



## Funding Opportunity – Commercial Fabrication Facilities

### FREQUENTLY ASKED QUESTIONS

The following questions and answers apply only to the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity. For more application-related information, please email [apply@chips.gov](mailto:apply@chips.gov). For general inquiries, email [askchips@chips.gov](mailto:askchips@chips.gov). We will update these FAQs regularly to incorporate answers to new questions we receive.

## APPLICATION PROCESS

### Where can I find application information?

Application information can be found at <https://www.chips.gov>, and the CHIPS Incentives Portal can be found [here](#). For further details on the application process and submission requirements, please refer to the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### What projects are eligible for this funding opportunity?

The first funding opportunity is open to applicants seeking funding for the construction, expansion, or modernization of commercial facilities for the front- and back-end fabrication of leading-edge, current-generation, and mature-node semiconductors.

### My project does not appear to be eligible for this first round of funding. Will there be additional funding opportunities that apply to me?

The CHIPS Program Office plans two additional funding opportunities for the CHIPS Incentives Program. In late spring 2023, the CHIPS Program Office intends to release a funding opportunity focused on the construction, expansion, or modernization of facilities for semiconductor materials and manufacturing equipment. In early fall 2023, the CHIPS Program Office intends to release a funding opportunity for the construction, expansion, or modernization of facilities for research and development.

### I am a supplier to the semiconductor industry. Am I eligible to apply for this first round of funding?

Suppliers to the semiconductor industry are not eligible to apply under this first funding opportunity. However, all companies—including suppliers—are encouraged to submit statements of interest now, as this will help the CHIPS Program Office gauge interest in the program and plan for application review.

The CHIPS Program Office also recognizes the benefits of collaboration between fabrication facilities that are eligible now and material and manufacturing equipment facilities that may be eligible in future

rounds. We therefore encourage fabrication facilities to co-locate with suppliers and/or collaborate with them on workforce development or research and development, in addition to other potential avenues for collaboration. See I.C.1.a (“Economic Security Objectives”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **What are the steps in the application process?**

The application process includes the following stages:

1. Statement of interest
2. Pre-application (recommended)
3. Full application
4. Due diligence
5. Award preparation and issuance

For more information on each stage, see Section I.B.9 (“How does the application process work?”) and Section V (“Application Review Information”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

For leading-edge applications, pre-applications (optional) and full applications will be accepted on a rolling basis beginning on March 31, 2023. For potential applicants for current-generation, mature-node, and back-end production facilities, pre-applications (which are recommended) will be accepted on a rolling basis beginning on May 1, 2023, and applications will be accepted on a rolling basis beginning on June 26, 2023.

### **What are the benefits of submitting a pre-application?**

The optional pre-application stage provides an early opportunity for active dialogue between the CHIPS Program Office and potential applicants to ensure proposed projects are consistent with program requirements and address program priorities. Our pre-application review will conclude with a written assessment of the strengths and weaknesses of the proposal and any further recommendations for improvement. The CHIPS Program Office strongly encourages pre-applications for potential applicants for current-generation, mature-node, or back-end production facilities. See I.B.9 (“How does the application process work”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **Are there steps I must take before applying for funding?**

The first step in the application process is the submission of a statement of interest. A statement of interest must be submitted at least 21 days prior to submitting a pre-application or full application. To submit a statement of interest, applicants will first need to register for an account on the [CHIPS Incentives Portal](#).

Before receiving an award, each applicant for funding must also have an active registration in the [System for Award Management](#). Applicants are strongly encouraged to begin the process of registering for SAM.gov as soon as possible. Although this process typically takes less than two weeks to complete, it can sometimes take more than six months to complete due to information verification requirements. Download [SAM.gov’s Entity Registration Checklist](#) for comprehensive instructions.

**Do I need an active SAM.gov registration to submit an application?**

Potential applicants do not need to have an active SAM.gov registration to submit an application. It is necessary to receive an award, however, so potential applicants are highly encouraged to register on SAM.gov as soon as possible.

**What are the important application dates?**

Statements of interest for all potential applicants—including those that expect to be eligible in future funding rounds—will be accepted on a rolling basis beginning on February 28, 2023. Statements of interest must be submitted at least 21 days before submission of a pre-application or full application.

For potential applicants for leading-edge facilities, pre-applications (which are optional) and full applications will be accepted on a rolling basis beginning on March 31, 2023.

For potential applicants for current-generation, mature-node, and back-end production facilities, pre-applications (which are recommended) will be accepted on a rolling basis beginning on May 1, 2023, and full applications will be accepted on a rolling basis beginning on June 26, 2023.

