**ARPA-E MODEL SUBAWARD OVERVIEW**

*The Advanced Research Projects Agency-Energy (“ARPA-E”) requires the Prime Recipient to negotiate and execute a subaward with each Subrecipient that is receiving financial assistance. ARPA-E has developed this model subaward* to *facilitate and expedite negotiations between the Prime Recipient and Subrecipients. The Prime Recipient is responsible for ensuring that the terms and conditions of its subaward(s) comply with all regulatory and programmatic requirements.*

*ARPA-E does not mandate the use of this template. ARPA-E does not make any warranty (express or implied) or assume any liability or responsibility for the accuracy, completeness, or usefulness of this template. ARPA-E strongly encourages the Prime Recipient and Subrecipients to consult their legal counsel before using this template. ARPA-E does not review or approve subawards before they are executed between the Prime Recipient and the Subrecipient. ARPA-E is not a party to subawards.*

*Please note, should you wish to use this template, there are currently bracketed items throughout the agreement which should be provided or negotiated, as appropriate, between the parties.*

*Any subaward shall include the following:*

1. *Cover Page - The Subaward shall include a cover page providing an overview of its components and requiring the Subrecipient to comply with the terms and conditions of the Subaward.*
2. *Attachment 1 – The terms and conditions in Attachment 1 of the Award shall flow down from the Prime Recipient to the Subrecipient.*
3. *Attachment 2 – The Prime Recipient shall include the appropriate version of Attachment 2, Intellectual Property Provisions, to the Award.* 
   1. *If the Subrecipient is a small business incorporated in the United States, insert here the “Attachment 2 - Intellectual Property Provisions (Small Business) with Enhanced U.S. Competitiveness,” available at* [Funding Agreements | arpa-e.energy.gov](https://www.arpa-e.energy.gov/technologies/project-guidance/pre-award-guidance/funding-agreements#:~:text=Funding%20Agreements%20ARPA-E%20has%20established%20the%20below%20agreement,management.%20ARPA-E%20primarily%20funds%20projects%20through%20cooperative%20agreements.).
   2. *If the Subrecipient is a domestic university or nonprofit organization, insert here the “Attachment 2 - Intellectual Property Provisions (University) with Enhanced U.S. Competitiveness,” available at* [Funding Agreements | arpa-e.energy.gov](https://www.arpa-e.energy.gov/technologies/project-guidance/pre-award-guidance/funding-agreements#:~:text=Funding%20Agreements%20ARPA-E%20has%20established%20the%20below%20agreement,management.%20ARPA-E%20primarily%20funds%20projects%20through%20cooperative%20agreements.).
   3. *If the Subrecipient is a large business or foreign entity, insert here (i) the “Attachment 2 - Intellectual Property Provisions (Large Business – No Waiver, Patent Rights) with Enhanced U.S. Competitiveness,” (the “Attachment 2 with No Waiver”) , or (ii) the “Attachment 2 – Intellectual Property Provisions (Large Business – Waiver, Patent Rights) with Enhanced U.S. Competitiveness” (the “Attachment 2 with Waiver”), as appropriate, available at* [Funding Agreements | arpa-e.energy.gov](https://www.arpa-e.energy.gov/technologies/project-guidance/pre-award-guidance/funding-agreements#:~:text=Funding%20Agreements%20ARPA-E%20has%20established%20the%20below%20agreement,management.%20ARPA-E%20primarily%20funds%20projects%20through%20cooperative%20agreements.):
      1. *If the Subrecipient is a U.S. large business that provides at least 20% cost share of its subaward, the Attachment 2 with Waiver should be inserted.*
      2. *If the Subrecipient is a U.S. large business that does not provide at least 20% cost share of its subaward, or the Subrecipient is a foreign entity, the Attachment 2 with No Waiver” should be inserted. Upon request to Patent Counsel for good cause shown, the right to use the Attachment 2 with Waiver may be granted.*
4. *Attachment 3 – The Prime Recipient shall include Attachment 3, Statement of Project Objectives (Technical Milestones and Deliverables), to be performed under the Subaward. Work to be performed by the Subrecipient should be clearly indicated.*
5. *Attachment 4 – The Prime Recipient shall include Attachment 4, Federal Financial Assistance Reporting Checklist and Instructions, to the Award. Reporting to be performed by the Subrecipient should be clearly indicated.*
6. *Attachment 6 – The Prime Recipient shall include Attachment 6, National Policy Assurances, to the Award.*

**SUBAWARD COVER PAGE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Prime Recipient”), and the Advanced Research Projects Agency-Energy (“ARPA-E”), an agency within the United States Department of Energy (“DOE”), entered into a financial assistance agreement, Award No. \_\_\_\_\_\_\_\_\_\_\_\_ (“Award”). The Prime Recipient hereby enters into this subaward (“Subaward”) with \_\_\_\_\_\_\_\_\_\_\_\_ (“Subrecipient”).

