

Charles Crain

*Vice President,
Domestic Policy*

December 21, 2023

The Honorable Laurie E. Locascio
Under Secretary of Commerce for Standards and Technology
Director, National Institute of Standards and Technology
Department of Commerce
Washington, DC 20230

Re: Docket No. 230831-0207—Request for Information Regarding the Draft
Interagency Guidance Framework for Considering the Exercise of March-In
Rights (NIST-2023-0008)

Dear Under Secretary Locascio:

On behalf of the National Association of Manufacturers, I write to respectfully request that the National Institute of Standards and Technology extend the public comment period for the recent Request for Information Regarding the Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights.

The NAM is the largest manufacturing trade association in the United States, representing manufacturers of all sizes and in all 50 states—and the 13 million people who make things in America. The RFI's proposed changes to the well-established legal structure of the Bayh-Dole Act represent a sharp departure from the way in which the technology transfer system in the U.S. has functioned for the past 40 years.

The significant changes contemplated by the RFI would apply to all technologies, raising the spectre of government price controls on wide swaths of the American economy. The most profound impact of these changes will be felt by small and medium-sized manufacturers in critical sectors such as advanced manufacturing, semiconductor production, clean energy, advanced materials, life sciences and many others. Indeed, many of the "scenarios" highlighted by the RFI explicitly involve an effort on the part of the federal government to undermine manufacturers' licensing rights. Disincentivizing small businesses from undertaking early-stage, potentially groundbreaking research could have a detrimental impact on job creation and innovation throughout the economy.

If adopted, the proposed guidance would have an overwhelming and direct impact on manufacturers in America. More broadly, it would impose extensive government control over how life-changing innovation is developed, financed and commercialized. Further, the RFI itself is exceptionally complex and in several ways contradicts the statutory language and intent of the Bayh-Dole Act.

Given the significant impact, scope and complexity of the RFI's proposed changes to the technology transfer ecosystem, the NAM respectfully requests that the comment period be extended by 90 days—through May 6, 2024.

The NAM looks forward to providing comments in response to the RFI, and manufacturers urge NIST to allow sufficient time for robust analysis and feedback.

Sincerely,

A handwritten signature in black ink that reads "Charles F. Crain". The signature is written in a cursive style with a prominent dot above the 'i' in "Crain".

Charles Crain
Vice President, Domestic Policy