**ATTACHMENT 1:**

**SPECIAL TERMS AND CONDITIONS**

|  |  |
| --- | --- |
| **Prime Recipient** |  |
| **Award No.** |  |
| **Type of Funding Agreement** |  |
| **Competitive or Noncompetitive Award** |  |
| **Funding Opportunity Announcement (if applicable)** | DE-FOA-0000\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Prime Recipient”), which is identified in Block 5 of the Cover Page (Assistance Agreement Form), and the Advanced Research Projects Agency-Energy (“ARPA-E”), an agency within the United States Department of Energy (“DOE”), enter into this agreement, Award No. \_\_\_\_\_\_\_\_\_\_\_\_, to achieve the project objectives and the technical milestones and deliverables stated in Attachment 3 to this Award.

This Award consists of the following documents, including all terms and conditions therein:

|  |  |
| --- | --- |
| Cover Page | Assistance Agreement Form |
| Attachment 1 | Special Terms and Conditions |
| Attachment 2 | Intellectual Property Provisions |
| Attachment 3 | Statement of Project Objectives and  Schedule of Technical Milestones and Deliverables |
| Attachment 4 | ARPA-E Reporting Checklist and Instructions |
| Attachment 5 | Budget Information (SF-424A) |
| Attachment 6 | National Policy Assurances |

The Prime Recipient agrees to comply with the terms and conditions of this Award. The Prime Recipient also agrees to apply the terms and conditions of this Award to all subrecipients (or subcontractors, as appropriate) and to require their strict compliance therewith.

All notifications, requests, and other communications to the ARPA-E Contracting Officer, ARPA-E Budget Director, or ARPA-E NEPA Compliance Officer should be sent to [ARPA-E-CO@hq.doe.gov](mailto:ARPA-E-CO@hq.doe.gov).

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# Subpart A. General Provisions

1. **EFFECTIVE DATE**

The effective date of this Award is stated in Block 27 of the Cover Page (Assistance Agreement Form).

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

The budget period and period of performance are stated in Block 7 of the Cover Page (Assistance Agreement Form) to this Award.

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

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

1. **INCONSISTENCY WITH FEDERAL LAW**

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

1. **ORDER OF PRECEDENCE**

Any inconsistency in the terms and conditions of this Award shall be resolved by giving precedence to, in the following order,

1. Attachment 6 (National Policy Assurances) to this Award;
2. Attachment 2 (Intellectual Property Provisions) to this Award;
3. DOE Financial Assistance Regulations, 10 C.F.R. Part 600, as amended;
4. Attachment 1 (Special Terms and Conditions) to this Award; and
5. If applicable, the Funding Opportunity Announcement, as amended.
6. **FEDERAL STEWARDSHIP AND SUBSTANTIAL INVOLVEMENT**

a. Federal Stewardship and Substantial Involvement Generally

ARPA-E exercises Federal stewardship and has substantial involvement in work performed under this Award, as described below.

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

ARPA-E does not limit its Federal stewardship or substantial involvement to work performed by the Prime Recipient. ARPA-E also exercises Federal stewardship and has substantial involvement in work performed under this Award by subrecipients and subcontractors. The Prime Recipient may not restrict ARPA-E’s communications, interaction, or access to subrecipients and subcontractors.

The Prime Recipient 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.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause. In the alternative, ARPA-E may deem any failure to comply with the requirements in this clause to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

b. Review Meetings

The Prime Recipient, 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. Review meetings enable ARPA-E to assess the work performed under this Award and determine whether the Prime Recipient has timely achieved the technical milestones and deliverables stated in Attachment 3 to this Award.