This Subaward consists of the following documents, including all terms and conditions therein:[[1]](#footnote-1)

|  |  |
| --- | --- |
| Cover Page | Subaward Cover Page |
| Attachment 1 | Special Terms and Conditions |
| Attachment 2 | Intellectual Property Provisions |
| Attachment 3 | Statement of Project Objectives, (Technical Milestones and Deliverables) |
| Attachment 4 | Federal Financial Assistance Reporting Checklist and Instructions |
| Attachment 6 | National Policy Assurances |

The Subrecipient agrees to comply with the terms and conditions of this Subaward. The Subrecipient also agrees to apply the terms and conditions of this Subaward to all of its subcontractors (if appropriate) and to require their strict compliance therewith. The term “subaward” does not include subcontracts for the procurement of goods and services.

Failure to comply with the terms and conditions of this Subaward may result in the imposition of additional conditions to the Award to the Prime Recipient, which are consistent with 2 C.F.R. § 200.208. If ARPA-E determines that noncompliance cannot be remedied by imposing additional conditions, ARPA-E may temporarily withhold or disallow reimbursement of costs, suspend or terminate the Award, and/or other available remedies under 2 C.F.R. § 200.339.

The terms defined in 2 C.F.R. Part 200, as supplemented by 2 C.F.R. Part 910, apply to this Subaward.

# ATTACHMENT 1:

**SPECIAL TERMS AND CONDITIONS**

# Subpart A. General Provisions

1. **EFFECTIVE DATE**

The effective date of this Subaward is \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. **BUDGET PERIOD/PERIOD OF PERFORMANCE**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Alt. 1** | **Alt. 2** | **Alt. 3** |
| ***Check one of the boxes to the right; the selection should match the selection in Clause 3 (Budget Period/Period of Performance) of the Prime Recipient’s Award.*** |  |  |  |

*[****Alt. 1****: Use this clause when the budget period and the period of performance are coextensive. Delete if clause is N/A]*

The budget period and period of performance are stated in *[Confirm/insert as appropriate: e.g., “Block [7] of the Cover Page (Assistance Agreement Form) to this Subaward”]* (“Period of Performance”)*.*

*[****Alt 2****: Use this clause when the government share will be incrementally funded, and the agreement has multiple, defined budget periods within the period of performance. Delete if clause is N/A.]*

1. Maximum Obligation for Current Budget Period

The Project Period for this Subaward is [mm/dd/yyyy] through [mm/dd/yyyy] (“Period of Performance”), consisting of the following Budget Periods:

*[Insert table of Budget Periods, effective and expiration dates, and corresponding cost estimates/amounts to be obligated.]*

1. Continuation Application and Funding - Awards Under 2 CFR Part 200 as Amended by 2 CFR Part 910

Award of continuation funding in any subsequent Budget Period is contingent on: (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) substantial progress towards meeting the objectives of the Award; (4) submittal of required reports; and (5) compliance with the terms and conditions of the Award.

*[****Alt 3****: Use this clause when the agreement has multiple, defined budget periods within the period of performance* ***and*** *the government share for all budget periods is* ***fully*** *funded at the time of award. This clause should also be used when (a) the agreement has multiple, incrementally funded, defined budget periods within the period of performance, and (b) the government has obligated more than the federal share of a given budget period. Delete if the clause is N/A.]*

a. Maximum Obligation for Current Budget Period

The Project Period for this Subaward is [mm/dd/yyyy] through [mm/dd/yyyy] (“Period of Performance”), consisting of the following Budget Periods:

*[Insert table of Budget Periods, effective and expiration dates, and corresponding cost estimates/amounts to be obligated.]*

1. Payment of Costs/Deobligation of Funds

ARPA-E has obligated $[*insert amount obligated*] for completion of the project authorized by the Award. However, only $[*insert amount available*] of the estimated ARPA-E share of the project is available for work performed by the Subrecipient during Budget Period [1]. Authorization to proceed with work in any subsequent Budget Period will be provided by ARPA-E to the Prime Recipient.

In the event the award is not continued into future Budget Periods, or the award is terminated at any point, the maximum liability to the Subrecipient is ARPA-E’s share of incurred costs up to the approved budget for the budget period(s) authorized provided such costs are reasonable, allocable to the Subaward, and allowable under the terms of the Subaward and the applicable Federal Cost Principles. The Subrecipient may incur costs beyond this limit at its own risk, subject to later reimbursement in the event the project proceeds beyond the current budget period.

