Comments of the
Semiconductor Industry Association (SIA)
To the
Department of Commerce (DOC) National Institute of Standards and Technology (NIST)
On the
Request for Comment
on
CHIPS Statement of Interest Information Collection
88 Fed. Reg. 8259 (February 8, 2023)
ICR Reference Number: 202302-0693-002
Submitted February 21, 2023

The Semiconductor Information Association (SIA)[1] welcomes the opportunity to provide input to the National Institute of Standards and Technology (NIST) at the Department of Commerce (DOC), through the Office of Information and Regulatory Affairs (OIRA), on the CHIPS Statement of Interest Information Collection. This comment offers a recommendation on the treatment of confidential business information, as well as to seek clarity regarding expanding the definition of a project and a discrepancy in timing of submitting a Statement of Interest.

1. Uphold confidential business information throughout the application process

The “Statement of Interest Certifications” section (page 6) of the draft Statement of Interest notes that “DOC recognizes the importance of protecting confidential business information and will follow applicable laws to protect such information, including, for example, the CHIPS Act, the Trade Secrets Act, and the Freedom of Information Act.” This section also refers respondents to Section IV.B. of the CHIPS-CFF NOFO, which is not yet publicly available, for further discussion of these laws.

We appreciate DOC’s recognition of protecting confidential business information (CBI). The protection of CBI advances the national security and economic goals of the CHIPS Act by ensuring companies with meritorious project proposals will seek CHIPS funding, without jeopardizing their business plans. We are concerned, however, that the language in the SOI materials may be insufficient to assure potential applicants that the CBI provided in a Statement of Interest submission, and throughout the entire application process, will be maintained exclusively by the DOC and will not be disclosed without an applicant’s consent. Applicants must be certain that their communications with DOC, their Statement of Interest, and other application materials – including, but not limited to, competitive information, such as investment plans – shared with DOC will be treated as confidential and are not subject to requests under the Freedom of

---

[1] The Semiconductor Industry Association (SIA) is the voice of the semiconductor industry, one of America’s top export industries and a key driver of America’s economic strength, national security, and global competitiveness. Semiconductors – the tiny chips that enable modern technologies – power incredible products and services that have transformed our lives and our economy. The semiconductor industry directly employs over a quarter of a million workers in the United States, and U.S. semiconductor company sales totaled $258 billion in 2021. SIA represents 99 percent of the U.S. semiconductor industry by revenue and nearly two-thirds of non-U.S. chip firms. Through this coalition, SIA seeks to strengthen leadership of semiconductor manufacturing, design, and research by working with Congress, the Administration, and key industry stakeholders around the world to encourage policies that fuel innovation, propel business, and drive international competition. Additional information is available at www.semiconductors.org.

Information Act. The disclosure of such information could harm the competitiveness of participating companies and act as a disincentive to engage in the CHIPS program.

To ensure that applicants for projects that will meet the goals of the CHIPS Act are fully incentivized to apply and provide information to DOC throughout the phases of the application process (including the Statement of Interest), DOC should revise the Statement of Interest and accompanying materials to make it explicit that a company's correspondence and confidential information provided to DOC – including business plans, capital expenditures, projected output, target markets, etc. – will be protected from disclosure to competitors and the public. To the extent Commerce intends to publish information on the Statements of Interest submitted as part of this process, it should disclose information only on an aggregated basis and in a manner which ensures the security of confidential business information and notify the company of origin.

2. Clarify the Definition of a Project

The draft Statement of Interest seeks "Project Information" (page 3), including "Project(s) Description, i.e. description of the construction, expansion, or modernization activities for each proposed facility at a single location." SIA requests clarification that the definition of a project for purposes of the Statement of Interest and the CHIPS application process may cover either an individual facility at a single location or multiple facilities, at the election of the applicant.

Under the CHIPS Act, both eligibility for a grant and the use of such funds are tied to the construction, expansion, or modernization of a semiconductor facility, rather than the development of a cluster of facilities.[2] Consistent with those provisions, as referenced in the CHIPS Act, a project is defined as "constructing, expanding, or modernizing a facility"[3] "for the fabrication, assembly, testing, advanced packaging, production, or research and development of semiconductors, materials used to manufacture semiconductors, or semiconductor manufacturing equipment."[4]

Chipmakers will often co-locate multiple fab facilities at the same site for economic efficiency and flexibility in planning, or as multiple phases of a larger integrated facility. Commerce should recognize the large scale and long-term time horizon of some projects, while also ensuring that each individual facility at the same site is also eligible for grant consideration.

The Department should also clarify other aspects for the submissions of Statements of Interest, including the following:

---

[2] 15 USC 4652(a)(2)(B) and 4652(a)(4)(A).

[3] 15 USC 4652(a)(2)(B)(i-ii) (emphasis added).

[4] 15 USC 4652(a)(1).

a. Whether applicants should submit a single Statement of Interest for all proposed projects, or if a separate Statement of Interest should be submitted for each project.

b. Whether applicants proposing multiple projects should submit all Statements of Interest at once, or if submissions can be submitted at different times.

c. Whether all applicants for potential projects (including facilities for the manufacturing of equipment or materials, and R&D facilities, which DOC has indicated will be invited to submit applications at a later date) should submit Statements of Interest, or if projects outside the scope of the CHIPS-CFF NOFO should wait until future NOFOs are released.

3. Clarify timing of submitting a Statement of Interest

The Federal Register notice pertaining to the Statement of Interest Information Collection states: “Applicants must submit a statement of interest via a form available at *https://applications.chips.gov/* at least 30 days before submission of a pre-application.”[5] However, the draft “Statement of Interest Instruction Guide” states, “An SOI is required for all applicants and must be submitted a minimum of twenty-one days prior to a pre-application or full application submission.”

SIA requests clarification and alignment regarding the discrepancy of the 21-day or 30-day minimum window between submitting a Statement of Interest and submitting a pre-application.

+ + +

Thank you for your consideration of these comments. SIA looks forward to working with the Department of Commerce throughout implementation of the CHIPS Incentives Program.

---

[5] 88 F.R. 8259, “Agency Information Collection Activities, Submission for Office of Management and Budget (OMB) Review and Emergency Approval; Comment Request; CHIPS Statement of Interest Information Collection,” Feb. 8, 2023