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 Prime Recipient is required to provide a comprehensive overview of the project, including:

* The Prime Recipient’s technical progress compared to the schedule of technical milestones and deliverables stated in Attachment 3 to this Award;
* The Prime Recipient’s actual expenditures compared to the approved budget in Attachment 5 to this Award; and
* Other subject matter specified by the ARPA-E Program Director.

c. Project Meetings

The Prime Recipient is required to notify ARPA-E in advance of scheduled project meetings and tests. Upon request by ARPA-E, the Prime Recipient is required to provide ARPA-E with reasonable access (by telephone, webinar, or otherwise) to the project meetings and tests. The Prime Recipient is not expected to delay any work under this Award for the purpose of government insight.

d. Site Visits

ARPA-E may conduct site visits at any time to review the work performed under this Award, to inspect property and records relating to this Award, to assess the Prime Recipient’s implementation of audit findings, and to review the Prime Recipient’s compliance with the terms and conditions of this Award and applicable Federal laws and regulations. ARPA-E will provide reasonable advance notice of site visits and minimize interference with ongoing work, to the maximum extent practicable.

e. Go/No Go Decisions

Attachment 3 to this Award establishes “Go/No Go” decision points. For each “Go/No Go” decision point, the ARPA-E Program Director must determine whether the Prime Recipient has fully and satisfactorily completed the work described in Attachment 3 to this Award. As a result of a Go/No Go review, ARPA-E may, in its discretion, authorize the following: (1) continuation of the project; (2) recommend redirection of work under the project; (3) place a hold on the project, pending further supporting data; (4) suspend or terminate the Award due to material noncompliance with the terms and conditions of the Award; or (5) other appropriate actions.

f. Technical Milestones and Deliverables

Attachment 3 to this Award establishes technical milestones and deliverables. If the Prime Recipient fails to achieve two or more technical milestones and deliverables, ARPA-E may renegotiate the statement of project objectives or schedule of technical milestones and deliverables in Attachment 3 to this Award. In the alternative, ARPA-E may deem the Prime Recipient’s failure to achieve these technical milestones and deliverables to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

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

See Clauses 18-26 below.

h. Technology Transfer and Outreach

ARPA-E may provide guidance or assistance to the Prime Recipient to accelerate the commercial deployment of ARPA-E-funded technologies.

i. General Release

The Prime Recipient 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. The Prime Recipient agrees to 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 Award.

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

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause. In the alternative, ARPA-E may deem any failure to comply with the requirements in this clause to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

b. Commencement of Work

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

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

If the ARPA-E NEPA Compliance Officer determines that the work under this Award requires the preparation of an EA or EIS, the Prime Recipient *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. Changes to Scope of Work

The Prime Recipient is required to notify the ARPA-E NEPA Compliance Officer of significant changes to the scope of work under this Award (i.e., significant changes to the statement of project objectives or the schedule of technical milestones and deliverables in Attachment 3 to this Award). Such changes may require the ARPA-E NEPA Compliance Officer to re-evaluate the impact of the work under this Award on the human environment.

1. **FOREIGN WORK AND TRAVEL**
   1. Performance of Work in United States

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

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause.

* 1. Travel Outside the United States

The Prime Recipient is required to obtain written authorization from the ARPA-E Contracting Officer before incurring any costs related to foreign travel.

In seeking reimbursement for costs related to foreign travel, the Prime Recipient is required to provide a report to the ARPA-E Contracting Officer which explains: (i) where the Prime Recipient traveled, (ii) the purpose of the trip, (iii) what the Prime Recipient did, and (iv) how the travel related to this Award.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause.

1. **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 award should be made in the United States.

* 1. Purchase of Equipment/Supplies

Any new equipment acquired under this Award 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 Award must be made or manufactured in the United States, to the maximum extent practicable.

* 1. Purchase of Foreign Equipment/Supplies

The Prime Recipient shall notify the ARPA-E Contracting Officer reasonably in advance of purchasing any equipment valued at $5,000 or more or supplies valued at $500 or more not made or manufactured in the United States. The notification shall include: (i) a description of the equipment or supplies to be purchased, (ii) identification of the proposed supplier, (iii) the proposed price, and (iv) identification of the country of origin and the reason for acquiring the equipment or supplies outside of the United States.