**What kinds of financial information will applicants need to prepare as part of the pre-application and full application?**

In the pre-application stage, an applicant should be prepared to submit “Sources and Uses of Funds” information that details costs and capital sources for each project; audited company financials; a summary financial model with project cash flows, including income statement and balance sheet information; and detail on the applicant’s incentive request from the CHIPS Incentives Program. For more information, see Section IV.H.3 (“Financial Information”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

In the full application stage, applicants will be required to provide robust and detailed company-level and project-specific financial data. For more detailed information, see “Financial Information” in Sections IV.H.3 and IV.I.7 of the Notice of Funding Opportunity.

**How will the CHIPS Program Office protect confidential business information throughout the application process? (Revised April 3, 2024)**

The CHIPS Program Office and the Department recognize that protecting confidential business information from public disclosure is important both to applicants and to the success of the program. We are instituting robust protocols, technology solutions, and organizational practices to keep all data safe, secure, confidential, and limited in distribution. Application data will be housed in a secure environment, upholding NIST’s FIPS 199 high impact requirements for cybersecurity and data protection.

In general, applicant information will be accessible only to federal employees, consultants, and contractors who have a need to know, including application reviewers and key investment decision-makers, to carry out the government’s responsibilities in connection with the CHIPS Incentives Program, or as otherwise required by law. Federal employees are bound by legal and administrative restrictions on unauthorized disclosure or use of confidential business information, including the Trade Secrets Act (18 U.S.C. § 1905), which makes them potentially subject to fines, imprisonment, and removal from

office. Any consultants or contractors supporting the CHIPS incentive program will be bound by strict confidentiality agreements.

For more information on business confidential information and the use of information, see Section IV.C. (“Confidential Information”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

**Since the Statement of Interest online form does not permit an applicant to upload a cover page containing requested confidentiality legends, where in that form should these legends be included?** (Added April 3, 2024)

Information that is populated in structured questions in the Statement of Interest will automatically be labeled as Controlled Unclassified Information—confidential business information (CUI//PROPIN). No additional legends are required. Please note that this applies only to the Statement of Interest and portions of the optional pre-application with structured data inputs; applicants will be required to mark the confidential information contained in uploaded pre-application documents and full applications consistent with the directions in the CHIPS Incentives Program: Commercial Fabrication Facilities Notice of Funding Opportunity.

**Is information submitted by applicants subject to disclosure under the Freedom of Information Act?** (Added April 3, 2024)

Congress provided in the CHIPS Act that “any information derived from records or necessary information disclosed by a covered entity to the Secretary” with respect to CHIPS funding is exempt from disclosure under the Freedom of Information Act (FOIA) and “shall not be made public.” See 15 U.S.C. § 4652(a)(6)(G). This exemption provides strong protection for applicants who are a “covered entity,” as defined in the CHIPS Act. See 15 U.S.C. § 4651(2). In addition, FOIA Exemption 4 protects from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” See 5 U.S.C. § 552. For more information, see Section IV.C (“Confidential Information”) of the CHIPS Incentives Program—Commercial Fabrication Facilities Notice of Funding Opportunity.

**Our company is in the initial stages of determining whether we should undertake a new project. We are not at an advanced stage of technical and financial planning yet, and thus any application we submit would lack the level of granularity required. How should we proceed?**

The Department of Commerce anticipates that some potential applicants may be in earlier stages of developing the project(s) for which they intend to apply for CHIPS Incentives. Pre-applications are particularly useful in this scenario, as it enables the CHIPS Program Office to provide meaningful feedback to the potential applicant.

**Are there opportunities for applicants to receive feedback on their proposals?**

Yes. The CHIPS Program Office can provide feedback throughout the application process. Pre-applications are particularly useful for providing feedback before an applicant goes through the effort of submitting a full application. The pre-application process will conclude with a written assessment of the strengths and weaknesses of the proposal and non-binding recommendations for next steps, as appropriate. Such recommendations could include, for example, to submit a revised pre-application, submit a full application, or not submit a further pre-application or full application. The CHIPS Program

Office will also provide feedback to applicants during the full application stage.

For more information, see Section I.B.9 (“How does the application process work?”) and Section V.C (“Review and Selection Process”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **Will the CHIPS Program Office contact me if it needs more information to evaluate my application?**

Yes. The CHIPS Program Office may contact applicants to obtain additional or clarifying information or to provide feedback or recommendations for improvement. The CHIPS Program Office may also conduct interviews with applicants.

Applicants are encouraged to provide as much detail as they can at each application stage to prevent delays in evaluation.

### **What is the proposed timeline for application review?**

The timing for full application review and due diligence will vary from project to project and will depend on the nature and quality of each application. For a more detailed discussion of the application review and selection process, see Section 1.B.9 (“How does the application process work?”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **If I am denied funding, may I resubmit an application in the future?**

If denied funding, an applicant may not resubmit the same or a substantially similar application in the future. Applicants may, however, submit a new application for different project(s).

