GUIDANCE FOR DoW COMPONENTS ON iEDISON IMPLEMENTATION

OSD's Technology Transfer, Transition, and Commercial Partnerships (T3CP) office created the following guidance document to aid DoW components in implementing iEdison for extramural subject invention reporting per the Bayh-Dole Act.

MOU AND CREATING A DoW COMPONENT ACCOUNT IN iEDISON

The National Institutes of Standards and Technology (NIST) requires that a Memorandum of Understanding (MOU) be signed by all agencies before having R&D funding recipients use iEdison for purposes of reporting subject inventions. The DoW USD(R&E) signed an MOU with NIST on behalf of the entire Department. DoW components will NOT sign a direct MOU with NIST but rather will be covered by the DoW's MOU. DoW components that had previously entered into an MOU with NIST for iEdison are grandfathered explicitly in the DoW MOU.

DoW components must establish an Administrator account on iEdison. Following are the steps each DoW component will use to open a DoW component account with iEdison:

1. Contact iEdison at iedison@nist.gov to establish a DoW component account and request a **DoW Information Sheet**.
2. iEdison staff will send the DoW component an information sheet that has been tailored for DoW to help them to open the component's account. The Information Sheet will ask for the DoW component information, the name of the person who will be designated as the primary administrator of the account, and grant/contract number formats.
3. iEdison staff will contact OSW to ensure that it is appropriate for the DoW component to have an account. If your DoW component funds extramural research then it is appropriate for your component to have an account, and OSW will confirm this information with NIST.
4. After submission of the DoW information form, iEdison staff will contact the DoW component admin to join a registration meeting to introduce them to iEdison and address any issues with the information form submission.
5. Once iEdison staff set up the DoW account, the DoW component iEdison Administrator will receive a welcome email indicating the account has been established.
6. The DoW component iEdison Administer is responsible for designating two CDAO staff with "API Manager" role as soon as possible after account is established. The email address for the two staff will be provided by NIST at the appropriate time.
7. PLEASE NOTE: The Office of the Under Secretary of War for Research and Engineering (R&E) personnel are granted administrative privileges within the iEdison system. These privileges authorize R&E to view and access all Military Department and DoW component contract information, including all subject invention reports and associated data. This access is maintained for official government purposes, specifically for the generation of compliance reports required by the patent rights clauses in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS), and for other essential administrative reporting functions.

CREATING USER ACCOUNTS UNDER A DoW COMPONENT ACCOUNT

Once a DoW component account is created, the DoW component Administrator will be responsible for adding any additional users to the component account. Instructions for adding additional users to the DoW component account can be found here: https://www.nist.gov/iedison/iedison-agency-user-guide/getting-started/creating-individual-accounts-under-agency.

AGENCY TRAINING ON iEDISON

There are two main training options for Agencies on iEdison. The training opportunities can be found at the iEdison home page: https://www.nist.gov/iedison.

In summary, the training opportunities can be through live, "NIST-led" webinars, and an online iEdison User Guide. The following links direct you to each of these options:

1. NIST-led Webinars: https://www.nist.gov/iedison/training-opportunities
    - These webinars happen every other month and include Basic iEdison training over a 2-hour session.
2. iEdison User Guide for Agencies: https://www.nist.gov/iedison/iedison-agency-user-guide
    - These user guides are extremely helpful and user friendly. They contain the information an Agency would need to sign up for an account, review invention reports, patent reports, and utilization reports. Agency components should not wait for a NIST led training as these user guides are more comprehensive and just as user friendly as the "live" NIST-led trainings.

EXTRAMURAL SUBJECT INVENTION DATA MONITORING AND REVIEW IN iEDISON

The Bayh-Dole Act of 1980 (see 35 USC Ch. 18) requires that Federal Research & Development (R&D) funding agreements include requirements that the Award Recipient report to the Funding Agency on inventions that arise from federal funding (extramural subject inventions) and that products based on the federal R&D funding be substantially manufactured in the United States (U.S.). These requirements seek to enhance national security and economic competitiveness. These requirements especially support the DoW in having access to cutting-edge technologies, which have already received federal funding, to meet the innovation and modernization needs of its programs.

