

div. A of Pub. L. 115-232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

The International Economic Emergency Powers Act, referred to in par. (6)(D)(vii), probably should be the International Emergency Economic Powers Act, which is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626 and is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

This chapter, referred to in par. (6)(E), was in the original "this Act" and was translated as reading "this title", meaning title XCIX of div. H of Pub. L. 116-283, to reflect the probable intent of Congress.

## § 4652. Semiconductor incentives

### (a) Financial assistance program

#### (1) In general

The Secretary shall establish in the Department of Commerce a program that, in accordance with the requirements of this section and subject to the availability of appropriations for such purposes, provides Federal financial assistance to covered entities to incentivize investment in facilities and equipment in the United States for semiconductor fabrication, assembly, testing, advanced packaging, or research and development.

#### (2) Procedure

##### (A) In general

A covered entity shall submit to the Secretary an application that describes the project for which the covered entity is seeking financial assistance under this section.

##### (B) Eligibility

In order for a covered entity to qualify for financial assistance under this section, the covered entity shall demonstrate to the Secretary, in the application submitted by the covered entity under subparagraph (A), that—

(i) the covered entity has a documented interest in constructing, expanding, or modernizing a facility described in paragraph (1); and

(ii) with respect to the project described in clause (i), the covered entity has—

(I) been offered a covered incentive;

(II) made commitments to worker and community investment, including through—

(aa) training and education benefits paid by the covered entity; and

(bb) programs to expand employment opportunity for economically disadvantaged individuals; and

(III) secured 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; and

(IV) an executable plan to sustain the facility described in clause (i) without additional Federal financial assistance

under this subsection for facility support.

### (C) Considerations for review

With respect to the review by the Secretary of an application submitted by a covered entity under subparagraph (A)—

(i) the Secretary may not approve the application unless the Secretary—

(I) confirms that the covered entity has satisfied the eligibility criteria under subparagraph (B);

(II) determines that the project to which the application relates is in the interest of the United States; and

(III) has notified the appropriate committees of Congress not later than 15 days before making any commitment to provide a grant to any covered entity that exceeds \$10,000,000; and

(ii) the Secretary may consider whether—

(I) the covered entity has previously received financial assistance made under this subsection;

(II) the governmental entity offering the applicable covered incentive has benefitted from financial assistance previously provided under this subsection;

(III) the covered entity has demonstrated that they are responsive to the national security needs or requirements established by the Intelligence Community (or an agency thereof), the National Nuclear Security Administration, or the Department of Defense; and

(IV) when practicable, a consortium that is considered a covered entity includes a small business concern, as defined under section 632 of this title, notwithstanding section 121.103 of title 13, Code of Federal Regulations; and

(iii) the Secretary may not approve an application if the Secretary determines that the covered entity is a foreign entity of concern.

### (D) Records

The Secretary may request records and information from the applicant to review the status of a covered entity. The applicant shall provide the records and information requested by the Secretary.

### (3) Amount

#### (A) In general

The Secretary shall determine the appropriate amount and funding type for each financial assistance award made to a covered entity under this subsection.

#### (B) Larger investment

Federal investment in any individual project shall not exceed \$3,000,000,000 unless the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, recommends to the President, and the President certifies and reports to the appropriate committees of Congress, that a larger investment is necessary to—

(i) significantly increase the proportion of reliable domestic supply of semiconductors relevant for national security and economic competitiveness that can be met through domestic production; and

(ii) meet the needs of national security.

**(4) Use of funds**

A covered entity that receives a financial assistance award under this subsection may only use the financial assistance award amounts to—

(A) finance the construction, expansion, or modernization of a facility or equipment to be used for semiconductors described in paragraph (1), as documented in the application submitted by the covered entity under paragraph (2)(B), as determined necessary by the Secretary for purposes relating to the national security and economic competitiveness of the United States;

(B) support workforce development for a facility described in subparagraph (A);

(C) support site development and modernization for a facility described in subparagraph (A); and

(D) pay reasonable costs related to the operating expenses for a facility described in subparagraph (A), including specialized workforce, essential materials, and complex equipment maintenance, as determined by the Secretary.

**(5) Clawback**

**(A) Target dates**

For all major awards to covered entities, the Secretary shall—

(i) determine target dates by which a project shall commence and complete; and

(ii) set these dates by the time of award.

**(B) Progressive recovery for delays**

If the project does not commence and complete by the set target dates in (A), the Secretary shall progressively recover up to the full amount of an award provided to a covered entity under this subsection.

**(C) Technology clawback**

The Secretary shall recover the full amount of an award provided to a covered entity under this subsection if, during the applicable term with respect to the award, the covered entity knowingly engages in any joint research or technology licensing effort—

(i) with a foreign entity of concern; and

(ii) that relates to a technology or product that raises national security concerns, as determined by the Secretary and communicated to the covered entity before engaging in such joint research or technology licensing.

**(D) Waiver**

In the case of delayed projects, the Secretary may waive elements of the clawback provisions incorporated in each major award after—

(i) making a formal determination that circumstances beyond the ability of the covered entity to foresee or control are responsible for delays; and

(ii) submitting congressional notification.

**(E) Congressional notification**

The Secretary shall notify appropriate committees of Congress—

(i) of the clawback provisions attending each such major award; and

(ii) of any waivers provided, not later than 15 days after the date on which such a waiver was provided.

**(b) Coordination required**

In carrying out the program established under subsection (a), the Secretary shall coordinate with the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Energy, and the Director of National Intelligence.

**(c) GAO reviews**

The Comptroller General of the United States shall—

(1) not later than 2 years after the date of disbursement of the first financial award under subsection (a), and biennially thereafter for 10 years, conduct a review of the program established under subsection (a), which shall include, at a minimum—

(A) a determination of the number of instances in which financial assistance awards were provided under that subsection during the period covered by the review;

(B) an evaluation of how—

(i) the program is being carried out, including how recipients of financial assistance awards are being selected under the program; and

(ii) other Federal programs are leveraged for manufacturing, research, and training to complement the financial assistance awards awarded under the program; and

(C) a description of the outcomes of projects supported by awards made under the program, including a description of—

(i) facilities described in subsection (a)(1) that were constructed, expanded, or modernized as a result of awards made under the program;

(ii) research and development carried out with awards made under the program;

(iii) workforce training programs carried out with awards made under the program, including efforts to hire individuals from disadvantaged populations; and

(iv) the impact of projects on the United States share of global microelectronics production; and

(2) submit to the appropriate committees of Congress the results of each review conducted under paragraph (1).

(Pub. L. 116-283, div. H, title XCIX, §9902, Jan. 1, 2021, 134 Stat. 4846.)

**§ 4653. Department of Defense**

**(a) Department of Defense efforts**

**(1) In general**

Subject to the availability of appropriations for such purposes, the Secretary of Defense, in consultation with the Secretary of Commerce,