### **What if my application is missing relevant information?**

Applicants should be diligent in ensuring that their applications are responsive to the requirements set out in the funding announcement. Full applications will be reviewed on receipt to determine eligibility, completeness, and responsiveness to these requirements. Full applications determined to be ineligible, incomplete, or nonresponsive will be returned to the applicant. The Department may, in its discretion, review a substantially complete application if any gaps in information can be rectified easily during the review process.

### **How will the CHIPS Program Office interact with applicants during evaluation?**

In general, the application process will be characterized by substantial back-and-forth between the CHIPS Program Office and the applicant. The CHIPS Program Office may reach out to applicants following the submission of a statement of interest, for example, to discuss an applicant’s proposed project. In addition, following submission of the pre-application or full application, the CHIPS Program Office may request additional information or ask clarifying questions about the information submitted and provide feedback for future submissions or revisions. The review process may include interviews with applicants and consultation with outside contractors or experts, if deemed necessary to assist in the merit assessment. Applicants may direct questions on their application to this email: [apply@chips.gov](mailto:apply@chips.gov).

### **Who pays for outside consultants and legal counsel involved in the application process?**

The CHIPS Program Office may decide to engage outside advisors (including but not limited to legal and technical advisors) during the application review process. Once an application reaches the due diligence stage, the applicant will be responsible for the costs of any outside advisors. Applicants will be asked whether they are willing to cover these costs before they move to this stage in the process. As these costs will vary by project, the CHIPS Program Office will be available to discuss with the applicant how such costs may be monitored and controlled. See Section I.B.9 (“How does the application process work?”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **How will the Preliminary Memorandum of Terms be proposed and finalized?**

Before an applicant advances to the due diligence phase, the Department will prepare a non-binding Preliminary Memorandum of Terms (PMT) that will include recommendations for the amount and form of any CHIPS incentive and key terms that should be considered for inclusion in an award. These recommendations may deviate from what the applicant requested. The CHIPS Program Office will provide the PMT to the applicant for review and negotiation prior to or upon entering the due diligence phase. The terms of any final award, should one be issued, may vary from the PMT.

## **ELIGIBILITY**

### **How is the CHIPS Program Office defining “semiconductor”?**

A semiconductor is an integrated electronic device or system, most commonly manufactured using materials such as, but not limited to, silicon, silicon carbide, or III-V compounds, and processes such as, but not limited to, lithography, deposition, and etching. Such devices and systems include but are not limited to analog and digital electronics, power electronics, and photonics, for memory, processing, sensing, actuation, and communications applications.

### **What is a “covered entity”?**

Only a “covered entity” as defined in the CHIPS Act, 15 U.S.C. § 4651(2), can apply for and receive a CHIPS Incentives Award. For purposes of this first funding opportunity, a “covered entity” means a nonprofit entity; a private entity; a consortium of private entities; or a consortium of nonprofit, public, and private entities with a demonstrated ability to substantially finance, construct, or expand a facility that is eligible under the funding opportunity, i.e. a facility relating to fabrication, assembly, testing, advanced packaging, or production of semiconductors. See Section III.A (“Eligible Applicants”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#) for more information.

### **Does a non-U.S. company need to have a related U.S. entity to submit an application?**

Generally speaking, applicants should be domestic legal entities. In exceptional cases, at the sole discretion of the Department of Commerce, a foreign entity may be permitted to apply and receive a CHIPS Incentives Award. After submitting a statement of interest, the foreign entity should seek guidance from the CHIPS Program Office as to whether an application will be permitted.

### **May an applicant apply for CHIPS funding for a project that has already been announced or begun construction?**

The CHIPS Act provides that funding is available to covered entities “to incentivize investment in facilities and equipment in the United States” for the fabrication, assembly, testing, advanced packaging, or production of semiconductors. Applicants must therefore demonstrate how the CHIPS funding requested will incentivize the applicant to make investments in facilities and equipment in the United States that would not occur in the absence of CHIPS Incentives.

For applications containing projects that have already been announced or begun construction, this standard could be met by demonstrating that the CHIPS Incentives requested will enable the applicant to meaningfully enhance the size, scope, speed, or technical ambition of the overall application. If the applicant cannot make this type of showing, it will have to demonstrate that the project would not occur without CHIPS funding.

### **Can fabless semiconductor companies apply for CHIPS Incentives?**

The first funding opportunity is for projects for the construction, expansion, or modernization of commercial fabrication and packaging facilities in the United States. Only projects of the types listed in Section I.B.1 (“What facilities are eligible for funding under this NOFO?”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#) are eligible. Fabless companies that are not seeking to construct, expand, or modernize an eligible facility would not be eligible to apply. Fabless companies are, however, encouraged to engage or partner with potential applicants and consider ways to support the commercial viability of potential projects.

### **What is a “project”?**

A “project” is a set of capital expenditures for the construction, expansion, or modernization of a single facility. A project also includes any related workforce development or operating expense costs for the project facility that the applicant proposes to cover with CHIPS Incentives funds.

