of the workforce and community investment plan covering the applicant's facility workforce must include the following components:

#### **(1) Workforce Commitments**

The CHIPS Act requires the applicant to make commitments to worker investments, including through training and education benefits paid by the applicant and programs to expand employment opportunities for economically disadvantaged individuals.<sup>1</sup> The applicant must specifically describe its financial and programmatic commitments to satisfy this requirement.

The CHIPS Act also requires the applicant to secure "commitments from regional educational and training entities and institutions of higher education to provide workforce training, including

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<sup>1</sup> See 15 U.S.C. § 4652(a)(2)(B)(ii)(II).

programming for training and job placement of economically disadvantaged individuals.”<sup>2</sup> The applicant must attach letters of commitment from education and training entities and institutions that detail the specific tasks they will perform in support of the applicant’s workforce strategy and the resources that will be provided.

## (2) Workforce Strategy

The applicant must describe a workforce strategy that is consistent with, and builds upon, the commitments described above.<sup>3</sup> The strategy should address each of the following:

### (i) *Workforce Needs Assessment*

A high-level assessment of the workforce needs of the project (job types, skills, and workers required over time in each job type), including the necessary workforce for facility operations, on-site supplier operations, engineering, administration, and others.<sup>4</sup>

### (ii) *Recruitment, Retention, and Training Approach*

The applicant should explain its overall approach to recruiting, retaining, and training a diverse and skilled workforce to meet the needs described above. In addition, it should explain how its workforce commitments fit into that approach. Where possible, the applicant may consider identifying existing, successful training programs that can be scaled and adapted to meet the applicant’s needs. Applicants may also consider partnering with programs that train workers with the needed skills and provide career pathways, such as Registered Apprenticeships or other programs with a successful track record putting people on the path to good jobs. They may also consider using work-and-learn training models and, where appropriate, portable, stackable credentials.

### (iii) *Job Quality Approach*

The Departments of Labor and Commerce’s Good Jobs Principles<sup>5</sup> provide a framework to ensure semiconductor facility jobs are high quality. The applicant should describe their approach to meeting these principles for newly created jobs and to increase job quality for existing jobs at expanded facilities. Additional details on the dimensions of job quality are available on Department of Commerce’s website.<sup>6</sup>

### (iv) *Metrics and Milestones*

CHIPS Incentives awardees will be expected to collect data that will inform the evaluation of their workforce efforts and help track the success of their workforce commitments, including demographically disaggregated data on project workforce. The Department will provide additional guidance on metrics at the time of award.

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<sup>2</sup> 15 U.S.C. § 4652(a)(2)(B)(ii)(III).

<sup>3</sup> See 15 U.S.C. § 4652(a)(2)(B)(ii)(VI).

<sup>4</sup> See 15 U.S.C. § 4652(a)(2)(B)(ii)(VI).

<sup>5</sup> U.S. Department of Labor, *Good Jobs Principles*, <http://www.dol.gov/general/good-jobs/principles> <https://www.dol.gov/general/good-jobs/principles>(2022).

<sup>6</sup> U.S. Department of Commerce, *Job Quality Toolkit*, <https://www.commerce.gov/work-us/job-quality-toolkit> (2022).

## b. Construction Workforce

For concept plans that the Department determines involve more than an incidental amount of construction, the workforce and community investment plan must also discuss the applicant's strategy for investing in its construction workforce. This portion of the plan must include the same items in the workforce strategy discussed above: i) Workforce Needs Assessment; ii) Recruitment, Retention, and Training Approach; iii) Job Quality Approach; and iv) Metrics and Milestones. Applicants should also address whether they commit to having a project labor agreement.

## c. Community Investment

Each applicant must describe its commitments to community investments.<sup>7</sup> The applicant should identify how its community investments support regional economic resilience and broad-based growth and describe any engagement with local stakeholders to design such investments. Strong applications will include, as an attachment, any community benefits agreements and/or letters of support from community-based organizations and local officials. Where applicable, applicants should also discuss how their community investments align with ongoing state and local economic development programs.

