

GUIDANCE FOR DoW COMPONENTS ON IEDISON IMPLEMENTATION

OSW'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

National Institutes of Standards and Technology (NIST) requires that a Memorandum of Understanding (MOU) be signed by all agencies that have research & development (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 an MOU with NIST for iEdison is grandfathered explicitly in the DoW MOU.

Once covered by an MOU, agencies, or in the case of 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 and let them know that you are a DoW component intending to open 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 your component's account. The Information Sheet will ask for your DoW component information, the name of the person who will be designated as the primary administrator of the account, grant/contract number formats, and an acknowledgement checkbox that states OSW/T3CP office will have read only access to records in the DoW component account. [PLEASE NOTE: OSW requires read only access to all DoW component accounts as the Department is now required to report up to the White House information on extramural subject inventions, including utilization reports, and waivers. The DoW decision to require use of iEdison across all components is in part because the DD882 does not collect all Bayh-Dole required information.]
3. iEdison staff will contact OSW/T3CP 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 with NIST.
4. After submission of the DoW information form, iEdison staff will contact you to join a registration meeting to introduce you to iEdison and address any issues with the information form submission.
5. Once iEdison staff set up your account, the DoW component iEdison Administrator will receive an email indicating the account has been established, and the DoW component will receive a welcome email to establish their user account.

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-organization-user-guide/getting-started/creating-individual-accounts-under>

AGENCY TRAINING ON IEDISON

There are numerous 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, an online iEdison User Guide, and Video Tutorials. 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.
3. Video Tutorials: <https://www.nist.gov/iedison/video-tutorials>
 - The brief video tutorials explain key iEdison actions as well as demonstrations on how to complete the selected actions.

EXTRAMURAL SUBJECT INVENTION DATA MONITORING AND REVIEW IN IEDISON

The Bayh-Dole Act of 1980 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 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>.

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.

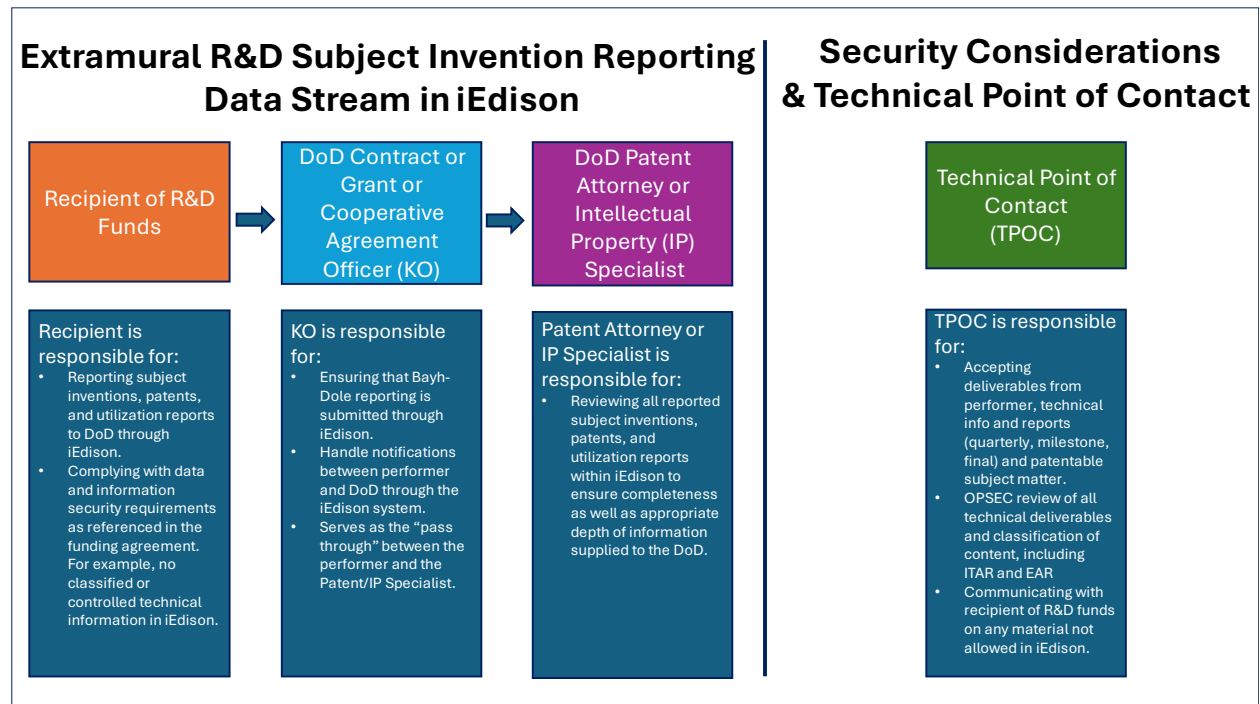
Subject inventions: Instructions on how to review subject inventions through iEdison can be found here: [Invention Reports | NIST](#)

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(s) for each of these roles/functions to ensure compliance with Bayh-Dole.