An application may include more than one project, covering separate facilities, if the facilities are within a single location and under common ownership and control. For example, if the applicant intends construction, expansion, or modernization at three fabs at a single location, the applicant should submit a single application that includes three projects, corresponding to the construction, modernization, or expansion activities associated with each fab. An application may contain projects that occur simultaneously or sequentially. If an applicant wishes to propose projects involving facilities at different locations, or under different ownership and control, these projects should be in separate applications. For more information, see Section I.B.5 (“Can an application include more than one project?”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **Can a single company submit more than one application?**

Yes, a single company may submit more than one application. However, applicants that wish to apply for funding for more than one facility within a single location and under common ownership and control should include all of those facility projects in a single application. See Section I.B.5 (“Can an application include more than one project?”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **What constitutes a “covered incentive” from a state and local government?**

The CHIPS Act specifies that an applicant must have been offered a covered incentive from a state or local jurisdiction where the project is located for the purposes of attracting the construction, expansion,



or modernization of the facility. Each applicant must provide a letter from a state or local government entity to demonstrate they have been offered a qualifying covered incentive. The letter should indicate the estimated size and nature of the incentive.

A “covered incentive” may take many forms, including a tax incentive for the purposes of constructing, expanding, or modernizing a facility within that jurisdiction. A covered incentive can also take the form of a workforce-related incentive (including a grant agreement relating to workforce training or vocational education), any concession with respect to real property, funding for research and development with respect to semiconductors, or any other incentive determined appropriate by the CHIPS Program Office.

The offer of a covered incentive may be contingent; however, any contingencies need to clearly be specified in the letter from the state or local government entity. Further, applicants may be required to provide additional information prior to receiving a CHIPS Incentive Award demonstrating to the CHIPS Program Office’s satisfaction that the covered incentive has been or will be received. See Section IV.I.2 (“Covered Incentive”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

The CHIPS Program Office encourages applicants to secure state and local incentive packages capable of creating spill-over benefits, such as investments in workforce, education, site preparation, or infrastructure (including transit or utilities) that are designed to benefit both the applicant and the broader community. See Section I.C.3 (“Financial Strength”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **Will the CHIPS Program Office help companies obtain state and local incentives?**

It is the applicant’s responsibility to obtain state and local incentives.

### **Will the CHIPS Program Office accept workforce or community investments and covered incentives committed prior to the release of the funding opportunity?**

Yes, the CHIPS Program Office will take such investments and/or incentives into account. The quality and depth of such commitments will be evaluated per the criteria in Section V.A (“Evaluation Criteria”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **How should I apply if I am proposing multiple projects at the same site that have different application cycles according to the Notice of Funding Opportunity (e.g., a leading-edge facility, a mature node facility, and a research and development facility all at a single location)?**

If a single application includes both leading-edge projects and other project types eligible for funding under the first funding opportunity, the application will be considered a leading edge application—and therefore eligible for submission beginning March 31—if at least 75 percent of the application’s cumulative proposed capital expenditures are on leading edge projects. Applications may not include projects for facilities that are not eligible for funding under this Notice of Funding Opportunity.

### **Are public entities eligible for funding?**



Public entities may receive funding as a subrecipient or contractor of an applicant with a demonstrated ability to substantially finance, construct, or expand a facility relating to fabrication, assembly, testing, advanced packaging, or production of semiconductors.

## FUNDING

### What types of funding will be available through the CHIPS program?

There are three types of CHIPS Incentives:

1. Direct Funding from the federal government, which can take the form of grants, cooperative agreements, or other transactions.
2. Loans, which are direct loans from the federal government to the applicant for eligible costs.
3. Loan Guarantees, which are federal guarantees of third-party loans to the applicant for eligible costs.

### What is the maximum award amount that I can apply for?

There is no set maximum for how much a project can receive in CHIPS Incentives.

### What percentage of a project's costs will be covered by CHIPS Direct Funding?

In determining the CHIPS Direct Funding amount, the CHIPS Program Office will consider the project's financial model and expected cash flows, the project's estimated internal rate of return, the strategic importance of the project to U.S. economic resilience and national security, the risks associated with the project, the amount and type of government financial assistance (including state and local incentives and the Advanced Manufacturing Investment Credit (Investment Tax Credit) under 26 U.S.C. § 48D), the availability of program funds, and other factors.

For projects that are eligible for the Investment Tax Credit, the CHIPS Program Office generally expects most CHIPS Direct Funding awards will range between 5% to 15% of project capital expenditures. That range may be higher for projects not eligible for the credit.

The CHIPS Program Office generally expects that the total amount of a CHIPS award, inclusive of CHIPS Direct Funding and the principal amount of a CHIPS Loan or CHIPS Loan Guarantee, will not exceed 35% of project capital expenditures.