Community investments may include but are not limited to the applicant's investments in any of the following: local workforce or education systems, climate and environmental responsibility, child care, affordable housing, and other efforts to unlock barriers to economic participation and support a community's long-term growth. To ensure that the CHIPS Incentives Program generates benefits for a broad range of stakeholders and communities, applicants are strongly encouraged to describe any proactive steps they will take to ensure that small, minority-owned, veteran-owned, and women-owned businesses are included in the overall project, including how it intends to track and disclose such data.<sup>8</sup>

## 2. Standard Forms

All applicants should submit standard forms as follows:

- SF-328, Certificate Pertaining to Foreign Interests
- CD-511, Certification Regarding Lobbying. Enter "2023-NIST-CHIPS-SMME-01" in the Award Number field. Enter the title of the application, or an abbreviation of that title, in the Project Name field
- SF-LLL, Disclosure of Lobbying Activities (if applicable)

In addition, applicants may be required to submit additional standard forms, such as the SF-424 and SF-424A/C/D, during the application review process.

## 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and

<sup>7</sup> See 15 U.S.C. § 4652(a)(2)(B)(ii)(II).

<sup>8</sup> See CHIPS Act of 2022, Sec. 104(c)(3).

**the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

All application materials must be submitted electronically via the CHIPS Incentives Program application portal.

The application will consist of a series of questions presented via a web-based application with respondents uploading files as requested. Question types and data fields will include basic contact information, picklists, cost estimates, and brief project narratives. The web-based method was chosen to reduce applicant burden by eliminating redundant entries to the greatest extent possible and consolidating entries into one online form.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2.**

To submit a full application, applicants must have submitted a concept plan. As some of the information in the full application can be found in the concept plan, the system, where possible, will pre-populate applicable fields for the ease of the respondent. Other than our own efforts to connect all aspects of the process into a comprehensive program, we are unaware of any similar efforts to collect this information in the past or currently from other sources within Commerce, from other government sources, and from outside sources.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The CHIPS Incentives portal system has multiple modes of reducing burden to the applicant:

Where able, all CHIPS applications will streamline customer experience through several methods of form automation:

- 1) Conditional questions – when applicable, customers will only see questions necessary, based on their responses to previous questions.
- 2) Reusable information – all of the applications are programmed on the same platform, allowing the use of information supplied in one application to be available to the others. Once an applicant provides their company or contact information in one portion of the larger system, the Incentives application could pre-populate the details anywhere that information is needed, including in federal forms, so that users do not have to type the same information multiple times.
- 3) Just in time automation - certain sections of the applications will unlock for the users only after applicants have passed certain gates, so that they are not providing more information than necessary at any step in the application process.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

A potential applicant must submit a concept plan and full application to be officially considered for a CHIPS Incentive Award under this NOFO. Without this interaction the government would

not be able to assess applicants' ability to meet program objectives and design an incentives package to accomplish program goals.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to retain records, other than health, medical, government contract; grant-in-aid, or tax records, for more than three years; in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; requiring the use of a statistical data classification that has not been reviewed and approved by OMB; that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Applicants are only required to submit one concept plan and one application per application instance. The results from these data collection activities are not intended for general publication, however the results will/may be disseminated to CHIPS or DOC staff, and key federal policy and management officials.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

A 60-day Federal Register Notice (FRN) soliciting public comments was published on Monday, July 24, 2023 (Vol. 88, Number 140, page 47481).

A 30-day Federal Register Notice (FRN) soliciting public comments was published on Wednesday, October 18, 2023 (Vol. 88, Number 200, page 71839).

**Comments received in the 60 Day FRN and responses:**

Comment(s) –

With hundreds of thousands of members employed primarily in the construction and wood products industries, \_\_\_ is one of North America's largest building-trades unions. They have a continent-wide presence composed of its international union headquarters in Washington, D.C., and eighteen councils, and hundreds of local unions. Since its founding, they have led efforts to curb the abuse of labor in the construction industry. They have consistently encouraged improvements to make America's construction markets fairer, safer, more productive, and more favorable for both workers and honest employers.