- For additional requirements related to the Bayh-Dole Act please see the Bayh-Dole regulations at 37 CFR Part 401 - https://www.ecfr.gov/current/title-37/chapter-IV/part-401.
- This guidance applies to all DoW components that issue R&D funding agreements (contracts, grants, and cooperative agreements) to non-Federal recipients, in accordance with the Bayh-Dole Act.
- For Research Other Transactions, OTs (authorized under 10 U.S.C. § 4021) and Prototype OTs (under 10 U.S.C. § 4022), all aspects of intellectual property rights are fully negotiable. Therefore, for OTs, iEdison reporting is negotiable, not mandatory.

NIST designed iEdison to fulfill all Bayh-Dole reporting requirements including the reporting of subject inventions, election of title, reporting of patents, reporting on utilization of subject inventions, domestic manufacturing waivers, and more. The design of the database will facilitate the DoW in collecting all required information to comply with the Bayh-Dole Act.

DoW contracting components are responsible for monitoring the reporting of subject inventions, patents, and utilization reports by their awardees. As part of their role, the contracting components review and accept invention disclosures, title election decisions, patent applications, domestic manufacture waiver requests, and more. The iEdison system guides the Agency user through these important data monitoring roles and reviews. Please see the below links for instructions on how to monitor and review subject invention reports, patent reports, and utilization reports.

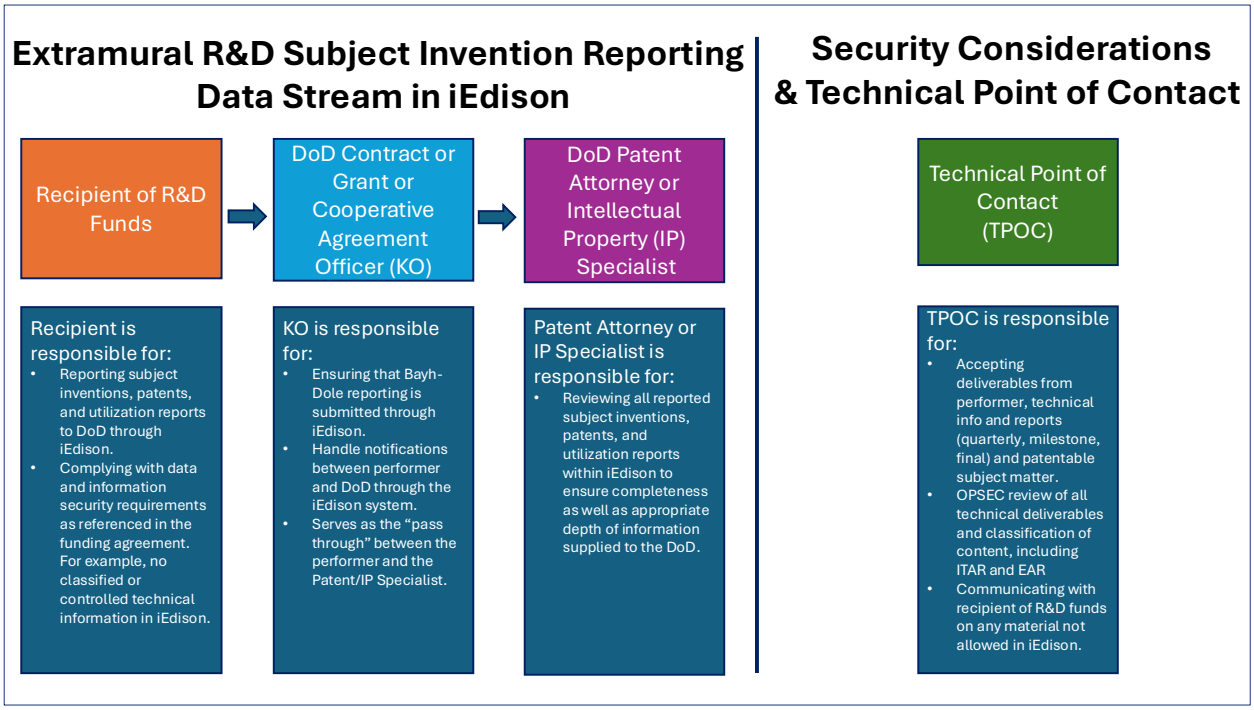
Subject inventions: Instructions on how to review subject inventions through iEdison can be found here: Invention Reports | NIST