### What percentage of a project's costs will be covered by CHIPS Loans or Loan Guarantees?

There is no fixed limit on the CHIPS Loans or Loan Guarantees that an applicant or project may receive. The CHIPS Program Office will consider multiple factors when determining the amount and features of any CHIPS Loan or CHIPS Loan Guarantee, including the project's financial model and expected cash flows, the project's estimated internal rate of return, the strategic importance of the project for U.S. economic resilience and national security, the risks associated with the project, the amount and type of government financial assistance, the availability of program funds, the ability for the project to support the proposed financing from a credit underwriting perspective, and other factors.

The CHIPS Program Office generally expects that the total amount of a CHIPS award, inclusive of CHIPS Direct Funding and the principal amount of a CHIPS Loan or CHIPS Loan Guarantee, will not exceed 35% of project capital expenditures.

**Can a project receive more than one type of funding?**

Yes, a CHIPS award may include a combination of direct funding (i.e., a grant, cooperative agreement, or other transaction), loans, and loan guarantees.

**Are requests for loans or loan guarantees required in a proposal?**

No. Neither loans nor loan guarantees must be requested in a proposal, though applicants are encouraged to consider loans or loan guarantees as part of an overall package for supporting their projects. Applicants can also seek just loans or loan guarantees, and are not required to seek direct funding.

**Are loan terms or loan guarantee terms negotiable?**

The specific terms of a CHIPS Loan will be based on the project's financing requirements and risk characteristics, and the terms and conditions of each CHIPS Loan may be subject to negotiation. The specific terms and conditions of a CHIPS Loan Guarantee will be subject to negotiation with the applicant and the relevant third-party lenders or recipient of such loan guarantee. Applicants must provide a rationale for both the amount and terms of any loans or loan guarantees requested in an application. See Section I.B.8 ("How much support can a project receive in CHIPS Loans or CHIPS Loan Guarantees, and on what terms?") of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

**Will the CHIPS Program Office publicize the names of awardees and/or the amounts of awards?**

Yes. The recipients and amounts of federal financial assistance awards will be made public.

**Are there restrictions on how the funds may be used?**

Yes. Funds made available under the CHIPS Incentives Program may be put only to eligible uses. See Section I.B.6 ("How can CHIPS Incentive funds be used?") of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

In addition, **funds may not be used to**

- construct, modify, or improve a facility outside of the United States
- physically relocate existing facility infrastructure to another jurisdiction in the United States, unless the project is in the interest of the United States, as determined by the Department of Commerce
- purchase an equity security that is listed on a national securities exchange of an award recipient or to pay dividends or make other capital distributions with respect to the common stock (or equivalent interest) of the recipient or any parent company of such recipient
- pay off any federal direct or guaranteed loan or any other form of federal debt
- fund indirect costs

More information about allowable uses will be provided in the terms and conditions of each award.

**What is the Advanced Manufacturing Investment Credit (Investment Tax Credit), and does my project qualify?**

The Investment Tax Credit is a separate incentive administered by the U.S. Department of the Treasury and the Internal Revenue Service that provides a federal income tax credit for qualifying capital investments in a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment. The Department of Commerce and the Department of the Treasury are coordinating closely on the Investment Tax Credit and CHIPS funding to ensure these incentives work together to further the Administration's economic and national security goals. The Department of the Treasury expects to publish guidance addressing the Investment Tax Credit in March, in coordination with guidance published by the Department of Commerce addressing the national security requirements and clawback rules for CHIPS funding. For now, details on the Investment Tax Credit can be found at 26 U.S.C. § 48D.

The CHIPS Program Office expects applicants for CHIPS funding to take advantage of this tax credit, if eligible, to the fullest extent possible. Applicants for CHIPS funding must also detail in their application the support for a project expected from the Investment Tax Credit.

### **How much funding will be allocated to various facility categories?**

The CHIPS Program Office has not allocated a specific amount of funding to each category of facilities. Each project will be evaluated on its own merits and reviewed in light of the evaluation criteria and prioritization and selection factors detailed in the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#). For more information on the CHIPS Program Office's investment goals, see the "[Vision for Success: Commercial Fabrication Facilities](#)" released in February 2023.

### **How is the Department of Commerce administering the \$2 billion designated for mature nodes?**

Consistent with the CHIPS Act, the CHIPS Program Office will dedicate at least \$2 billion from the CHIPS Incentives Program to support production of mature nodes. The CHIPS Program Office views the \$2 billion requirement as a floor, not a ceiling. In accordance with statutory requirements, the CHIPS Program Office will give priority to applications for mature-node facilities that support the resilience of semiconductor supply chains for critical manufacturing industries (as defined in Section VII.A ("Definitions") of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#)) in the United States. Applications for mature-node facilities will otherwise be evaluated across the same priorities and criteria applicable to other projects. See Section I.C ("Program Priorities") of the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity.