1. **COMPLIANCE WITH FEDERAL, STATE, AND MUNICIPAL LAW**

The Subrecipient is required to comply with applicable Federal, state, and local laws and regulations for all work performed under this Subaward. The Subrecipient is required to obtain all necessary Federal, state, and local permits, authorizations, and approvals for all work performed under this Subaward.

1. **INCONSISTENCY WITH FEDERAL LAW**

If the Subrecipient believes that any term or condition of this Subaward is inconsistent with Federal law(s) or regulation(s), the Subrecipient is required to send an immediate written notification to the Prime Recipient with the following information: (i) the award number; (ii) the name and contact information (postal address, telephone number, and email address) for the individual(s) to whom the Prime Recipient should direct any inquiries regarding this matter; and (iii) a detailed description of the apparent inconsistency.

1. **FEDERAL STEWARDSHIP AND SUBSTANTIAL INVOLVEMENT**

a. General Terms

ARPA-E exercises Federal stewardship and has substantial involvement in work performed under this Subaward.

The Subrecipient is required to provide any information, documents, site access, or other assistance requested by ARPA-E for the purpose of its Federal stewardship or substantial involvement.

b. Federal Stewardship

ARPA-E will exercise Federal stewardship in overseeing the project activities performed under this Subaward. Stewardship activities include, but are not limited to, conducting site visits, reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions of the Subaward; and reviewing technical performance during and after project completion to ensure that the Subaward objectives are being/have been accomplished.

c. Review Meetings

The Subrecipient, including but not limited to the principal investigator (or, if applicable, co-principal investigators), is required to participate in periodic review meetings with ARPA-E and the Prime Recipient. Review meetings enable ARPA-E to assess the work performed under the Award and determine whether the Subrecipient has timely achieved the technical milestones and deliverables stated in Attachment 3 to this Subaward.

ARPA-E shall determine the frequency of review meetings and select the day, time, and location of each review meeting.

For each review meeting, the Subrecipient is required to provide to the Prime Recipient and to ARPA-E a comprehensive overview of the project, including:

* The Subrecipient’s technical progress compared to the schedule of technical milestones and deliverables stated in Attachment 3 to this Subaward;
* The Subrecipient’s actual expenditures compared to the approved budget; and
* Other subject matter specified by the Prime Recipient or by the ARPA-E official who is responsible for managing the technical program carried out under the Award and this Subaward (“Program Director”).

d. Review and Approval of Reimbursement Requests and Cost Share Compliance

Subrecipient’s reimbursement requests shall be sent to the Prime Recipient. Reimbursement and cost share are governed by Clauses 21-30 below.

e. Statement of Substantial Involvement

ARPA-E has substantial involvement in work performed under this Subaward, as described below.

* ARPA-E shares responsibility with the Prime Recipient for the management, control, and direction of the work under this Subaward.
* The Subrecipient must adhere to ARPA-E’s agency-specific and programmatic requirements.
* ARPA-E may intervene at any time in the conduct of work under this Subaward.
* ARPA-E does not limit its involvement to the administrative requirements of this Subaward. Instead, ARPA-E has substantial involvement in the direction and redirection of the technical aspects of the project as a whole.
* ARPA-E may, in its sole discretion, modify or terminate projects that fail to achieve predetermined Go/No Go decision points or technical milestones and deliverables.

f. Technical Milestones and Deliverables; Go/No Go Decisions

Attachment 3 to the Award establishes technical milestones and deliverables and “Go/No Go” decision points. Certain milestones and deliverables in Attachment 3 to the Award are assigned by the Prime Recipient to the Subrecipient. Such milestones and deliverables are [*choose one of the following two options: Alt. 1: as described in Attachment 3 to this Subaward; Alt. 2: as described in [insert reference to statement of work*]]. Failure to achieve any of such milestones and deliverables may result in ARPA-E, at its discretion, revising the statement of project objectives or schedule of milestones and deliverables of the Award. In the alternative, ARPA-E may deem failure to achieve these milestones and deliverables to be noncompliance with the terms and conditions of the Award.

In addition to the remedies described above, for each “Go/No Go” decision point, the ARPA-E Program Director must determine whether the work described in Attachment 3 of the Award has been completed (including any milestones and deliverables assigned to the Subrecipient and described above). As a result of a “Go/No Go” review, ARPA-E may, at its sole discretion, authorize the following: (1) continuation of the project; (2) required redirection of work under the project; (3) placing a hold on the project, pending further supporting data; (4) reducing the amount of the Award; (5) suspending or terminating the Award due to noncompliance with the terms and conditions of the Subaward; or (6) other appropriate actions.

g. Technology Transfer and Outreach

ARPA-E may provide guidance and/or assistance to the Subrecipient to accelerate the commercial deployment of ARPA-E-funded technologies.

h. General Release

The Subrecipient understands that any technical or other guidance or assistance provided by ARPA-E may result in positive or negative outcomes and may have unintended or unanticipated consequences. [*Insert negotiated clause providing for Subrecipient’s ability to terminate this Subaward*]. The Subrecipient shall indemnify and release the Federal Government, Federal officers and employees, contractors, and agents from any and all liability, responsibility, and claims arising out of or relating to technical or other guidance or assistance under this Subaward.