The ARPA-E Contracting Officer will provide consent to purchase or reject within 30 calendar days of the recipient’s notification. If the ARPA-E Contracting Officer fails to respond within the timeframe above the Prime Recipient may proceed with the purchase.

1. **LOBBYING**

By accepting funds under this award, the Prime Recipient agrees that none of the funds obligated on the award 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.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause. In the alternative, ARPA-E may deem any failure to comply with the requirements in this clause to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

1. **EXPORT CONTROLS**

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

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause. In the alternative, ARPA-E may deem any failure to comply with the requirements in this clause to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

1. **PUBLICATIONS**

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

* *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\_\_\_\_\_\_\_\_\_.”

1. **NO-COST EXTENSION**

The Prime Recipient may request the ARPA-E Contracting Officer to authorize a one-time, no-cost extension of this Award. Such requests must be submitted in writing to the ARPA-E Contracting Officer at least 60 days before the end of the project period. The ARPA-E Contracting Officer may, at his discretion, grant or deny such requests.

Any no-cost extension will not alter the schedule of technical milestones and deliverables in Attachment 3 to this Award.

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

The Prime Recipient takes title to any supplies acquired in whole or in part with Federal funds under the Award.

If the total aggregate value of unused supplies is $5,000 or less at the termination, discontinuation or completion of the project or program the Prime Recipient may retain the unused supplies.

If the total aggregate value of unused supplies is more than $5,000 at the termination, discontinuation or completion of the project or program, the Prime Recipient may continue to use the unused supplies (i) to further the work described in Attachment 3 to this Award, or (ii) for other Federally funded RD&D projects and programs. If the Prime Recipient intends to use the unused supplies for purposes other than those described in (i) and (ii) above, the Prime Recipient is required to dispose of the unused supplies in accordance with 10 C.F.R. §§ 600.135 (Universities and Nonprofits) or 600.324 (For-Profit Entities), as applicable. Once the total aggregate value of unused supplies is $5,000 or less, ARPA-E’s residual interest in the unused supplies will be extinguished, and the Prime Recipient will have no further obligation to ARPA-E with respect to the unused supplies.

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

* 1. Equipment

The Prime Recipient takes title to any equipment acquired in whole or in part with Federal funds under the Award.

If the per unit market value of particular equipment is $5,000 or less at the end of the project period (or the termination of the Award, if applicable), the Prime Recipient may retain the equipment.

If the per unit market value of particular equipment is more than $5,000 at the end of the project period (or the termination of the Award, if applicable), the Prime Recipient may continue to use the equipment (i) to further the work described in Attachment 3 to this Award, or (ii) for other Federally funded RD&D projects and programs. If the Prime Recipient intends to use the equipment for purposes other than those described in (i) or (ii) above, the Prime Recipient is required to dispose of the equipment in accordance with 10 C.F.R. §§ 600.134 (Universities and Nonprofits) or 600.321 (For-Profit Entities), as applicable. Once the total aggregate value of particular equipment is $5,000 or less, ARPA-E’s residual interest in that equipment will be extinguished, and the Prime Recipient will have no further obligation to ARPA-E with respect to that equipment.

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

1. **RECORD RETENTION**

Consistent with 10 C.F.R. Part 600, the Prime Recipient is required to retain records relating to this Award 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 Prime Recipient 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 Prime Recipient 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 Prime Recipient 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 Prime Recipient 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 Prime Recipient’s records relating to this Award. ARPA-E will provide reasonable advance notice of audits and will minimize interference with ongoing work, to the maximum extent practicable.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause. In the alternative, ARPA-E may deem any failure to comply with the requirements in this clause to be material noncompliance with the terms and conditions of this Award and suspend or terminate the Award.