Patent reports: Instructions on how to review patent reports through iEdison can be found here: Patent Reports | NIST

Utilization reports: Instructions on how to review utilization reports through iEdison can be found here: Utilization Reports | NIST

EXTRAMURAL R&D SUBJECT INVENTION REPORTING DATA STREAM:

The diagram below is an example and provides guidance on the type of personnel involved in Bayh-Dole Compliance subject invention reporting and their individual responsibilities throughout the reporting data stream. All DoW Components should identify an individual for each of these roles to ensure compliance with Bayh-Dole.



SECURITY CONSIDERATIONS

- ***No classified information is allowed in iEdison.***
- ***Information that is entered and stored in iEdison must be treated with the same consideration as if it will ultimately be released upon publication of a patent.***

Controlled Technical Information (CTI) is a category of Controlled Unclassified Information and is defined by DoDI 5230.24 as technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or distribution. CTI, that is not classified, is to be marked with one of the distribution statements B through F, in accordance with Department of Defense Instruction 5230.24, "Distribution Statements on Technical Information." ***The term does not include information that is lawfully publicly available without restrictions.***

With the exception of utilization reports, all information entered into iEdison must be treated with the same consideration as the information included in the patent application. By its nature, a patent is a public document that is published once granted and available for public view. Therefore, by extension all invention-related information in iEdison must not contain CTI, including ITAR and EAR. Note that aspects of an invention that require dissemination controls can remain CTI and excluded from the patent application and iEdison entry. Examples of CTI may include, technical data packages, software source code, and testing and performance data.

Technical information that supports the invention disclosure and patent should be reported in iEdison. "Technical Information" means technical data or computer software, as those terms are defined in Defense Federal Acquisition Regulation Supplement clause 252.227-7013, "Rights in Technical Data - Noncommercial Items" (48 CFR 252.227-7013). Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

It is essential that the Technical Point of Contact (TPOC) for each recipient of federal funds has a strong awareness of the extramural research and the potential for operational security (OPSEC) concerns. The TPOC receives quarterly, milestone, and final reports from the recipient of federal funds which provides the opportunity to screen for any OPSEC concerns in advance of the technical information being entered into iEdison.

Should there be an OPSEC concern of any kind with the reported subject invention, especially inclusion of CTI, the component must notify iEdison and OSW immediately.

DD Form 882 Is Now Obsolete and is Replaced by DD Form 882-R and DD Form 882 - C

With the mandate to use iEdison for subject invention reporting, the original DD Form 882 is now obsolete. To improve clarity and streamline reporting processes, the DoW has replaced the previous DD Form 882 with two distinct forms that serve different purposes:

- DD Form 882-R, to certify that the contractor has fulfilled their reporting obligations for unclassified subject inventions and subcontracts via iEdison. and
- DD Form 882-C, to be the direct vehicle for reporting the details of classified subject inventions and subcontracts, which cannot be entered into iEdison.

This separation aligns each form with a specific, distinct function, as detailed below.

	DD Form 882-R (Reporting Certification)	**DD Form 882-C (Classified Reporting)**
Primary Function & Scope	A one-time, contract close-out tool for certifying the status of unclassified reporting only.	An ongoing compliance and reporting tool for reporting classified subject inventions and subcontracts only.
Reporting Frequency	Interim (annually) and at contract close-out, including negative invention reporting.	Interim (annually) and at contract close-out, including negative invention reporting.
Content Focus	Removes sections related to the substance of inventions. Its purpose is to confirm whether reportable items exist and to certify that iEdison reporting is complete.	Retains the structure of the current 2005 version) DD Form 882 to capture the necessary details for classified reporting and compliance.
Benefits	Simple, streamlined close-out tool that no longer duplicates information already required to be in iEdison. It provides a clear final checkpoint for unclassified contract obligations.	Dedicated, secure channel for the life-cycle management of classified inventions, ensuring consistent and compliant reporting from annual updates through contract close-out.