1. **NEPA REQUIREMENTS**

a. NEPA Generally

Consistent with DOE’s National Environmental Policy Act (“NEPA”) Implementing Regulations (10 C.F.R. Part 1021), the ARPA-E NEPA Compliance Officer is required to assess the impact of the work under the Award on the human environment and determine whether the work requires the preparation of an Environmental Assessment (“EA”) or Environmental Impact Statement (“EIS”) or is categorically excluded from preparation of either an EA or EIS.

The Subrecipient is required to provide any information, documents, site access, or other assistance requested by the ARPA-E NEPA Compliance Officer.

b. Commencement of Work

The Subrecipient may not start work until the ARPA-E NEPA Compliance Officer has made a written determination allowing the work under the Award to proceed.

If the ARPA-E NEPA Compliance Officer determines in writing that the work under the Award qualifies for a categorical exclusion, the Subrecipient may commence work as of the effective date of the Award or the date of the written NEPA determination, whichever is later.

If the ARPA-E NEPA Compliance Officer determines that the work under the Award requires the preparation of an EA or EIS, the Subrecipient *may not* commence work until the completion of the EA or EIS and the issuance of a written determination by the ARPA-E NEPA Compliance Officer allowing the work to proceed.

c. Significant Changes to Scope of Work

The Subrecipient is required to notify the Prime Recipient in advance of any proposed changes to the scope of work under this Subaward (i.e., significant changes to the statement of project objectives or the schedule of technical milestones and deliverables). Such changes may require the ARPA-E NEPA Compliance Officer to re-evaluate the impact of the work under this Subaward on the human environment.

1. **PERFORMANCE OF WORK IN UNITED STATES**

a. Performance of Work in United States

All work under this Subaward must be performed in the United States (i.e., 100% of the total project costs must be expended in the United States), unless the Prime Recipient receives advance written authorization from the ARPA-E Contracting Officer to perform certain work overseas.

b. Travel Outside the United States

The Subrecipient, through the Prime Recipient, is required to obtain written authorization from the ARPA-E Program Director before incurring any costs related to foreign travel.

In seeking prior approval for costs related to foreign travel, the Subrecipient is required to provide a submittal to the Prime Recipient and the ARPA-E Program Director which explains: (i) where the Subrecipient will travel, (ii) the purpose of the trip, (iii) what the Subrecipient will do, and (iv) how the travel relates to this Subaward.

1. **EQUIPMENT PURCHASES** 
   1. Sense of Congress

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Subaward should be made in the United States.

* 1. Purchase of Equipment

Any new equipment acquired under this Subaward must be made or manufactured in the United States, to the maximum extent practicable. This requirement does not apply to used or leased equipment. Any supplies acquired under this Subaward must be made or manufactured in the United States, to the maximum extent practicable.

c. Purchase of Foreign Equipment/Supplies

The Subrecipient shall notify the Prime Recipient reasonably in advance of purchasing any equipment with a total acquisition cost of $250,000 or more not made or manufactured in the United States.

1. **LOBBYING RESTRICTIONS**

By accepting funds under this Subaward, the Subrecipient agrees that none of the funds obligated on the Subaward shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

1. **EXPORT CONTROLS**

The Subrecipient is required to comply with U.S. export control laws and regulations in the performance of work under this Subaward.

1. **PUBLICATIONS**

ARPA-E encourages the Subrecipient to publish or otherwise make publicly available the results of work performed under this Subaward. The Subrecipient is required to include the following acknowledgement in publications arising out of or relating to work performed under this Subaward:

*Acknowledgment:* “The information, data, or work presented herein was funded in part by the Advanced Research Projects Agency-Energy (ARPA-E), U.S. Department of Energy, under Award Number DE-AR\_\_\_\_\_\_\_\_\_ The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”

1. **NO-COST EXTENSION**

The Subrecipient may request an extension of the Period of Performance of this Subaward. Requests must be submitted in writing to the Prime Recipient at least 60 days before the end of the project period. The Prime Recipient will, in turn, submit the request to the ARPA-E Contracting Officer. The ARPA-E Contracting Officer may, exercising discretion, grant or deny such requests.

1. **Property trust relationship and insurance coverage**

Property acquired in whole or in part with Federal funds under this Subaward may not be encumbered in any way without the written permission of the ARPA-E Contracting Officer, who may require the recording of liens or other appropriate notices of record such property. Full replacement insurance coverage must be provided for such property.