b. Government Audits

Consistent with 10 C.F.R. Part 600, ARPA-E may audit the Prime Recipient’s financial records or administrative records relating to this Award 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 Prime Recipient is required to refund to ARPA-E any payments for costs that were determined to be unallowable.

c. Annual Compliance Audits

The Prime Recipient is required to comply with the annual compliance audit requirements in 10 C.F.R. Part 600 – specifically, 10 C.F.R. § 600.126 for institutions of higher education and nonprofit organizations, 10 C.F.R. § 600.226 for state and local governments, and 10 C.F.R. § 600.316 for for-profit entities. To minimize expense, the Prime Recipient may have a compliance audit in conjunction with its annual audit of financial statements.

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

a. Claims

The Prime Recipient is required to submit all claims arising out of or relating to this Award to the ARPA-E Contracting Officer in writing. The Prime Recipient’s written submission must contain the following information: (i) the nature of the Prime Recipient’s claim(s) and the basis for relief, and (ii) all information and documents supporting the Prime Recipient’s claim(s). The Prime Recipient shall negotiate in good faith with the ARPA-E Contracting Officer to resolve such claims.

b. Claims for Damages

The Prime Recipient agrees to release the Federal Government, Federal officers and employees, contractors, and agents from any and all liability, responsibility, and claims for consequential, punitive, special, or incidental damages, claims for lost profits, or other direct or indirect damages arising out of or relating to this Award.

c. Disputes and Appeals

The Prime Recipient is required to resolve all disputes in accordance with the procedures set forth in 10 C.F.R. § 600.22.

# Subpart B. Financial Provisions

1. **MAXIMUM OBLIGATION**

The maximum obligation of ARPA-E/DOE for this Award is the “Govt. Share” stated in Block 12 of the Cover Page (Assistance Agreement Form) to this Award.

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

The Prime Recipient is required to pay the “Cost Share” amount stated in Block 12 of the Cover Page (Assistance Agreement Form) to this Award.

The Prime Recipient is required to pay the “Cost Share” amount as a percentage of the total project costs.

If the project is terminated or is otherwise not funded to completion, the Prime Recipient is not required to pay the entire “Cost Share” amount stated in Block 12 of the Cover Page (Assistance Agreement Form) to this Award; however, the Prime Recipient is required to pay its share (i.e., percentage) of the total project cost incurred to date.

* 1. Source of Cost Share

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

* 1. Cost Share Recordkeeping

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

* 1. Inability to Comply with Cost Sharing Obligations

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

If the Prime Recipient fails to meet its cost sharing obligations, ARPA-E may recover some or all of the financial assistance provided under this Award.

* 1. Modifying Cost Sharing Contributions

The Prime Recipient must notify and receive written authorization from the ARPA-E Contracting Officer before modifying the amount and type of cost share contributions.

1. **REFUND OBLIGATION**

The Prime Recipient is required to refund any excess payments received from ARPA-E. Upon the end of the project period (or the termination of the Award, if applicable), the Prime Recipient 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. **ALLOWABLE COSTS**

a. Allowable Costs for For-Profit Entities

For nonprofit organizations listed in Attachment C to OMB Circular A-122 (codified at 2 C.F.R. Part 230) and for-profit entities, ARPA-E determines the allowability of costs through reference to the for-profit cost principles in the Federal Acquisition Regulations (48 C.F.R. Part 31).

b. Allowable Costs for Nonprofits

For nonprofit organizations *not listed* in Attachment C to OMB Circular A-122 (codified at 2 C.F.R. Part 230), ARPA-E determines the allowability of costs through reference to the cost principles for nonprofit organizations in OMB Circular A-122 (10 C.F.R. § 600.317(a)(2)(ii)).

c. Allowable Costs for Institutions of Higher Education

For institutions of higher education, ARPA-E determines the allowability of costs through reference to OMB Circular A-21, “Cost Principles of Educational Institutions” (codified at 2 C.F.R. Part 220).

d. Unallowable Direct Costs in Addition to Those in OMB Circulars A-21 & A-122

Interest penalties for late payments to subrecipients are not allowable costs under this Award.