### **If I am awarded funding, when will I start receiving money?**

Disbursements of direct funding will be tied to project milestones in connection with both the capital expenditure components of the project and the workforce development and/or operational cost components of the project. The rate of disbursement is generally expected to be proportional to the rate at which non-federal dollars are expended over the course of the project, although determinations will be made on a case-by-case basis. CHIPS Loans will likewise be disbursed in tranches aligned with project milestones.

### **What are the performance, reporting, audit, and bookkeeping requirements for awardees?**

In general, the CHIPS Program Office will track the performance of each CHIPS incentive award via financial and programmatic reports, in accordance with the award terms and conditions. Usually, reports will be required no less than semi-annually and must be submitted in an electronic format to be specified at the time of the award. For more information, see Section VI.E (“Reporting”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

**How will the Department of Commerce enforce the commitments that applicants make in their applications? For example, what will the consequences be if an applicant breaches a commitment regarding stock buybacks, child care, workforce, and other provisions?**

Commitments will be codified in the terms of an award. The CHIPS Program Office will require regular reporting from award recipients and intends to establish a rigorous compliance and audit program to ensure that these commitments are being upheld. Failure to adhere to the terms of the award may result in one or more of the following actions, as appropriate in the circumstances: the temporary withholding or suspending of payments, the suspension or termination of the award, the return of funds made available under the award, the initiation of suspension or debarment proceedings in accordance with law, or other remedies that may be available.

**How will upside sharing work?** (Added April 3, 2024)

Recipients receiving more than \$150 million in CHIPS Direct Funding will be required to share with the U.S. government a portion of any cash flows or returns that significantly exceed the applicant’s projections above an agreed-upon threshold specified in the award. Upside sharing arrangements will be set on a case-by-case basis and, in exceptional circumstances, may be waived by the Department.

The CHIPS Program Office wants projects that receive CHIPS funding to succeed and earn robust returns, as this will contribute to the overall health of the U.S. semiconductor industry. As part of its core commitment to protecting taxpayer investments, the CHIPS Program Office must also ensure that the size of the incentives any applicant receives is no larger than necessary to accomplish program goals. To that end, the CHIPS Program Office will work with applicants during the application process to align on a realistic set of assumptions and expectations regarding future cash flows, projections, and returns, which will in turn inform the size of any award. Upside sharing is expected to be material only when projects generate cash flows or returns that significantly exceed the projections that were used to determine the CHIPS Direct Funding amount. Upside sharing will never exceed 75% of a recipient’s direct funding award.

In no case will upside sharing be intended to undermine the commercial viability of a project. Both the applicant and the CHIPS Program Office will work together to agree on a threshold at which upside sharing begins as part of the award process.

This financial structure is common in private sector transactions. The purpose of upside sharing is to align an applicant’s and the U.S. government’s incentives in arriving at a reasonable set of projections for a project, not to regulate the profits that an awardee may receive. Upside sharing is not expected to occur in most projected outcomes for CHIPS-supported projects, as it would be activated only in scenarios where a project’s profits or returns significantly exceed expectations. The Department will use any upside sharing proceeds to support the purposes of the CHIPS Act and strengthen the U.S. semiconductor ecosystem.

**Does the \$150 million threshold for the child care and upside sharing requirements apply per project, per application, or per applicant?** (Added April 3, 2024)

The Department of Commerce requires that any applicant requesting CHIPS Direct Funding over \$150 million provide a plan for access to child care for facility and construction workers. Recipients receiving more than \$150 million in CHIPS Direct Funding will also be required to share with the U.S. government a portion of any cash flows or returns that exceed the applicant's projections above an agreed-upon threshold specified in the award. In both instances, the \$150 million threshold applies per application.

**Will all CHIPS Direct Funding awards fall within 5% to 15% of project capital expenditures?** (Added April 3, 2024)

The 5% to 15% range mentioned in the CHIPS Incentives Program—Commercial Fabrication Facilities Notice of Funding Opportunity is a general expectation for most CHIPS Incentives awards, not an absolute limit.

The range is based on internal analysis of industry data and market benchmarks to estimate the amount of direct CHIPS support necessary for a project to achieve commercially reasonable returns, taking into account total government support, inclusive of the Advanced Manufacturing Investment Credit and required state or local incentives. The 5-15% range is specific to this Notice of Funding Opportunity and may not apply for future funding opportunities where the circumstances—including the applicability of the Advanced Manufacturing Investment Credit—may be different.

The CHIPS Program Office recognizes that individual projects are distinct, and is therefore asking applicants for detailed financial information. We intend to use that information to assess the appropriate level of support on a project-specific basis.