CONTRACTUAL LANGUAGE

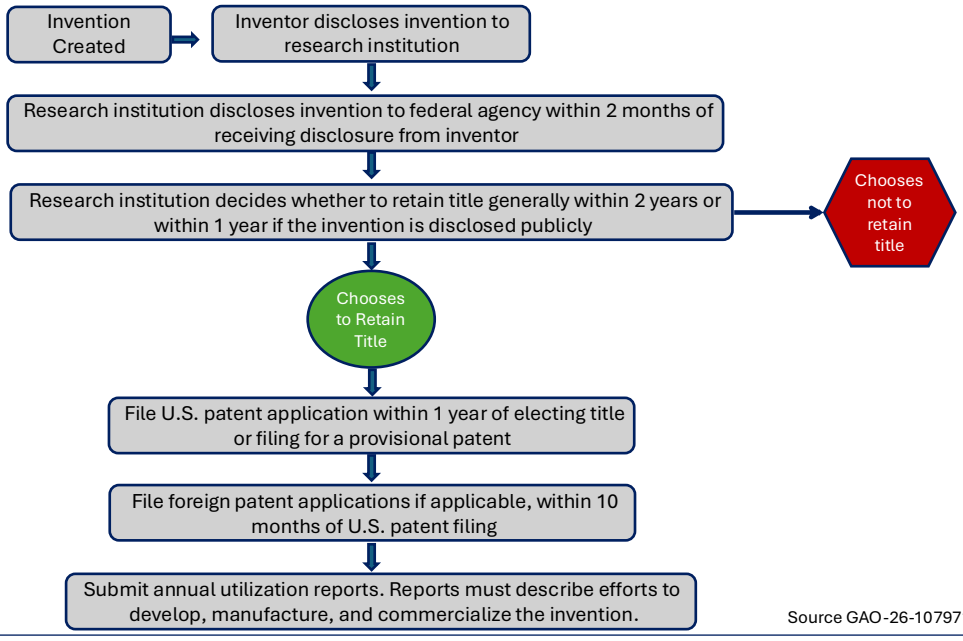
The Office of Research Policy has included terms and conditions for DoW grants and cooperative agreements requiring the use of iEdison for subject invention reporting. The new terms and conditions can be obtained by contacting the Office of Research Policy and/or T3CP.

BAYH-DOLE REPORTING DEADLINES: FROM START TO FINISH

For recipients of federal funding, the Bayh-Dole Act sets a timeline for reporting inventions developed with government support. All subject invention reports and associated patent lifecycle events must be submitted through the iEdison system. DoW contracting components must monitor the following reporting deadlines to ensure the funding recipients are complying with the law. The main reporting timelines are as follow:

1. Internal inventor disclosure: An inventor reports a new invention in writing to the contractor's patent personnel or designated office.
2. Disclosure to funding agency: The contractor must submit the invention disclosure to the federal agency via the iEdison system within 2 months of receiving the inventor's written report.
3. Election of Title: Within 2 years of disclosing the invention to the federal agency, the contractor must formally elect whether to retain title to the invention. Failure to elect title within the required timeframe may result in the loss of rights to the invention.
4. Patent Application Filing: Once the contractor elects to retain title:
    - An initial patent application must be filed within 1 year of the election.
    - If the initial application is a U.S. provisional application, a U.S. non-provisional application must be filed within 10 months.
5. Continued Prosecution and Maintenance:
    - The government must receive notice at least 60 days before the expiration of a response period if the contractor decides not to continue the prosecution of a patent application in any country.
    - The contractor must also notify the agency of a decision not to pay a maintenance fee.
6. Utilization Reports: Utilization reports, describing efforts to commercialize the invention, are due annually for all inventions.
7. Final Invention Statement: A final invention statement must be submitted to the funding agency within 3 months after contract completion.

Generalized Process for Disclosing Federally Funded Inventions



Source GAO-26-107971

The table below outlines the Bayh-Dole requirements under three different scenarios: (1) Ownership by the Contractor (small or nonprofit), (2) Ownership by the Government, and (3) Ownership by the Contractor, Large Business.