To that end, they and their affiliated councils and local unions frequently engage with construction workers, contractors, lawmakers, community leaders, workers' compensation insurers and federal and state law-enforcement agencies regarding the current and growing flagrant instances of serious tax fraud, workers' compensation premium fraud, wage theft, labor trafficking, child labor, threats to safety and other abuses of labor and employment laws occurring in the construction industry. It is this interest in equity, the dignity of labor, the rule of law and building a diverse middle class that brings us to comment on the ICR. As described in the ICR, the CPO is proposing to create NOFOs for awarding funds to create a secure supply chain to produce semiconductors. The CPO is seeking comments on the adequacy of such NOFOs. A primary goal of the CHIPS program, as stated in the NOFOs for building semiconductor facilities, is to "support the broader U.S. economy, creating good jobs accessible to all, and supporting and growing local economies and communities." Illegal or exploitative working conditions do not create "good jobs." Regrettably, the construction industry today is rife with abundant violations of basic federal and state employment standards and tax laws. No job site is immune. One of their affiliated councils has already been contacted by a subcontract labor provider<sup>5</sup> (whom we call "labor brokers") about supplying construction workers to a battery production facility. That labor broker boasted that it could supply up to 6,000 workers to construction sites. When asked how the workers would be classified, the response was the workers would be independent contractors. The council declined the offer to work with the labor broker. This incident illustrates the imperative for the CPO to make abundantly clear in its NOFOs the expectation that its funding will not be used to exploit construction workers.

Accordingly, the CPO must continue its efforts to create good jobs with law-abiding employers by applying the same standards for building the supply chain that it has advanced in the NOFOs for the construction of semiconductor facilities. They, though, does have suggestions that will support applicants with construction workforce plans that truly intend to create "good jobs." This is unfortunately necessary because of the shockingly poor track record of construction industry compliance with basic labor standards and employment tax laws, and the growing use of law-breaking labor brokers by subcontractors. A fuller description of the troublesome non-compliance and fraudulent schemes that have taken hold in our industry are in our comment on Recipient Reporting Information Collection. We incorporate those comments herein by reference.

**II. Construction workforce plans in supply-chain NOFOs should be the same as those used for building semiconductor facilities, but with additional language that will emphasize the need to abide by labor standards and employment tax laws.**

The NOFOs for construction of semiconductor facilities make plain to applicants the expectation that government funds will be used to create good jobs. Given, though, the alarming conditions in the construction industry, the NOFOS require adjustments to address the schemes used by scofflaw employers to exploit workers and steal work from law-abiding employers. The current NOFOs contain the following language directed at the applicants' plans to ensure compliance with labor standards and employment tax laws:

As part of their construction workforce plan, applicants must also provide a description of the steps that will be taken to ensure that all contractors and subcontractors on the construction project have and will continue to have a strong track record of compliance with all Federal labor laws, including but not limited to all relevant provisions, rules, and regulations of the Davis-Bacon Act, Executive Order 11246, and

the Occupational Safety and Health Act, and the steps that will be taken to prevent the misclassification of workers. This description should also include the steps that will be taken to ensure that all workers have access to a safe working environment that is free of harassment, discrimination, and retaliation.

The exploitation of the workforce is frequently hidden under layers of contractors and subcontractors. Experience demonstrates that contractors tend to disavow any knowledge or responsibility for their subcontractors and any lower-tier subcontractors—especially labor brokers. Indeed, that is the purpose of the labor-broker fraud model that is sweeping through the construction industry. Also, many subcontractors like to claim ignorance of labor standards requirements agreed to by contractors. Therefore, we suggest inserting after “subcontractors” the following language:

, at any tier, including subcontract labor providers,

And, add the following sentence at the end of the paragraph so the requirements of the workforce plan flow down to all subcontractors:

Applicants must also agree to require all subcontractors, at any tier, including subcontract labor providers, to abide by the workforce plan and to include such requirement in their contracts and subcontracts.

Regrettably, the contracting community cannot be relied upon to self-police. Market forces in the industry favor contractors who lower their labor costs by breaking the law to underbid law-abiding competitors. Third party monitors can assist. We recommend inserting the following language after “steps”:

, including the use of independent compliance monitors,

The use of compliance monitors is not unusual. There are law firm that specialize in monitoring compliance with contracts and settlements. In this context, compliance would be more ensured if it was done by organizations familiar with the industry’s fraud schemes. We therefore recommend the inclusion of the following language in a new paragraph following the paragraph cited above:

An independent compliance monitor can include a labor organization that represents construction workers. Compliance monitors must be authorized to report to the CHIPS Program Office without screening or interference by the awardee or any contractors or subcontractors.