## WORKFORCE DEVELOPMENT

**What are the workforce development expectations in the first funding opportunity?** (Added April 3, 2023)

Recruiting, training, and retaining a large, skilled, and diverse workforce will be critical to strengthening the U.S. semiconductor ecosystem. Delivering on the program's national and economic security objectives demands major investments in the semiconductor workforce that will support good-paying jobs across the industry.

Recognizing this, Congress in the CHIPS and Science Act directed the Department to include workforce development requirements in awarding semiconductor incentives. The statute requires that the Department issue awards only to applicants who have "made commitments to worker and community investment" including "training and education benefits paid by the" applicant and "programs to expand employment opportunity for economically disadvantaged individuals." 15 U.S.C. § 4652(a)(2)(B). The statute also requires funding recipients to "secure[] commitments from regional educational and training entities and institutions of higher education to provide workforce training," as well as to document and develop a strategy to meet workforce needs." 15 U.S.C. § 4652(a)(2)(B). Finally, the statute explicitly states that CHIPS funding may be used to support workforce development. See 15 U.S.C. § 4652(a)(4)(B).

Consistent with this statutory mandate, the first funding opportunity requires applicants to submit workforce development plans for the workers who will operate their facilities and the construction workers who will build them.

The CHIPS Program Office has released a workforce development planning guide that offers more details on these requirements as well as other workforce-related provisions in the first funding opportunity, including the requirement for applicants requesting Direct Funding over \$150 million to submit a plan to provide their facility and construction workers with access to child care. A summary of key workforce provisions is available on the CHIPS website.

### **Can education and training providers apply for CHIPS Incentives through the first funding opportunity?** (Added April 3, 2023)

The first funding opportunity is for projects for the construction, expansion, or modernization of commercial fabrication and packaging facilities in the United States. Only projects of the types listed in Section I.B.1 (“What facilities are eligible for funding under this NOFO?”) of the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity are eligible. Education and training providers that are not seeking to construct, expand, or modernize an eligible facility are not eligible to apply for funding.

Education and training institutions are, however, encouraged to engage or partner with potential applicants and consider ways to support the commercial viability of potential projects, especially since applicants are required by statute to secure commitments from regional educational and training entities and institutions of higher education to provide workforce training. In addition, funds made available under the CHIPS Incentives Program may support workforce development for a facility, including providing funds to education and training providers. Educational institutions may also consider participating in R&D programs such as the National Semiconductor Technology Center.

### **Do Davis-Bacon requirements apply to the workers employed with CHIPS for America funding?**

Yes, all laborers and mechanics employed by the applicant, subrecipients, contractors, or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part by CHIPS for America funding must be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor. See Section VI.C.3 (“Davis-Bacon Requirements”) of [the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **What sort of child care will awardees be required to provide?**

Applicants requesting CHIPS Direct Funding over \$150 million will be required to provide a plan for access to child care for facility and construction workers, e.g., through on- or near-site child care, pre-arranged agreements with existing child care providers, or other measures. To meet families’ needs and expand employment opportunity, child care should be affordable, accessible, reliable, and high-quality. See Section I.C.5.c (“Child care”) of [the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

### **Are projects eligible for funding if they do not use a project labor agreement?**



The CHIPS Program Office strongly encourages the use of project labor agreements (PLAs) in connection with construction projects. Applicants that commit to using best-practice project labor agreements will be likely to produce a construction workforce plan that meets the CHIPS Program Office’s criteria.

Applicants that do not commit to using a PLA will be required to submit workforce continuity plans and show that they have taken other measures to reduce the risk of delays in project delivery. See Section IV.I.10.b (“Construction Workforce Plan”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

## BROADER IMPACTS

### **What kinds of steps can applicants take to engage successfully with minority-owned, veteran-owned, women-owned, and small businesses?**

The CHIPS Incentives Program strives for the inclusion of minority-owned businesses, veteran-owned businesses, women-owned businesses, and small businesses as part of any funded project. Applicants will be expected to explain how they will address this priority, and strong applications will outline proactive efforts to include such businesses in a project’s construction and production supply chain, as well as robust outreach plans for engaging with minority-owned, veteran-owned, women-owned, and small businesses. Such steps may include, but are not limited to

- ensuring that small, minority-owned, veteran-owned, and women-owned businesses are solicited for construction and production supply chain opportunities
- placing them on solicitation lists
- dividing total requirements, where economically feasible, into smaller tasks or quantities to expand access to participation
- investing in supplier diversity programs
- assigning dedicated staff to manage outreach and data analysis

For more information, see Section I.C.6 (“Broader Impacts”) of the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity.

## NATIONAL SECURITY

### **Are there specific restrictions on how and whether certain foreign companies, investors, or partners may participate?**

As a general matter, foreign companies seeking to invest in the United States can apply for CHIPS Incentives. See Section III.A.1 of the CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity for more information.

