

Congress of the United States

Washington, DC 20515

January 9, 2024

The Honorable Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Raimondo:

We are concerned that the Department of Commerce (Commerce, or the Department) is relying on “a small team of elite Wall Street financiers to help allocate \$39 billion in [CHIPS Act] taxpayer-funded manufacturing subsidies and other incentives to hundreds of companies.”¹ Your decision to staff the Investment Team with “a handful of bankers”² raises questions about the abuse of the revolving door between government service and the private sector. It also creates a risk of this key panel misusing taxpayer dollars by directly or indirectly favoring previous — or potentially future — employers, clients, or colleagues as the panel divvies up billions in taxpayer funds designed to help the domestic semiconductor industry.

In order to address the supply chain disruption and subsequent economic impacts caused by the COVID-19 pandemic, the bipartisan *Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act* was signed into law.³ The Act aims to boost domestic research and manufacturing of semiconductors in the United States⁴ and includes \$39 billion in subsidies for chip manufacturing, 25 percent investment tax credits for the costs of manufacturing equipment, and a roughly \$13 billion investment for semiconductor research and workforce training to strengthen and revitalize the U.S. supply chain and workforce.⁵

The Department of Commerce is responsible for the distribution and oversight of these funds. The CHIPS Program Office — along with the Investment Office — is charged with determining

¹ Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>.

² Bloomberg, “Ex-Wall Streets Help Washington Divvy Up \$100 Billion to Win the Global Chip Race,” Mackenzie Hawkins, Jenny Leonard, Ian King, and Eric Martin, September 25, 2023, <https://www.bloomberg.com/news/articles/2023-09-25/chips-act-commerce-taps-wall-streeters-to-help-shape-semiconductor-deals?embedded-checkout=true>.

³ CHIPS and Science Act, Public Law 117–167.

⁴ The White House, “When the Chips Are Down: Preventing and Addressing Supply Chain Disruptions,” Sameera Fazili and Peter Harrell, September 23, 2023, <https://www.whitehouse.gov/briefing-room/blog/2021/09/23/when-the-chips-are-down-preventing-and-addressing-supply-chain-disruptions/>.

⁵ U.S. Department of Commerce, “The CHIPS Act of 2022: Section-by-Section Summary,” <https://www.commerce.senate.gov/services/files/592E23A5-B56F-48AE-B4C1-493822686BCB>; Mercury News, “The U.S. is bringing chip-making home. Is California Ready?,” Lisa Krieger, September 4, 2022, <https://www.mercurynews.com/2022/09/04/the-u-s-is-bringing-chip-making-home-is-california-ready/>.

how the \$39 billion in subsidies for chips manufacturing on U.S. soil will be allocated.⁶ This includes selecting winners and losers among over 450 entities that are seeking government funding for manufacturing capabilities.⁷

But instead of building a broad-based team of experts from different sectors of government and the private sector, the Department has “been quietly building a small team of elite Wall Street financiers” to dole out the funds.⁸ The team includes a former partner at McKinsey & Co, a former private-equity Blackstone employee, and former Goldman Sachs and KKR executives⁹ — all companies that have been implicated in wrongdoing ranging from foreign bribery to child labor.¹⁰ Indeed, “the recruitment of an entire team of private-sector professionals is unprecedented” in such a large and expensive program.¹¹ While we recognize that private sector perspectives can contribute valuable expertise, without strong oversight, clear guardrails, and the inclusion of other perspectives, staffers using the Wall Street revolving door can also provide their former — and potentially future — employers and colleagues an undue advantage in proposal decisions. Inadequate consideration of these conflicts of interest risks an outcome in which CHIPS funding is disproportionately spent based on industry wish-lists, and not in the public interest.

⁶ Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>.

⁷ *Id.*

⁸ *Id.*

⁹ Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>.

¹⁰ TRT World, “The many times McKinsey has been embroiled in scandals,” <https://www.trtworld.com/magazine/the-many-times-mckinsey-has-been-embroiled-in-scandals-43996>; Responsible Statecraft, “The McKinsey consulting scandal you might not have heard about,” Nick Cleveland-Stout, February 3, 2023, <https://responsiblestatecraft.org/2023/02/03/do-mckinseys-defense-contracts-clash-with-foreign-clients/>; Wall Street Journal, “Investors Quiet on Blackstone-Owned Company’s Child-Labor Fine,” Chris Cumming, February 24, 2023, <https://www.wsj.com/articles/investors-quiet-on-blackstone-owned-companys-child-labor-fine-b7167160>; Housing is a Human Right, “Modern-Day Robber Baron: The Sins of Blackstone CEO Stephen Schwarzman,” Patrick Range McDonald, July 29, 2020, <https://www.housingisahumanright.org/modern-day-robber-baron-the-sins-of-blackstone-ceo-stephen-schwarzman/>; U.S. Department of Justice, “Goldman Sachs Charged in Foreign Bribery Case and Agrees to Pay Over \$2.9 Billion,” press release, October 22, 2020, <https://www.justice.gov/opa/pr/goldman-sachs-charged-foreign-bribery-case-and-agrees-pay-over-29-billion>; Reuters, “Explainer: Goldman Sachs and its role in the multi-billion dollar 1MDB scandal,” October 12, 2023, <https://www.reuters.com/markets/asia/goldman-sachs-its-role-multi-billion-dollar-1mdb-scandal-2023-10-12/>; U.S. Securities and Exchange Commission, “SEC Charges KKR with Misallocating Broke Deal Expenses,” press release, June 29, 2015, <https://www.sec.gov/news/press-release/2015-131>; Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>; Bloomberg, “Ex-Wall Streets Help Washington Divvy Up \$100 Billion to Win the Global Chip Race,” Mackenzie Hawkins, Jenny Leonard, Ian King, and Eric Martin, September 25, 2023, <https://www.bloomberg.com/news/articles/2023-09-25/chips-act-commerce-taps-wall-streeters-to-help-shape-semiconductor-deals?embedded-checkout=true>.

