



DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Domestic Manufacturing Waiver Request Form

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the Federal Register on December 7, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST), Commerce.

Title: Domestic Manufacturing Waiver Form

OMB Control Number 0693-XXXX.

Form Number(s): None.

Type of Request: Regular, new collection.

Number of Respondents: 10

Average Hours Per Response: 13 hours

Needs and Uses: The Bayh-Dole Act (35 U.S.C. 18) and its implementing regulations (37 CFR 401) require that Contractors (as defined in the statute and regulations) shall not grant “the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States.” However, the law allows an

agency to waive this requirement if a Contractor has shown that “reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacturing is not commercially feasible.”

Pursuant to Executive Order 14104, NIST was directed to consult with the Interagency Working Group for Bayh-Dole to create a set of common questions to be used by all agencies as an application to apply for waivers of the domestic manufacturing requirement under the Bayh-Dole Act.

This information will be used by agencies to determine whether the statutory criteria for a waiver have been met and to understand the circumstances surrounding the request. The questions allow the Contractor to show the agency what actions they took to attempt to grant licenses to other parties likely to manufacture in the United States and what actions they or their licensee may have taken to attempt to locate manufacturers within the United States. It also allows the agency to ascertain the circumstances surrounding manufacture, including cost, capacity, and other burdens, which may make domestic manufacturing not commercially feasible. The questions allow the agency to understand the location and the circumstances surrounding where the Contractor proposes that manufacturing be done and whether any sort of domestic manufacturing is anticipated. These and other information collected through these questions will aid agencies when they weigh whether to grant requests to waive the domestic manufacturing requirement.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

Legal Authority: The Bayh-Dole Act (35 U.S.C. 18) and its implementing regulations (37 CFR 401).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function and entering the title of the collection.

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