Compliance Score
A proposal submitted to the NIST PEER competition by Nicholas LeBlanc

**Summary of Problem**

Institutions often rely on their number of Notifications in iEdison to gauge how well they are managing Bayh-Dole compliance. But without a comparison to their number of EIRs, this number may be misleading. In addition, institutions of different sizes or different levels of federal funding have no direct way of comparing themselves against their peers. There is no common metric that institutions can use to size up their own compliance and their compliance level relative to peers.

**Proposed Solution**

This proposal centers on a compliance score that would allow peer comparisons and also an absolute rating of how well an institution is managing Bayh-Dole compliance. The score is calculated as a ratio / percentage:

# of Compliance Obligations Met (COM) / # of Compliance Obligations Required (COR)

A score will allow institutions to measure their relative compliance and incentivize them to improve. Institutions who reach a certain threshold (e.g., 90%) can be congratulated through regular email communications to iEdison users. Institutions would likely take pride in achieving and maintaining high compliance scores, in addition to fostering healthy competition. However, it is important to note that this score should **not** be used punitively, as that would further discourage compliance administrators already struggling.

The methods outlined below could be implemented by a series of SQL queries based on iEdison data. The results could be displayed either when the user logs into iEdison, or when the user visits their account pages.

In the sections that follow, I intend to accomplish several goals:

- Define terms and suggest methods to calculate values based on data already available in iEdison
- Suggest a high-level algorithm for calculating a score
- Address important caveats

**Definitions**

Compliance Obligations. These include the obligations stipulated by the Bayh-Dole regulations and include the following:

1. Report the Invention within 60 days of disclosure
2. Submit an accepted disclosure document with the EIR.
3. Either elect title or waive within 2 years of creating the EIR.
4. If title is elected, submit an accepted initial patent application within 1 year of electing title.
5. If title is elected, submit a utilization report for each year since election.
6. If a bar date is indicated, elect title or waive at least 60 days prior to the bar date:

Number of Compliance Obligations Met (COM): One point is assigned when each of the following conditions is true:

1. The invention was reported within 60 days of disclosure (i.e., the EIR's creation date is <= 60 days after the reported disclosure date).
2. In cases where the disclosure is either accepted or rejected, one point for an acceptance (that is, ignore cases where the disclosure is neither accepted nor rejected, since the funding agency has not yet made a determination).
3. The date the EIR is set to either "Elect Title" or waived falls within 2 years of EIR creation.
4. The date of election or waiver (as reported) falls within 2 years of EIR creation.
    a. This allows institutions some ability to correct previous non-compliance.
5. If the EIR status is "Elect Title", then a Patent report with filing date within 1 year of election must exist.
6. If the EIR status is "Elect Title", then a Patent report with filing date within 1 year of election must exist AND be accepted IF the agency has entered an acceptance/rejection status.
    a. Consider only cases where the patent report has been evaluated (accepted or rejected), while ignoring cases where a determination has not yet been made.
7. If a bar date is indicated and the invention was waived, the waiver occurred >= 60 days before the bar date.
8. If title is elected, one point for each year since election that a utilization report was submitted.

Number of Compliance Obligations Required (COR): Points are assigned according to the following conditions:

1. One point for each invention reported.
2. One point for each disclosure that is either rejected or accepted.
a. Ignore disclosures without an acceptance or rejection, since the agency has not yet made a determination.
3. Two points for each EIR created more than 2 years before today (to correspond to conditions 3 and 4 of COM).
4. Two points for each EIR with status "Elect Title" (to correspond to conditions 5 and 6 of COM).
5. One point for every disclosure where a bar date is indicated (to correspond to condition 7 of COM).
6. If title is elected, one point for each year since election (to correspond to condition 8 of COM).

**Algorithm**

Based on the above, calculate COM/COR x 100 to generate two scores: One considering all EIRs ever submitted by the institution, and one for only the past 5 years.

The 5-year score is important for peer comparisons. Otherwise, each point of (non)compliance will matter less and less the longer the institution has been reporting, and those with long

histories could not be accurately compared against institutions with shorter reporting histories. By contrast, the overall score is an internal metric the institution can use to measure how much compliance clean-up may be necessary to bring older EIRs into compliance.

**Caveats**

It must be stressed to users that this score is based solely on iEdison data. It does not consider inventions which have never been reported, since the funding agencies (and the algorithm) have no knowledge of those inventions. Also, it does not consider compliance with agencies that do not use iEdison, since that data cannot be tracked.

With a feasible amount of SQL code (and perhaps some modifications to the algorithm after NIST review), a compliance score could prove a useful, easily implementable tool to help institutions track their compliance success.