

# Memorandum

## U.S. Commerce Department Invites Proposals for American AI Exports Program Excluding PRC Companies and Technologies

April 16, 2026

On April 1, 2026, the U.S. Department of Commerce issued a notice of call for proposals inviting U.S. industry-led consortia to apply for designation as “pre-set” consortia under the American AI Exports Program (the “Program”).

A “pre-set” consortium is one ready to deliver to foreign markets on an ongoing basis a full stack AI technology package, which includes AI optimized computer hardware, data center storage, models, cybersecurity measures, and applications for various sectors. If designated under the Program, a consortium may receive significant benefits, including expedited export license reviews and prioritized access to federal financing. Its package will also be included in a standing menu of AI export offerings the U.S. government promotes to allies and partners. These benefits are especially enticing when there have reportedly been significant licensing backlogs and staffing exodus at the Commerce Department.

The Program is established pursuant to Executive Order 14320 titled “Promoting the Export of the American AI Technology Stack,” which President Trump signed on July 23, 2025. As stated in the Executive Order, the Program reflects the U.S.’s latest effort to “preserve and extend American leadership in AI and decrease international dependence on AI technologies developed by our adversaries.”

At the center of the Program’s eligibility requirements is its (near total) exclusion of PRC technologies and participation by any PRC companies. To be eligible for designation, no Chinese companies or companies majority owned or controlled by Chinese persons (including Hong Kong and Macau) may be a member of a consortium, and the proposal must exclude Chinese technologies across all key layers of the AI package. We outline the eligibility requirements in more detail below.

The proposal window opened on April 1, 2026, and will stay open for ninety days until 5:00 pm Eastern Daylight Time on June 30, 2026.

**Overview of Eligibility Requirements.** A consortium applicant does not require any particular legal structure, and there is no minimum or maximum number of consortium members, but the applicant must identify a single “anchor member” who leads the submission of the proposal and acts as the single point of contact. Any prospective anchor member is required to be a U.S.-organized and U.S.-headquartered entity with its principal place of business in the U.S. (any subsidiary, affiliate, or branch whose ultimate parent is organized, headquartered, or has principal place of business outside of the U.S. is disqualified). The anchor member should

also have experience providing products or services internationally and has organizational capacity to manage multi-country delivery.

To qualify, a consortium must offer an integrated package covering all five required layers of the AI stack: (1) AI-optimized hardware and related infrastructure; (2) data pipelines and labeling systems; (3) AI models and systems; (4) security and cybersecurity measures for AI models and systems; and (5) AI applications for sector-specific or functional use cases.

The Program also contains certain U.S. content or ownership requirements with respect to layer 1 and layer 3 of the AI stack. To benefit from the presumption of satisfying the U.S. content requirement for layer 1, a consortium should demonstrate that at least 51 percent of the aggregate value of its AI-optimized hardware and related infrastructure is comprised of U.S. content (*i.e.*, 51 percentage or more of value originates from U.S.-based manufacturing). Further, to satisfy the U.S. ownership requirement for layer 3, the entity in the consortium that owns the IP for the AI model or system (or that deploys, integrates and finetunes the open-weight models for use in the package) must be at least 51 percent owned and controlled by U.S. persons or entities.

The Commerce Department, in consultation with other agencies, may make exceptions to the above U.S. content and ownership requirements where foreign enterprises are shown to advance the national interest of the United States, provided that the package is only intended for the foreign enterprises' home countries and the foreign enterprises are not incorporated, headquartered, majority owned or controlled by any person of a "country of concern" (see below).

**Exclusion of PRC Companies and Technologies.** The Program imposes a (near total) exclusion of technology and company from any "country of concern," *i.e.*, PRC (including Hong Kong and Macau), Cuba, Iran, North Korea, Russia, and Venezuela under the regime of Nicolas Maduro Moros. They are the same set of countries that are covered in the new outbound investment bill passed as part of National Defense Authorization Act for Fiscal Year 2026 ("NDAA"). For details of the new outbound investment bill, please refer to our previous Alert [here](#).