Foreign entities of concern are not eligible to receive CHIPS Incentives. In addition, the Department of Commerce will review applications for involvement of foreign entities of concern and will not approve any applications where a foreign entity of concern—through control, access to information, or other mechanisms—poses an undue risk to a project or U.S. national security interests. A “foreign entity of concern” is defined by statute at 15 U.S.C. § 4651(8). See Section III.A.2 (“Foreign Entities of Concern and Foreign Capital”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).



## Is a project eligible if a potential co-investor has business operations or investments in countries of concern?

The Department of Commerce will review applications for involvement of foreign entities of concern and will not approve any applications where a foreign entity of concern—through control, access to information, or other mechanisms—poses an undue risk to a project or U.S. national security interests. A “foreign entity of concern” is defined by statute at 15 U.S.C. § 4651(8). CHIPS Incentive Awards will also involve requirements to enable identification and mitigation of national security risks posed by involvement of foreign entities of concern that may arise after an application is approved. See Section III.A.2 (“Foreign Entities of Concern and Foreign Capital”) of the [CHIPS Incentives Program – Commercial Fabrication Facilities Notice of Funding Opportunity](#).

## What are the national security guardrails in the CHIPS and Science Act? (Revised April 3, 2023)

To ensure that CHIPS funding does not directly or indirectly benefit foreign countries of concern, the CHIPS and Science Act includes certain limitations on funding recipients, such as prohibiting engagement in certain significant transactions involving the material expansion of semiconductor manufacturing capacity in foreign countries of concern and prohibiting certain joint research or technology licensing efforts with foreign entities of concern.

These limitations prohibit recipients of CHIPS incentives funds from using the funds in other countries; significantly restricts recipients of CHIPS incentives funds from investing in most semiconductor manufacturing in foreign countries of concern for 10 years after the date of award; and limits recipients of CHIPS incentives funds from engaging in joint research or technology licensing efforts with a foreign entity of concern that relates to a technology or product that raises national security concerns.

The Department is issuing, and requesting public comments on, [a proposed rule](#) to set forth terms related to these limitations and procedures for funding recipients to notify the Department of any planned significant transactions that may be prohibited. Potential applicants should also consult the Department of Treasury’s [proposed rules](#) regarding the Advanced Manufacturing Investment Credit.

## ENVIRONMENTAL LAWS

### Which environmental laws are relevant to the CHIPS Incentives Program?

Applicants for CHIPS Incentives may be subject to a range of federal, state, tribal, and local environmental laws and regulations, depending on the nature and location of the activities for which applicants request or receive funding. Timely satisfaction of environmental and permitting requirements, including environmental reviews under the National Environmental Policy Act (NEPA), are critical to the success of the program. To ensure an efficient and effective environmental review process under NEPA, applicants are strongly encouraged to familiarize themselves with NEPA and ensure that their project teams have the necessary NEPA expertise, which could include hiring companies or consultants that specialize in NEPA. The CHIPS Program Office will require extensive cooperation from applicants throughout the NEPA process. For more information on relevant environmental laws and the NEPA process specifically, see: <https://ceq.doe.gov/laws-regulations/laws.html>.

**How should applicants prepare for environmental review under NEPA?** (Added April 3, 2023)

The CHIPS Program Office encourages potential applicants to begin preparing for the National Environmental Policy Act (“NEPA”) process as early as possible. The first step for potential applicants is to submit an environmental questionnaire as part of a pre- or full application. The environmental questionnaire will assist the CHIPS Program Office’s Environmental Division in assessing the likely level of NEPA review that will be required for the proposed project. The environmental questionnaire allows the team to work with the applicant to ensure that all required environmental information is available as early as possible, which can help expedite the NEPA review process for potentially successful applications.

The [environmental questionnaire](#) is available on the CHIPS website. Leading-edge applicants should submit their questionnaire with their pre-application or full application on or after March 31, 2023. Potential applicants for current-generation, mature-node, and back-end production facilities are strongly encouraged to submit pre-applications, including an environmental questionnaire, to begin the NEPA process. Pre-applications for current-generation, mature-node, and back-end production facilities will be accepted on a rolling basis beginning May 1, 2023.

[More information about the NEPA process](#) is available on the CHIPS website.

**Will the CHIPS Program Office support applicants in the environmental review process?** (Added April 3, 2023)

Yes. The CHIPS Program Office’s Environmental Division will work with applicants and their third-party contractors in an iterative process to help ensure smooth and expeditious completion of the NEPA review process. In addition to engaging with applicants as part of the evaluation of the environmental questionnaire, the Environmental Division will provide resources, such as webinars, FAQs, and templates, to assist applicants in planning for environmental reviews.

Nothing in these FAQs is intended to contradict the requirements in the [CHIPS Incentives Program - Commercial Fabrication Facilities Notice of Funding Opportunity](#), the content of which controls in the event of any actual conflict.