June 26, 2024

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Comptroller General Dodaro:

We write to request that the U.S. Government Accountability Office (GAO) conduct a review of, and issue a report regarding, the disclosure processes of intellectual property developed by federal contractors under the Bayh-Dole Act (35 U.S.C. § 18).

As you may know, the Bayh-Dole Act was enacted in 1980 and has served as a cornerstone for innovation from American universities, businesses, and non-profit organizations. Under this law, federal contractors can retain their patents on inventions and license those inventions for commercialization. The Bayh-Dole Act has allowed the United States, particularly American universities, to stay competitive globally and has sparked economic growth across the nation.

Current statute and federal regulations require contractors to report information related to the inventions that are commercialized under this law. While these requirements help carry out the policy goals of the law, we have heard from numerous stakeholders that current federal reporting requirements are burdensome, time-consuming, confusing, and vary across federal agencies. Such inefficiencies result in wasted time, money, and resources – undercutting the law’s intent to promote innovation.

It is for these reasons that we request the GAO conduct a thorough review of any existing barriers that universities, small businesses, and non-profits may experience under current reporting requirements and provide recommendations to ensure there is a streamlined reporting process for these public-private partnerships. Specifically, we ask that your report include, at a minimum, information on the following:

1) The percentage of inventions that contractors do not elect to retain within the time period provided following the disclosure of an invention under part 401 of title 37, Code of Federal Regulations.

2) After any automatic extension has been granted and in a case in which a contractor requests an additional extension: (a) the number of time extensions that are granted by federal agencies for disclosure, election, and filing; and (b) the average response time by each agency for any such extension.
3) How the reporting requirements under chapter 18 of title 35, United States Code, impact the ability of a contractor to compete with foreign competitors.

4) How the federal government uses federal reporting under chapter 18 of title 35, United States Code, by contractors and suggested improvements to ensure there is an improved public-private partnership.

5) Barriers that federal reporting requirements under chapter 18 of title 35, United States Code, create for contractors to develop inventions.

6) The time and effort institutions of higher education must use for the management and reporting required under chapter 18 of title 35, United States Code, including:
   a) Input from contractors with various sizes, budgets, geographical positions, and specialties;
   b) With respect to any institution of higher education included in the report, a consideration of the specific research designation for such institutions, including whether the institution is classified as an R1 and R2 doctoral university, according to the Carnegie Classification of Institutions of Higher Education framework; and
   c) How such contractors vary on their ability to efficiently comply with requirements.

7) Difficulties contractors encounter in using the patent reporting system deployed by the National Institute of Standards and Technology, commonly known as iEdison, and recommendations to address those difficulties.

8) If any other federal agency does not use iEdison, whether such agency: (a) would benefit from using a singular standard federal reporting system; and (b) can effectively standardize reporting requirements in order to streamline processes required by contractors.

9) The number of disclosure systems used throughout the federal government, listed by what system is used by each federal agency, and the various disclosure requirements made by each such agency.

We strongly believe that the Bayh-Dole Act has played a critical role in promoting competition and maintaining our leadership globally. With GAO conducting a thorough review of the existing reporting system, it is our hope that Congress and federal agencies can work to improve upon the existing reporting processes under the Bayh-Dole Act. We request that you complete the study and provide us with the report no later than December 31, 2025.
Thank you in advance for your consideration of this request. If you have any questions regarding this inquiry, please contact our offices.

Sincerely,

Chris Coons
United States Senator

Thom Tillis
United States Senator