

SEMICONDUCTOR INDUSTRY INFORMATION MEMO

MARCH 8, 2023

U.S. Department of Commerce Issues First Notice of Funding Opportunity for Commercial Fabrication Facilities Under the CHIPS Act

On Feb. 28, 2023, the U.S. Department of Commerce (DOC) issued the first [Notice of Funding Opportunity \(NOFO\)](#) for commercial fabrication facilities, which provides the first look at the requirements for semiconductor manufacturers to obtain their share of the \$39 billion in semiconductor incentives created under the CHIPS and Science Act.

The NOFO provides the application requirements and timelines for applications for the construction, expansion or modernization of commercial facilities located in the U.S. The current NOFO limits eligibility to four facility types: leading-edge facilities, current-generation facilities, mature-node facilities and back-end production facilities.

The NOFO also outlines the program's priorities, which relate to various requirements and evaluative criteria that form the basis of the DOC's application review process. These "program priorities" are (1) economic and national security objectives, (2) commercial viability, (3) financial strength, (4) project technical feasibility, (5) workforce development and (6) the broader impacts of the project.

The DOC has already begun accepting statements of interest, which must be submitted at least 21 days prior to submitting a pre-application or full application, from all potential applicants. Pre-applications, which are optional, and full applications for leading-edge facilities will be accepted on a rolling basis beginning March 31, 2023. Pre-applications, which are optional, but recommended, and full applications for current-generation facilities, mature-node facilities and back-end production facilities will be accepted on a rolling basis beginning June 26, 2023.

Once the DOC has determined that a full application is reasonably likely to receive an award, they will issue a Preliminary Memorandum of Terms, which is non-binding. Once an applicant receives a Preliminary Memorandum of Terms, there will be a due diligence period where the DOC will request additional information. Once the due diligence period is completed, the applicant and DOC will negotiate the terms of the final award.

If you have any questions about the information presented in this memo, please contact [Colin Leonard](#), [Jared Joyce](#), any attorney in Bond's [semiconductor industry group](#) or the Bond attorney with whom you are in regular contact.