Federally owned property provided under the Subaward need not be insured unless required by the terms and conditions of the Award.

1. **PROPERTY – SUPPLIES AND EQUIPMENT**
   1. Supplies

The Subrecipient takes title to any supplies acquired in whole or in part with Federal funds under the Subaward.

If the total aggregate value of unused supplies is $5,000 or less at the termination, discontinuation or completion of the project or program (or the termination of the Subaward, if applicable), the Subrecipient may retain the unused supplies with no further obligation to ARPA-E.

If the total aggregate value of unused supplies is more than $5,000 at the termination, discontinuation, or completion of the project or program (or the termination of the Subaward, if applicable), and the supplies are not needed for any other Federal award, the Subrecipient may retain the supplies for use on other activities or sell them. In either case, the Subrecipient must compensate ARPA-E for the ARPA-E funded share as specified in 2 C.F.R. § 200.314.

Upon request by ARPA-E or the Prime Recipient, the Subrecipient is required to provide information on the condition, location, value, and use of remaining supplies.

* 1. Equipment

Post-Award equipment purchases with a total acquisition cost of $250,000 or greater may be purchased only with the prior approval of the Contracting Officer.

The Subrecipient takes title to any equipment purchased in whole or in part with Federal funds under the Subaward subject to the following conditions:

* The equipment must be used for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project;
* The equipment shall not be encumbered without approval of ARPA-E; and
* The equipment shall be used and disposed by for-profit entities in accordance with 2 C.F.R. § 910.360, and by all other entities in accordance with 2 C.F.R. § 200.313.

If the current per unit fair market value of particular equipment is $5,000 or less at the end of the project period (or the termination of the Subaward, if applicable), the Subrecipient may retain, sell, or otherwise dispose of the equipment with no further obligation to ARPA-E.

If the current per unit fair market value of particular equipment exceeds $5,000 at the end of the project period (or the termination of the Subaward, if applicable), the equipment must be disposed of by for-profit entities in accordance with 2 C.F.R. § 910.360(g) and by all other entities in accordance with 2 C.F.R. § 200.313(e).

Upon request by ARPA-E or the Prime Recipient, the Subrecipient is required to provide information on the condition, location, value, and use of remaining equipment.

1. **POTENTIALLY CLASSIFIABLE RESULTS ORIGINATING UNDER THIS AWARD**

This Subaward is intended for unclassified research to develop and commercialize advanced energy technologies. ARPA-E will not provide the Subrecipient access to classified information, and ARPA-E does not expect that the results of the research project will involve classified information. If at any time the Subrecipient believes work generated under this Subaward may need classification, it must immediately notify the Prime Recipient and the ARPA-E Contracting Officer ([ARPA-E-CO@hq.doe.gov](mailto:ARPA-E-CO@hq.doe.gov)) in writing for further instruction. Do not include potentially classifiable information in the notification.

1. **RECORD RETENTION**

Consistent with 2 C.F.R. § 200.334, the Subrecipient is required to retain records relating to this Subaward for three years after the end of the project period, unless one of the following exceptions applies:

1. If any litigation, claim, or audit is started before the expiration of the three-year period, the Subrecipient is required to retain the records until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
2. The Subrecipient is required to retain records for any real property or equipment acquired with Federal funds for three years after final disposition of the real property or equipment.
3. The Subrecipient is not required to retain records after the end of the project period if ARPA-E agrees to maintain the records.

Copies of records may be substituted for originals.

1. **AUDITS**

a. Audits Generally.

The Subrecipient is required to provide any information, documents, site access, or other assistance requested by ARPA-E or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office) for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to the Subrecipient’s records relating to this Subaward. ARPA-E will provide reasonable advance notice of audits and will minimize interference with ongoing work, to the maximum extent practicable.

b. Government Audits

Consistent with 2 C.F.R. §200.503(b), ARPA-E may audit the Subrecipient’s financial records or administrative records relating to this Subaward at any time.

ARPA-E may conduct a final audit at the end of the project period (or the termination of the Award, if applicable). Upon completion of the audit, the Subrecipient is required to refund to ARPA-E any payments for costs that were determined to be unallowable.

c. Compliance Audits for For-Profit Subrecipients

For-profit Subrecipients are required to comply with the annual compliance audit requirements in 2 C.F.R. 910 Subpart F. An audit conducted in accordance with this part must be in lieu of any financial audit of DOE awards which a for-profit entity is required to undergo under any other Federal statute or regulation.

d. Single Audits for Entities Other than For-Profit Subrecipients

Subrecipients other than for-profits are required to comply with the single audit requirements in 2 C.F.R. 200 Subpart F. An audit conducted in accordance with this part must be in lieu of any financial audit of Federal awards the Subrecipient is required to undergo under any other Federal statute or regulation.