1. **INDIRECT COSTS**

a. Lower-than-Expected Indirect Costs

If the Prime Recipient’s actual allowable indirect costs are less than those budgeted in Attachment 5 to this Award, the Prime Recipient may use the difference to pay additional allowable direct costs during the project period.

b. Higher-than-Expected Indirect Costs

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

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

1. **PRE-AWARD COSTS** 
   1. Pre-Award Costs Generally

ARPA-E will deny reimbursement requests where no award is made.

The Prime Recipient is required to adhere to the guidance on allowable costs referenced in Clause 21 above.

* 1. Costs 90 Days or Less Before Effective Date

The Prime Recipient may submit reimbursement requests for otherwise allowable costs (i.e., $20,000 or less in total aggregate costs) incurred *up to 90 days* before the effective date of the Award.

* 1. Other Pre-Award Costs

The Prime Recipient is required to obtain written authorization from the ARPA-E Contracting Officer before submitting any reimbursement requests for (i) costs (i.e., $20,000 or less in total aggregate costs) incurred *more than 90 days* before the effective date of the Award, or (ii) costs more than $20,000 in total aggregate costs incurred before the effective date of the Award.

* 1. Documentation of Authorization for Pre-Award Costs

As stated in the ARPA-E Contracting Officer’s Pre-Award Costs Letter dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Prime Recipient is authorized to request reimbursement for costs incurred on or after \_\_\_\_\_\_\_\_\_\_\_\_\_, if such costs are allowable in accordance with the applicable Federal cost principles referenced in Clause 21 above.

1. **PATENT COSTS** 
   1. Reimbursable Patent Costs

Subject to the requirements of Clause 25 below, ARPA-E will reimburse the Prime Recipient up to $30,000 for the following expenditures:

* Preparing and submitting invention disclosures to ARPA-E and DOE, as required by Attachment 2 to this Award;
* Searching the art, to the extent reasonable and necessary, to make invention disclosures to ARPA-E and DOE;
* Preparing any reports and other documents required by Attachment 2 to this Award;
* General counseling services relating to patent matters, such as advice on patent laws, regulations, clauses, and employee agreements.

For subject inventions that were disclosed to ARPA-E and DOE in accordance with Attachment 2 to this Award: filing United States patent applications, including international applications (“PCT application”) submitted to the USPTO, and prosecution of U.S. patent applications.

* 1. Unrecovered Patent Costs

The Prime Recipient may use unrecovered patent costs that are reasonable and allowable to meet its cost sharing obligations under this Award.

1. **PAYMENT PROCEDURES**

a. Reimbursement Requests Generally

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

The Prime Recipient is required to submit reimbursement requests electronically through DOE’s Oak Ridge Financial Service Center Vender Inquiry Payment Electronic Reporting System (VIPERS). To access and use VIPERS, the Prime Recipient is required to enroll and login to the VIPERS website (https://vipers.oro.doe.gov/).

To facilitate the expeditious processing of reimbursement requests, the Prime Recipient is required to send a copy of every reimbursement request by email to the ARPA-E support personnel designated by the ARPA-E Program Director.

The Prime Recipient’s submission of reimbursement requests should coincide with the Prime Recipient’s normal billing pattern. Reimbursement requests may be submitted no more frequently than every two weeks.

With the exception of Budget Plan Payments, reimbursement requests must be limited to the amount of disbursements during the billing period.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause.

b. Documentation Required

Every reimbursement request submitted by the Prime Recipient must include:

1. A Standard Form (SF) 270 (“Request for Advance or Reimbursement”);
2. A “Reimbursement Request Spreadsheet,” which must contain the information shown in Appendix B hereto; and
3. Supporting documentation, which may consist of summary information (e.g., printouts from internal financial systems) or detailed documentation (e.g., invoices on appropriate letterhead, time cards, travel vouchers). The supporting documentation must show the method by which the Prime Recipient calculated the total Federal share and non-Federal cost share.