SECURITY CONSIDERATIONS

- **No classified information is allowed in iEdison.**
- **No controlled technical information, including ITAR and EAR, 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) means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information is to be marked with one of the distribution statements B through F, in accordance with Department of Defense Instruction 5230.24, "Distribution Statements of Technical Documents." *The term does not include information that is lawfully publicly available without restrictions.*

In contrast to CTI, technical information may 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 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 data 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:

Historically, the DoW has used DD Form 882 to report extramural subject inventions. Specifically, DD Form 882 is used by the DoW to submit interim and final invention reports to the contracting officer. The DoW also uses the form to report the award of subcontracts containing a "patent rights" clause.

One of the most critical functions of the DD Form 882 is the ability to track negative subject inventions. Unfortunately, iEdison does not track negative subject invention reports. Because all iEdison reporting begins with the reporting of a subject invention, there is not a way to report to funding agencies that no inventions or patents have resulted from a specific funding award within iEdison. For this reason, components may continue to use DD Form 882 to capture the absence of any subject inventions for contractual compliance. Additionally, because iEdison does not allow for classified information, the DD Form 882 may also be used to capture classified subject inventions, delivered to the DoW through a classified network.

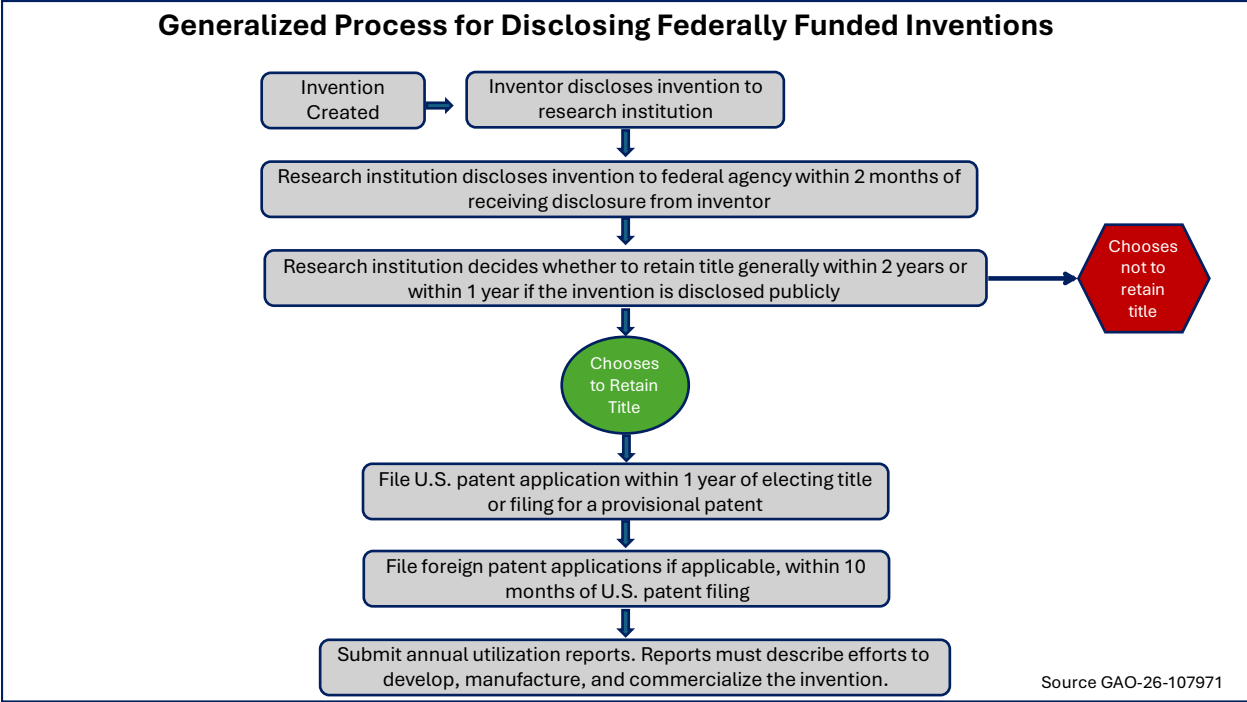
CONTRACTUAL LANGUAGE

The Office of Research Policy will develop and issue terms and conditions for DoW grants and cooperative agreements requiring the use of iEdison for subject invention reporting. The language will be disseminated across the DoW when available. Expected timeline March 2026.

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 reports are 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 deadlines are the following:

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 on October 1st for all inventions. These reports must be submitted for 10 years after the invention disclosure.
7. Final Invention Statement: A final invention statement must be submitted to the funding agency when the grant is completed. The DoW requires these statements within 3 months of contract completion.



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.

	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
Filing of Patent Applications (if electing title)	<p>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.</p> <p>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).</p>	N/A (in view of Government ownership)	<p>U.S. Filing: Within 1 year after election of title and before any statutory bars.</p> <p>Foreign Filing: Within 10 months of the first-filed U.S. application, or 6 months before the foreign statutory bar, whichever is earlier.</p>
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).
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:	<p>N/A (see DFARS 252.227-7039 for DoW-specific reporting requirements).</p> <p>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</p>	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.

	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
	inventions have been disclosed or that there are no such inventions.		
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 may also continue to include a requirement for a DD Form 882.

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 for any iEdison questions they might have at iEdison@nist.gov. The staff within the iEdison office are responsive and will help the recipients address their questions within 24 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 OSW’s T3CP Team at osw.ousd-r-e.mbx.iedison-implementation@mail.mil.