1. **CLAIMS, DISPUTES, AND APPEALS**

a. Limitation of Damages

Under no circumstances shall the Federal Government be liable for consequential, punitive, special, or incidental damages, claims for lost profits, or similar damages arising out of or relating to this Subaward. ARPA-E’s liability for direct damages will not exceed the limitation of funds of this Agreement less amounts previously reimbursed for costs incurred under this Agreement.

b. Claims

[*Insert clause regarding processes of notifying counterparty of claims*.]

c. Disputes and Appeals

[*Insert clause regarding claims, disputes and appeals mechanism to resolve claims between counterparties. Note the Prime Recipient must resolve all disputes with ARPA-E in accordance with the procedures set forth in 2 C.F.R. § 910.128.*]

1. **CONFERENCE SPENDING**

The Subrecipient shall not use any Federal funds to:

* Defray the cost to the United States Government of a conference held by any Executive branch department, agency, board, commission, or office which is not directly and programmatically related to the purpose for which its ARPA-E Subaward is made and for which the cost to the United States Government is more than $20,000; or

* To circumvent the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such a conference.

1. **system for award management registration**

Unless the Subrecipient is exempt from this requirement under 2 C.F.R. § 25.110, the Subrecipient must maintain current information in the System for Award Management (SAM) until submission of the final financial report required under the Award or receipt of final payment, whichever is later.

# Subpart B. Financial Provisions

1. **MAXIMUM OBLIGATION**

*[Note that one of the three below alternatives will apply, according to the selection for Clause 2 (Budget Period/Period of Performance).]*

*[Alt. 1: Use this clause if Alt. 1 was selected for Clause 2 (Budget Period/Period of Performance).]*

The maximum obligation of the Prime Recipient for this Subaward is shown in [*Confirm/insert as appropriate, e.g., Block [13] of the Cover Page (Assistance Agreement Form) to this Subaward*]. [*Insert negotiated clause providing for costs in excess of the maximum obligation. Note that ARPA-E will not be liable or reimburse such costs.*] In the event that costs incurred under this Subaward are less than this amount, ARPA-E shall be liable only for actual costs incurred.

*[Alt. 2: Use this clause if Alt. 2 was selected for Clause 2 (Budget Period/Period of Performance).]*

The maximum ARPA-E obligation for the budget period(s) from mm/dd/yyyy through mm/dd/yyyy is $[*insert amount*]*.* [*Insert negotiated clause providing for costs in excess of the maximum obligation. Note that ARPA-E will not be liable or reimburse such costs.*]  In the event that costs incurred under this budget period are less than this amount, ARPA-E shall be liable only for actual allowable costs incurred.

*[Alt 3: Use this clause if Alt. 3 was selected for Clause 2 (Budget Period/Period of Performance).]*

ARPA-E has authorized work to proceed for the budget period(s) from mm/dd/yyyy through mm/dd/yyyy, in the amount of $[*insert amount*]*.* [*Insert negotiated clause providing for costs in excess of the maximum obligation. Note that ARPA-E will not be liable or reimburse such costs.*] In the event that costs incurred under this budget period(s) are less than this amount, ARPA-E shall be liable only for actual allowable costs incurred.

1. **COST SHARING** 
   1. Cost Sharing Obligations

All cost share contributions must be provided in accordance with 2 C.F.R. § 200.306 and 2 C.F.R. § 910.130. The Subrecipient is required to pay the following cost share amount: $\_\_\_\_\_\_\_\_\_\_\_.

If the project is terminated or is otherwise not funded to completion, the Subrecipient is not required to pay the entire cost share amount; however, the Subrecipient is required to pay its share (i.e., percentage) of the total project cost incurred to date as of the termination or end date of the Award.

* 1. Source of Cost Share

The Subrecipient may not use Federal funds to meet its cost sharing obligations, unless otherwise allowed by Federal law.

* 1. Cost Share Recordkeeping

The Subrecipient is required to document and maintain records of project costs paid by ARPA-E and project costs that the Subrecipient claims as cost sharing, including In-kind contributions. Upon request, the Subrecipient is required to provide such records to ARPA-E.

* 1. Inability to Comply with Cost Sharing Obligations

If the Subrecipient determines that it might be unable to meet its cost sharing obligations, the Subrecipient is required to notify the Prime Recipient in writing immediately. The notification must include the following information: (i) whether the Subrecipient intends to continue or phase out the project, and (ii) if the Subrecipient intends to continue the project, how the Subrecipient will pay (or secure replacement funding for) the Subrecipient’s share of the total project cost.

If the Subrecipient fails to meet its cost sharing obligations, the Prime Recipient shall notify ARPA-E and may terminate this Subaward. In addition, ARPA-E may recover some or all of the financial assistance provided under this Subaward.