In practice, the PRC (including Hong Kong and Macao) is the primary "country of concern" targeted by the Program. Specifically, with respect to any company that is incorporated or has its principal place of business in the PRC or is owned or controlled through a majority voting or equity interest by PRC or by an entity or national of PRC (collectively, "PRC Companies"):

- No member, subcontractor or local implementation partner included in the consortium can be a PRC Company;
- To the extent a PRC Company provides any AI-optimized hardware and related infrastructure (*i.e.*, layer 1), the consortium must include a description of the specific products or services provided by such PRC Company;

- No PRC Company can provide products or services for functions in other layers (*i.e.*, data pipelines and labeling systems, security and cybersecurity measures, and AI applications);
- Any AI model or system included in the proposal cannot be IPs owned by any PRC Company; and
- The consortium must exclude open-weight models developed by PRC Companies in the proposal.

Notably, the Commerce Department may view proposals more favorably if they shift technology choices away from providers associated with countries of concern. Applicants are encouraged to identify in their proposals “markets with demonstrated demand, and in which U.S. engagement can materially influence decisions when a procuring entity is choosing between American and foreign technology originating in a country of concern.”

**Takeaways.** The notice of call for proposals is clearly designed to shift U.S. companies and partners away from AI products and services developed by PRC-affiliated companies. To participate in a pre-set consortium under the Program, companies will need to carefully assess their nexus to PRC technologies as well as to diligence the contractors and partners’ affiliations with PRC Companies. This could have long-term implications for AI industry and collaborations even if the companies do not become members of the designated consortia.

In addition, given that the Program is aimed at promoting exports of U.S. AI technologies, it is possible that the U.S. government will publish additional policies and guidance to persuade allies and other countries to adopt similar restrictions. The Commerce Department has not released the new regulatory framework for exporting AI chips worldwide after the AI Diffusion Rule was rescinded last May, and any new regulations could require decoupling from PRC AI companies and technologies as conditions for obtaining export licenses.

For further information regarding this memorandum, please contact one of the following authors:

WASHINGTON, D.C.

---

**Abram J. Ellis**  
+1-202-636-5579  
[aellis@stblaw.com](mailto:aellis@stblaw.com)

**Jim Perry**  
+1-202-636-5717  
[james.perry@stblaw.com](mailto:james.perry@stblaw.com)

**Ryan D. Stalnaker**  
+1-202-636-5992  
[ryan.stalnaker@stblaw.com](mailto:ryan.stalnaker@stblaw.com)

**Claire Cahoon**  
+1-202-636-5828  
[claire.cahoon@stblaw.com](mailto:claire.cahoon@stblaw.com)

**Austin Lowe**  
+1-202-636-5862  
[austin.lowe@stblaw.com](mailto:austin.lowe@stblaw.com)

**Christine Tillema**  
+1-202-636-5559  
[christine.tillema@stblaw.com](mailto:christine.tillema@stblaw.com)

NEW YORK CITY

---

**George S. Wang**  
+1-212-455-2228  
[gwang@stblaw.com](mailto:gwang@stblaw.com)

**David H. Caldwell**  
+1-212-455-2612  
[dcaldwell@stblaw.com](mailto:dcaldwell@stblaw.com)

**Daniel S. Levien**  
+1-212-455-7092  
[daniel.levien@stblaw.com](mailto:daniel.levien@stblaw.com)

**Anais Bourbon**  
+1-212-455-3427  
[anais.bourbon@stblaw.com](mailto:anais.bourbon@stblaw.com)

**Shuhao Fan**  
+1-212-455-3036  
[shuhao.fan@stblaw.com](mailto:shuhao.fan@stblaw.com)

HONG KONG

---

**Xue Feng**  
+852-2514-7524  
[xue.feng@stblaw.com](mailto:xue.feng@stblaw.com)

*The contents of this publication are for informational purposes only. Neither this publication nor the lawyers who authored it are rendering legal or other professional advice or opinions on specific facts or matters, nor does the distribution of this publication to any person constitute the establishment of an attorney-client relationship. Simpson Thacher & Bartlett LLP assumes no liability in connection with the use of this publication. Please contact your relationship partner if we can be of assistance regarding these important developments. The names and office locations of all of our partners, as well as our recent memoranda, can be obtained from our website, [www.simpsonthacher.com](http://www.simpsonthacher.com).*