Supporting good jobs means abiding by federal and state and local workplace laws. Certainly, the Department of Commerce does not wish to infer that it is acceptable to violate state and local laws. Revising the language to explicitly require compliance with federal, state, and local laws ensures that the Department cannot be accused of undermining local labor conditions. Accordingly, insert the following phrase after “Health Act”:

and applicable state and local laws,

Again, because of the proliferation of independent contractor misclassification and the layering of subcontractors to evade accountability, the last sentence below the requirements for applicants who proceed without a project labor agreement needs to be amended. See the additional language in italics:



After the project begins construction, the applicant must also report the name of any subcontract entity, at any tier, including subcontract labor providers, performing work on the project, and disaggregated data on the total number of workers employed by each such entity and if any workers are being classified as independent contractors.

These changes will require conformity amendments in other sections of the NOFO. For instance, see the following with new language in italics:

V(A)(1)(c)(4) Technical Feasibility and Readiness

Construction Plan

Compliance record of construction contractors and subcontractors, at any tier, including subcontract labor providers, with Federal state and local, labor laws and the extent to which steps are in place, including the use of independent compliance monitors, to prevent the misclassification of workers on the construction site.

### **III. Adopting NOFOs as suggested will not be burdensome.**

The current NOFO used for building semiconductor facilities has not been burdensome, so adopting it for the supply chain will not be burdensome either. Neither will it be additionally burdensome to add the suggested language. The suggestions clarify the existing NOFO language in support of Congress' and the Administration's goal to advance the manufacturing of semiconductor chips in the United States while creating good middle-class jobs.

### **IV. Conclusion: The CPO should use the existing NOFOs for supply-chain facilities and adopt the suggested amendments.**

The suggested amendments to the NOFOs for supply-chain facilities are necessary to address the construction industry's growing adoption of the labor-broker fraud model. Amending the NOFOs as suggested will stimulate the creation of good middle-class construction jobs by clarifying the requirement to adhere to labor standards and employment tax laws. This is vital because the current marketplace favors construction employers who lower their labor costs by violating basic employment standards and tax laws. Moreover, adopting the suggestions will not be burdensome.

#### Response –

Thank you for your comments on the CHIPS Program Office streamlined supply chain notice of funding opportunity (NOFO) information collection request. We appreciate your feedback and will take it into consideration as we continue to refine internal planning processes.

This NOFO and the associated information collection request are to solicit applications for CHIPS Incentives that will support investments in the construction, expansion, and modernization of commercial facilities in the United States for semiconductor materials and semiconductor manufacturing equipment for which the capital investment falls below \$300 million.

Workforce and community investment is a top priority of the CHIPS Incentives Program. A strong, long-term workforce strategy is critical to achieving the economic and national security goals of the CHIPS Act. The Good Jobs Principles published by the Departments of Commerce and Labor outline the elements of a good job, including recruitment and hiring practices, pay and benefits, job security and working conditions, worker empowerment, skills and career

advancement, and organizational culture. All applicants must comply with all applicable Federal labor and employment laws, including but not limited to Title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act, the Occupational Safety and Health Act, and the National Labor Relations Act, which protects employees' right to bargain collectively and engage in concerted activities for the purpose of workers' mutual aid or protection. To be eligible for CHIPS funding, applicants must secure "commitments from regional educational and training entities and institutions of higher education to provide workforce training, including programming for training and job placement of economically disadvantaged individuals."

In response to your feedback on construction workforce plans, the CHIPS Program Office is requiring applicants whose projects involve more than an incidental amount of construction to discuss their strategy for investing in their construction workforce. That strategy must include a workforce needs assessment; a recruitment, retention, and training approach; a job quality approach; and metrics and milestones. Applicants will also need to address whether they commit to using project labor agreements. If they do not so commit, the Department will need to understand what other measures they intend to take to ensure workforce continuity and reduce the risk of delays in project delivery.