Upon request by ARPA-E, the Prime Recipient 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 submitted by the Prime Recipient must show the Federal share and the non-Federal cost share contribution for the invoice period and the method by which the Prime Recipient calculated the total Federal share and non-Federal cost share.

Upon request by ARPA-E, the Prime Recipient is required to provide ARPA-E with additional supporting documentation to verify the Prime Recipient’s compliance with its cost sharing obligations.

d. Payments

ARPA-E will approve reimbursement requests within 30 days of receipt, unless the billing is improper or the Prime Recipient fails to comply with the terms and conditions of this Award.

ARPA-E will disburse payments under this Award through Automated Clearing House (ACH) VIPERS. The Prime Recipient may check the status of its payments at the VIPERS website. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) filed by the Prime Recipient.

e. Budget Plan Payments

In exceptional circumstances, ARPA-E may, at its discretion, reimburse the Prime Recipient on a prospective basis through Budget Plan Payments. All requests for Budget Plan Payments must be submitted in writing to the ARPA-E Budget Director and the support personnel designated by the ARPA-E Program Director. Consistent with Clause 25(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 Budget Director.

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 Prime Recipient’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 Prime Recipient is required to provide supporting documentation (e.g., vendor quote, catalogue price).

Upon request by ARPA-E, the Prime Recipient 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.

The Prime Recipient is required to submit reimbursement requests electronically through DOE’s Oak Ridge Financial Service Center Vender Inquiry Payment Electronic Reporting System (VIPERS). To access and use VIPERS, the Prime Recipient is required to enroll and login to the VIPERS website (https://vipers.oro.doe.gov/).

1. **BUDGET CHANGES**

a. Budget Changes Generally

The ARPA-E Contracting Officer has reviewed and approved the SF-424A in Attachment 5 to this Award.

Any increase in the total project cost, which is stated as “Total” in Block 12 to the Cover Page (Assistance Agreement Form) of this Award, must be approved in advance and in writing by the ARPA-E Program Director and the ARPA-E Contracting Officer.

ARPA-E may deny reimbursement for any failure to comply with the requirements in this clause.

b. Transfers of Funds Among Direct Cost Categories

The Prime Recipient is required to obtain the prior written approval of the ARPA-E Contracting Officer for any transfer of funds among direct cost categories where the cumulative amount of such transfers exceeds or is expected to exceed 25 percent of the total project cost, which is stated as “Total” in Block 12 to the Cover Page (Assistance Agreement Form) of this Award.

The Prime Recipient is required to notify the ARPA-E Program Director of any transfer of funds among direct cost categories where the cumulative amount of such transfers is equal to or below 25 percent of the total project cost, which is stated as “Total” in Block 12 to the Cover Page (Assistance Agreement Form) of this Award.

c. Transfer of Funds Between Direct and Indirect Cost Categories

The Prime Recipient is required to obtain the prior written approval of the ARPA-E Contracting Officer for any transfer of funds from direct to indirect cost categories.

# Subpart C. Miscellaneous Provisions

1. **CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES**

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

The Prime Recipient 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.

1. **NON-ASSIGNABILITY**

This Award may not be transferred, assigned, or assumed, by operation of law or otherwise, without the prior written consent of the ARPA-E Contracting Officer.

1. **CONFERENCE SPENDING**

The Prime Recipient 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 their ARPA-E award 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.

# APPENDIX A:

**DEFINITIONS**

*The terms defined in 10 C.F.R. § 600.3 apply to this Award, unless otherwise defined in Appendix A. If a term is not defined in Appendix A or 10 C.F.R. § 600.3, DOE reserves the right to add a definition to Appendix A.*

*ARPA-E* is the Advanced Research Projects Agency – Energy, an agency within the U.S. Department of Energy.