1. **REFUND OBLIGATION**

The Subrecipient is required to refund any excess payments received from ARPA-E. At the end of the period of performance (or the termination of the Award, if applicable), the Subrecipient is required to refund to ARPA-E the difference between (i) the total payments received from ARPA-E, and (ii) the Federal share of the costs incurred.

1. **APPLICABLE COST PRINCIPLES**
2. Cost Principles for For-Profit Entities

Pursuant to 2 C.F.R. § 910.352, the cost principles in the Federal Acquisition Regulations (48 C.F.R. Part 31.2) apply to for-profit entities.

b. Cost Principles for Entities other than For-Profits

The cost principles contained in 2 C.F.R. Part 200 Subpart E apply to all entities other than for-profits.

1. **INDIRECT COSTS**

a. Lower-than-Expected Indirect Costs

If the Subrecipient’s actual allowable indirect costs are less than those budgeted, the Subrecipient may use the difference to pay additional allowable direct costs during the period of performance

b. Higher-than-Expected Indirect Costs

The Subrecipient understands that it is solely and exclusively responsible for managing its indirect costs. The Subrecipient further understands that ARPA-E will not amend the Award solely to provide additional funds to cover increases in the Subrecipient’s indirect cost rate.

ARPA-E recognizes that the Subrecipient may not be fully reimbursed for increases in its indirect cost rate, which may result in under-recovery. In the event that the Subrecipient is not fully reimbursed for increases in its indirect cost rate, the Subrecipient may use any under-recovery to meet its cost sharing obligations.

1. **PRE-AWARD COSTS**

The Subrecipient is required to obtain prior written authorization from the Prime Recipient before incurring any pre-award costs. All pre-award costs must be in accordance with 2 C.F.R. § 200.308(e)(1) and 2 C.F.R. § 200.458. All pre-award costs must have been incurred within 90 calendar days or less of the award date, set forth in the award. All costs incurred prior to the award date are at the Subrecipient’s risk.

The Subrecipient is required to adhere to the guidance on allowable costs referenced in Clause 24 above.

1. **PATENT COSTS**

Subject to Clause 28, below, the parties acknowledge that ARPA-E may reimburse, for work performed under the Award, up to $30,000 for filing and prosecution of United States patent applications, including international applications submitted to the USPTO that are related to subject inventions disclosed to DOE in accordance with Attachment 2 to the Award. The Prime Recipient may request a waiver of the $30,000 reimbursement limit, which is subject to review by the ARPA-E Program Director and approval by the ARPA-E Contracting Officer. Allowable costs associated with reporting subject inventions are not included in this $30,000 limitation.

1. **PAYMENT PROCEDURES**

a. Reimbursement Requests Generally

Only the Prime Recipient may submit reimbursement requests to ARPA-E. The Subrecipient must submit reimbursement requests to the Prime Recipient, which is responsible for conveying reimbursement requests to ARPA-E on behalf of the Subrecipient. The Subrecipient may not submit reimbursement requests directly to ARPA-E.

With the exception of Budget Plan Payments[[2]](#footnote-2), reimbursement requests must be limited to the amount of disbursements during the billing period.

b. Documentation Required

Upon request by ARPA-E, the Subrecipient is required to provide ARPA-E with additional supporting documentation to explain or justify particular expenditures for which it is seeking reimbursement.

c. Cost Share Reporting

Every reimbursement request must show the Federal and non-Federal cost share contribution for the invoice period and the method by which the Subrecipient calculated the total Federal share and non-Federal cost share, unless the Subrecipient receives advance written authorization from the Prime Recipient to report its compliance with its cost sharing obligations on a monthly or quarterly basis.

d. Budget Plan Payments

In exceptional circumstances, ARPA-E may, at its discretion, reimburse the Prime Recipient on a prospective basis through Budget Plan Payments. Consistent with Clause 28(a), all Budget Plan Payment requests must be submitted by the Prime Recipient. Each request must be limited to a single quarter, unless otherwise authorized by the ARPA-E Associate Director for Finance.

Requests for Budget Plan Payments must include:

1. A signed cover letter on appropriate letterhead stating the basis for the request, the total amount of funding requested, the duration of funding, and the technical milestone(s) and deliverable(s) to be achieved with the prospective funding;
2. A detailed budget spreadsheet showing how the prospective funding will be spent during each month of the quarter in each of the following categories:
   1. *Personnel* – include descriptions of the types of positions (e.g., engineer, risk manager, communications director) that will be funded during the quarter;
   2. *Travel* – include description of trips (i.e., destinations, persons traveling, purpose of trip) that will be funded during the quarter;
   3. *Equipment* – include description of equipment that will be purchased or leased during the quarter;
   4. *Supplies* – include description of supplies (e.g., lab supplies) that will be purchased or leased during the quarter;
   5. *Contractual* – include description of contractors that will be funded during the quarter;
   6. *Construction* – include description of approved construction that will be funded during the quarter;
   7. *Other Direct Costs* – include description of miscellaneous expenses; and
   8. *Cost Share* – include the Subrecipient’s cost share contributions for the quarter; and
3. A one-page invoice for each month of the quarter, showing the total amount requested for that month; and
4. If the Budget Plan Payment will be used to purchase equipment, the Subrecipient is required to provide supporting documentation (e.g., vendor quote, catalogue price).