As part of their workplan, applicants are strongly encouraged to describe any steps that will be taken to ensure that all contractors and subcontractors—including subcontract labor providers—have and will continue to have a strong record of compliance with all Federal labor laws, including but not limited to all relevant provisions, rules, and regulations of the Davis-Bacon Act, Executive Order 11246, and the Occupational Safety and Health Act, and the steps that will be taken to prevent the misclassification of workers. Strong applications will also demonstrate that contractors and subcontractors have a strong record of compliance with applicable state and local laws.

The Department encourages applicants to use independent compliance monitors to ensure compliance with applicable laws and regulations. Compliance monitors can include law firms that specialize in monitoring compliance with contracts and settlements and/or labor organizations that represent construction workers.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There are no plans to provide payments or gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

CPO recognizes the importance of protecting confidential business information from public disclosure. CPO and the Department will follow applicable laws, including, for example, the CHIPS Act, the Trade Secrets Act, and the Freedom of Information Act (FOIA), to protect such information. Section IV.C of the CHIPS Incentive Program – Facilities for Semiconductor Materials and Manufacturing Equipment Notice of Funding Opportunity (NOFO) provides the additional information on the maintenance of confidentiality and use of the information collected in greater detail.

Information in this system is not maintained in a Privacy Act system of records (i.e., information about an individual is not retrieved by the individual's name or unique identifier) and a SORN and Privacy Act Statement are not required.

In accordance with the privacy provisions of the E-Government Act of 2002, a privacy impact assessment is required for this information system. The information will be maintained in NIST's Business Operations Office System. The system's PIA is being updated to reflect the collection and maintenance of CHIPS-related information and will be review and approved by the Department's Senior Agency Official for Privacy before being published to the Department's privacy program page available at: <https://osec.doc.gov/opog/privacy/NIST-pias.html>.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No sensitive or private information of this sort is being collected.

**12. Provide estimates of the hour burden of the collection of information.**

<u>Collection Activity</u>	<u>Number of Respondents</u>	<u>Number of responses annually / respondent</u>	<u>Total annual responses</u>	<u>Estimated hours per response</u>	<u>Total Annual Burden Hours</u>
Concept Plan	140	1	140	42 hours	5,880 hours
Full Application	70	1	70	42 hours	2,940 hours
TOTAL	210		210		8,820 hours

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

\* Hourly wage based on U.S. Bureau of Labor Statistics for a 13-1082 Project Management Specialist, mean annual wage. <https://www.bls.gov/oes/current/oes131082.htm>

Type of Respondent	Number of Respondents	Number of Responses per Respondent	Average Burden per Response	Hourly Wage Rate*	Total Burden Costs
	210	1	42 hours	\$47.32	\$414,050
<b>Total</b>	--	--	--	--	\$414,050

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of**

hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

Staff	Grade/Step	Salary	Fringe (if applicable)	% of Effort	Total Annualized Cost to Gov't
<b>Federal Oversight</b>					
NIST Project Oversight Officer -	ZP-IV	170,000	65.6% (leave and benefits)	40%	\$112,608
<b>System Maintenance (labor)</b>					
NIST OISM systems maintenance staff x 2		140,000	65.6% (leave and benefits)	5%	\$23,184
NIST OISM IT Security		140,000		5%	\$11,592
<b>System Operation (labor)</b>					
CPO Engagement Staff x 6		170,000	65.6% (leave and benefits)	40%	\$675,648
<b>Other Objects (Non-labor)</b>					
Licenses					\$50,000
<b>Total Cost to the Government</b>					<b>\$873,032</b>

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

This is a new information collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The agency plans to perform certain analyses and develop statistics, reports, or other items summarizing the results of the collection activity. For example, the agency will develop reports showing the number of concept plans and applications submitted, correlated by geographic area, cross referenced with the proposed type of project submitted.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The expiration date will be clearly displayed with the OMB Control Number.

**18. Explain each exception to the topics of the certification statement identified in “Certification or Paperwork Reduction Act Submissions.”**

There will be no exceptions to the certification statement and NIST certifies compliance with [5 CFR 1320.9](#) and the related provisions of [5 CFR 1320.8\(b\)\(3\)](#).