*Award* is defined on the first page of Attachment 1 to this Award.

*Cash contributions* are cash expenditures made by a Prime Recipient as contributions toward cost sharing, including expenditures of money that third parties contributed to the Prime Recipient.

*Contracting Officer* means the DOE official who is authorized to execute awards and amendments on behalf of ARPA-E and is responsible for the business management and non-program aspects of the financial assistance process.

*Cooperative agreement* is a legal instrument which, consistent with 31 U.S.C. § 6305, is used to enter into the same kind of relationship as a grant (see definition of “grant” below), except that substantial involvement is expected between ARPA-E and the Prime Recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include “cooperative research and development agreements” as defined in 15 U.S.C. § 3710a.

*Cost sharing* is the portion of project costs from non-Federal sources that are borne by the Prime Recipient (or non-Federal third parties on behalf of the Prime Recipient), rather than by the Federal Government.

*Data* means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to administration, such as financial, administrative, cost or pricing or management information.

*Direct Costs* are those that can be identified specifically with a particular final cost objective (i.e., a particular award, project, service, or other direct activity of an organization).

*DOE* is the U.S. Department of Energy.

*Equipment* is tangible property, other than real property, that has a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

*Expenditures* are charges made to the project or program on a cash basis. Expenditures are the sum of (i) cash disbursements for direct charges for goods and services; (ii) the amount of indirect expense charged; (iii) the value of third party in-kind contributions applied; and (iv) the amount of cash advances and payments made to any other organizations for the performance of a part of the RD&D effort.

*Financial assistance* means the transfer of money or property from ARPA-E to a Prime Recipient to carry out a public purpose of support or stimulation authorized by law.

*Indirect Costs* are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective (e.g., equipment and capital improvements, accounting or personnel expenses, or operations expenses).

*In-kind contributions* are the value of non-cash contributions made by a Prime Recipient or non-Federal third parties toward cost sharing. Such in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to ARPA-E.

*Institution of higher education* is an educational institution that (i) meets the criteria in section 101 of the Higher Education Act of 1965 (20 U.S.C. § 1001); and (ii) is subject to the provisions of OMB Circular A–110, “Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations” (codified at 2 C.F.R. Part 215), as implemented by the Department of Energy at 10 C.F.R. § 600, Subpart B.

*Intellectual property* are patents, trademarks, copyrights, mask works, protected data, and other forms of comparable property protected by Federal law and foreign counterparts.

*Limited Rights Data* means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

*Nonprofit organization* means any corporation, trust, foundation, or institution which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual (except that the definition of “nonprofit organization” at 48 C.F.R. § 27.301 shall apply for patent matters set forth at 10 C.F.R. §§ 600.136 and 600.325).

*Program Director* is the ARPA-E official who is responsible for managing the technical program carried out under this Award.

*Project* means the set of activities described in the Award that is approved by ARPA-E for financial assistance (whether such financial assistance represents all or only a portion of the support necessary to carry out those activities).

*Project period* is defined in Clause 2 of Attachment 1 to this Award.

*Property* is real property and personal property (e.g., equipment, supplies, and intellectual property), unless stated otherwise.

*Real property* is land, including land improvements and structures. The term “real property” does not include movable machinery and equipment.

*Prime Recipient* means the individual or entity identified in Block 5 of the Cover Page (Assistance Agreement Form) to this Award.

*Subaward* means financial assistance in the form of money, or property in lieu of money, provided under an award by a Prime Recipient to an eligible subrecipient or by a subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract. The term does not include the procurement of goods and services.

*Subrecipient* is the legal entity to which a subaward is made and which is accountable to the Prime Recipient for the use of the funds or property provided.

*Supplies* are tangible property other than real property and equipment. Supplies have a useful life of less than one year.