Upon request by the Prime Recipient, the Subrecipient is required to provide ARPA-E with additional supporting documentation for its Budget Plan Payment request.

Variances between the prospective monthly budgets and amounts actually incurred will be reconciled at the end of each quarter.

1. **BUDGET, Project, Personnel and Similar CHANGES**

a. Budget Changes Generally

Any increase in the total project cost must be approved in advance and in writing by the ARPA-E Program Director and the ARPA-E Contracting Officer.

b. Revision of Budget and Program Plans

Per 2 C.F.R. § 200.308(c), prior written approval of the ARPA-E Contracting Officer is required for:

* + 1. Changes in the scope or objective of the project.
    2. Changes in key personnel specified in this Agreement or the corresponding Full Application.
    3. Disengagement from the project for more than three months or a 25 percent reduction in budgeted time, by the project director or principal investigator.
    4. To the extent not previously agreed, costs requiring prior approval as set forth at 2 C.F.R. § 200.308(c).
    5. The transfer of funds budgeted for participant support as defined at 2 C.F.R. § 200.1.
    6. To the extent not previously agreed, subawarding, transferring out, or contracting out of any work under this Agreement.
    7. Changes in the amount of cost sharing or matching provided.
    8. An arising need for additional Federal funds to complete the project.

1. **USE OF PROGRAM INCOME**

If the Subrecipient earns program income during the period of performance as a result of this Subaward, it may use the program income as defined by 2 C.F.R. § 200.1 to meet its cost sharing requirement.

# Subpart C. Miscellaneous Provisions

## CLAUSE 31. FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES

By entering into this agreement, the Subrecipient attests that it has not been convictedof a felony criminal violation under Federal law in the 24 months preceding the date of signature.

The Subrecipient further attests that it does not have any unpaid Federal tax liabilitythat has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## CLAUSE 32. ASSIGNABILITY

[*Insert negotiated clause providing for assignment or non-assignment*]. Notwithstanding the foregoing, this Subaward may not be transferred, assigned, or assumed, by operation of law or otherwise, without the prior written consent of the ARPA-E Contracting Officer.

## CLAUSE 33. NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES

By entering into this Subaward, the Subrecipient attests that it does not require its employees or contractors to sign nondisclosure or confidentiality agreements which prohibit or otherwise restrict signatories from reporting the following to the DOE Inspector General: a violation of law, rule, or regulation, mismanagement, waste, fraud, abuse, or a substantial and specific danger to public health or safety.

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## [CLAUSE 34. COORDINATION OF PROJECT] [*Include this clause when a DOE lab is the project lead; delete this clause if it is not applicable*]

Subrecipient agrees to comply with the DOE/NNSA FFRDC direction and coordination, of the project. The DOE/NNSA FFRDC shall be permitted to monitor the activities of the Subrecipient as necessary to ensure that the technical and administrative requirements of the project are met

# ATTACHMENT 2:

**ARPA-E INTELLECTUAL PROPERTY PROVISIONS**

Insert applicable intellectual property provisions dictated in Attachment 2 of the Award.

# ATTACHMENT 3:

**STATEMENT OF PROJECT OBJECTIVES (TECHNICAL MILESTONES AND DELIVERABLES)**

Insert Statement of Project Objectives (Technical Milestones and Deliverables) here. Work to be performed by the Subrecipient should be clearly indicated.

# ATTACHMENT 4:

**ARPA-E REPORTING CHECKLIST AND INSTRUCTIONS**

Insert Attachment 4 to the Award here. Work to be performed by the Subrecipient should be clearly indicated.

# ATTACHMENT 6:

**NATIONAL POLICY ASSURANCES**

Insert Attachment 6 to the Award here.

1. Note that Attachment 5 of the Award, Budget Information (SF-424A), is not an attachment to the Subaward. [↑](#footnote-ref-1)
2. *Budget Plan Payments* are prospective payments that are intended to allow ARPA-E Recipients to obtain necessary technical equipment, employ DOE/NNSA Federally Funded Research and Development Centers (FFRDCs) and others to perform necessary services, or perform other functions that are necessary to achieve the technical milestones described in the underlying funding agreement. [↑](#footnote-ref-2)