¹¹ Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>.

The abuse of the revolving door between government service and the private sector can corrupt government decision-making,¹² raising questions about the extent to which special interests gain access to key decisionmakers, undermining public officials’ integrity and casting doubt on the fairness of government subsidies and decision-making. We have introduced bills to limit and/or outright ban revolving door practices that are ripe for abuse.¹³ And we have called out government officials for revolving door abuses involving lobbying, advising, or serving as board members and executives of the companies they used to or will regulate in the future. We have been particularly concerned about these revolving door concerns in the Commerce Department and U.S. Trade Representative (USTR) during secret trade negotiations with Big Tech.¹⁴ We have fresh concerns about the industry-dominated Commerce Department panel that will be handing out tens of billions of dollars in CHIPS funding.

We are seeking answers to the following questions on how the Department of Commerce and CHIPS Program Office plans to maintain objectivity and prevent revolving-door abuses, and be “good stewards of taxpayer dollars,”¹⁵ by February 8:

1. What process did the Department use to determine the composition of the CHIPS investment team?
2. Please provide a full list of all members of the CHIPS investment team, including their affiliations prior to joining the Department of Commerce.
3. How are members of the CHIPS investment team classified (i.e., FACA special government employees (SGEs),¹⁶ non-FACA SGEs,¹⁷ independent contractors, competitive service federal employees, excepted service federal employees, etc.)? What ethics rules are they subject to under this classification?

¹² Office of U.S. Senator Elizabeth Warren, “New Report from Senator Warren Uncovers Defense Industry’s Abuse of Revolving Door Hiring Practices,” press release, April 26, 2023, <https://www.warren.senate.gov/oversight/reports/new-report-from-senator-warren-uncovers-defense-industrys-abuse-of-revolving-door-hiring-practices>; Public Citizen, “Slowing the Federal Revolving Door,” Craig Holman and Caralyn Esser, July 22, 2019, <https://www.citizen.org/article/slowng-the-federal-revolving-door/>.

¹³ Office of Senator Elizabeth Warren, “Senator Warren, Representative Kim Reintroduce Department of Defense Ethics and Anti-Corruption Act,” press release, June 16, 2023, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-representative-kim-reintroduce-department-of-defense-ethics-and-anti-corruption-act>; Office of Senator Elizabeth Warren, “Warren and Jayapal Reintroduce the Anti-Corruption & Public Integrity Act,” press release, December 18, 2020, <https://www.warren.senate.gov/newsroom/press-releases/warren-and-jayapal-reintroduce-the-anti-corruption-and-public-integrity-act>.

¹⁴ Office of Senator Elizabeth Warren, “New Investigative Report from Senator Warren Reveals Big Tech’s Insider Influence on Digital Trade Rules,” press release, May 2, 2023, <https://www.warren.senate.gov/oversight/reports/new-investigative-report-from-senator-warren-reveals-big-techs-insider-influence-on-digital-trade-rules>.

¹⁵ Wall Street Journal, “Why Washington Went to Wall Street to Revive the U.S. Chips Industry,” Yuka Hayashi, August 15, 2023, <https://www.wsj.com/politics/policy/why-the-white-house-went-to-wall-street-to-revive-the-u-s-chips-industry-fe0a0aac>.

¹⁶ U.S. General Services Administration, “The Federal Advisory Committee Act (FACA) Brochure,” <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/advice-and-guidance/faca-brochure>.

¹⁷ U.S. Office of Government Ethics, “Summary of the Ethics Provisions that Apply to Special Government Employees (SGEs),” March 29, 2021, [https://www.oge.gov/web/oge.nsf/Resources/Summary+of+the+Ethics+Provisions+that+Apply+to+Special+Government+Employees+\(SGEs\)](https://www.oge.gov/web/oge.nsf/Resources/Summary+of+the+Ethics+Provisions+that+Apply+to+Special+Government+Employees+(SGEs)).

4. What information must members of the investment team submit concerning their potential conflicts of interest?
 - a. What ethics rules apply to these officials?
 - b. Have these members filed personal financial disclosure forms?
 - c. Do they have ethics agreements in place? If so, please provide copies of these materials?
 - d. Have these individuals signed the Biden Administration ethics pledge, as established by the Executive Order on Ethics Commitments by Executive Branch Personnel signed by President Biden on January 20, 2021?
 - e. Do any of the ethics agreements for these officials include recusal requirements? If so, when will recusals be required?
 - f. Have Commerce Department ethics officials reviewed these disclosures and ethics agreements?
5. Has the Department established any post-employment restrictions on members of the investment team that would prevent them from lobbying or working for or on behalf of companies that receive CHIPS funding? If so, what post-employment restrictions are in place?

Sincerely,



Elizabeth Warren
United States Senator



Pramila Jayapal
Member of Congress

CC:

Michael Schmidt, Director of CHIPS Program Office, U.S. Department of Commerce
Todd Fisher, Chief Investment Officer of CHIPS Program Office, U.S. Department of Commerce