	Ownership by the Contractor (small or nonprofit) **FAR 52.227-11**	**Ownership by the Government** **FAR 52.227-13**	**Ownership by the Contractor, Large Business** **DFARS 252.227-7038**
Disclosure of Invention	Within **2 months** after the inventor discloses in writing to contractor personnel responsible for patent matters.	Within **2 months** after the inventor discloses in writing to contractor personnel responsible for patent matters.	Within **2 months** after the inventor discloses in writing to contractor personnel responsible for patent matters.
Election of Title	Within **2 years** after disclosure to the Contracting Officer, but not later than **60 days before the end of any statutory patent bar period.**	Contractor must **assign title to the Government** upon disclosure (except where contractor rights are retained under (b)(2) and (d) of the clause).	At the time of invention disclosure or **within 8 months of disclosure**, as to those countries (including the United States) in which the Contractor will retain ownership, but not later than **60 days before any patent bar date**.
Filing of Patent Applications (if electing title)	**U.S. Filing:** Within **1 year** after election of title and prior to any statutory bars; nonprovisional applications must be filed within 10 months of the filing of the provisional application. **Foreign Filing:** Within **10 months** of the first-filed U.S. application (or 6 months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order).	N/A (in view of Government ownership)	**U.S. Filing:** Within **1 year** after election of title and before any statutory bars. **Foreign Filing:** Within **10 months** of the first-filed U.S. application, or **6 months before the foreign statutory bar**, whichever is earlier.
Utilization Reporting	On request, **no more frequently than annually**, covering efforts at achieving practical application.	Normally **not required**, since the Government owns the invention.	Requires **utilization reports no more frequently than annually** on subject inventions, until formally terminated (e.g., by closeout, expiration, or Government release).

	Ownership by the Contractor (small or nonprofit) FAR 52.227-11	Ownership by the Government FAR 52.227-13	Ownership by the Contractor, Large Business DFARS 252.227-7038
Contractor Decisions Not to File or Continue Prosecution	Contractor must **notify the Contracting Officer at least 30 days before** the applicable deadline if it decides not to file a nonprovisional patent application, not to continue prosecution, not to pay maintenance fees, or not to defend in a reexamination/ opposition.	**N/A**	Contractor must **notify the Contracting Officer not less than 30 days before** the applicable deadline if it decides not to file, not to continue prosecution, not to pay maintenance fees, or not to defend in a reexamination/opposition.
Interim Reports:	**N/A** (see DFARS 252.227-7039 for DoW-specific reporting requirements). Requires interim reports **every twelve (12) months** (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period and stating that all subject inventions have been disclosed or that there are no such inventions.	Required every **12 months** from the date of contract (or a longer period as may be specified by the Contracting Officer).	Requires **interim reports no more frequently than annually** during that period, listing subject inventions disclosed in the preceding 12 months.
Final Report	**N/A** (see DFARS 252.227-7039 for DoW-specific reporting requirements). Requires a **final report within 3 months after contract completion**, listing all subject inventions or certifying there were none.	Required **within 3 months after contract completion**, listing all subject inventions or certifying there were none.	Requires a **final report within 3 months after contract completion**, listing all subject inventions or certifying there were none.

GUIDANCE FOR DoW R&D RECIPIENTS

Each DoW component that awards R&D funding for extramural research should develop guidance for the recipients of the funds. The guidance should speak directly to DoW policy, the Bayh-Dole reporting requirements, and the new DD Form 882-R and DD Form 882-C.

NIST offers extensive training on iEdison for recipients of federal R&D funds in a similar format as the training for federal agencies.

1. The iEdison user guide for recipients of federal funding can be found here: https://www.nist.gov/iedison/iedison-organization-user-guide.
2. NIST-led webinars can be found here: https://www.nist.gov/iedison/training-opportunities. There are two types of webinars for onboarding recipients to iEdison – a basic training delivered in two parts as well as a separate training on utilization reports.

Recipients can also reach out to the iEdison administrator with questions at iedison@nist.gov. The staff within the iEdison office are responsive and will help the recipients address their questions within 24-48 hours.

POINTS OF CONTACT

For questions related to any aspect of iEdison, please reach out to the iEdison administrator at iedison@nist.gov.

For questions related to the DoW's implementation of iEdison, please reach out to OSD's T3CP Team at osd.ousd-r-e.mbx.iedison-implementation@mail.mil.