*Termination* means the cancellation of DOE sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

*Total project cost* means the sum of the Federal Government share and the Prime Recipient share of total allowable costs. The Federal Government share generally includes costs incurred by Federally Funded Research and Development Centers and Government-Owned Government-Operated laboratories.

*VIPERS* means DOE’s Oak Ridge Financial Service Center Vender Inquiry Payment Electronic Reporting System.

# APPENDIX B:

**SAMPL****E**

**REIMBURSEMENT REQUEST**

**SPREADSHEET**

**Sample Reimbursement Request Spreadsheet**

**TOTAL BUDGET**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | **Total Project Cost** | | **Expenditures during Invoice Period** | | **Cumulative Expenditures To Date** | |  |
|  | **Category** | **ARPA-E** | **Cost Share** | **ARPA-E** | **Cost Share** | **ARPA-E** | **Cost Share** | **Remaining Balance** |
| **a.** | **Personnel** | 342,518 | 171,259 | 32,154 | 22,596 | 73,659 |  | 268,859 |
| **b.** | **Fringe Benefits** | 137,007 | 68,504 | 45,852 | 25,000 | 124,588 | 95,852 | 12,419 |
| **c.** | **Travel** | 25,000 | 12,500 | 4,569 | 2,500 | 11,526 | 41,268 | 13,474 |
| **d.** | **Equipment** | 312,338 | 156,169 | 26,987 | 50,000 | 144,589 |  | 167,749 |
| **e.** | **Supplies** | 216,346 | 108,173 | 35,648 | 50,000 | 142,633 |  | 73,713 |
| **f.** | **Contractual** |  |  |  |  |  |  | 0 |
|  | **Subrecipient** |  |  |  |  |  |  | 0 |
|  | **FFRDC** |  |  |  |  |  |  | 0 |
|  | **Vendor** | 3,600 | 1,800 | 1,256 |  |  |  | 3,600 |
|  | **Total Contractual** | 3,600 | 1,800 | 1,256 |  |  |  | 3,600 |
| **g.** | **Construction** |  |  |  |  |  |  | 0 |
| **h.** | **Other Direct Charges** | 336,598 | 30,522 | 56,985 |  |  |  | 336,598 |
| **i.** | **Indirect Charges** | 308,191 | 154,096 | 35,698 | 18,526 |  |  | 308,191 |
|  |  |  |  |  |  |  |  |  |
|  | **Total Project Cost** | 1,685,198 | 704,823 | 240,405 | 168,622 | 496,995 | 137,120 | 1,188,203 |

**SEPARATE TT&O WORKSHEET**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | **Total Project Cost** | | **Expenditures during Invoice Period** | | **Cumulative Expenditures To Date** | |  |
|  | **Category** | **ARPA-E** | **Cost Share** | **ARPA-E** | **Cost Share** | **ARPA-E** | **Cost Share** | **Remaining Balance** |
| **a.** | **TT&O Personnel** | 85,695 |  | 9,584 |  | 11,569 |  | 74,126 |
| **b.** | **TT&O Fringe Benefits** | 15,326 |  | 3,563 |  | 5,643 |  | 9,683 |
| **c.** | **TT&O Travel** | 15,496 |  |  |  | 6,985 |  | 8,511 |
| **d.** | **TT&O Equipment** |  |  |  |  |  |  | 0 |
| **e.** | **TT&O Supplies** | 35,265 |  |  |  | 12,548 |  | 22,717 |
| **f.** | **TT&O Contractual** |  |  |  |  |  |  | 0 |
|  | **TT&O Subrecipient** |  |  |  |  |  |  | 0 |
|  | **TT&O FFRDC** |  |  |  |  |  |  | 0 |
|  | **TT&O Vendor** |  |  |  |  |  |  | 0 |
|  | **Total TT&O Contractual** |  |  |  |  |  |  | 0 |
| **g.** | **TT&O Construction** |  |  |  |  |  |  | 0 |
| **h.** | **TT&O Other Direct Charges** |  |  |  |  |  |  | 0 |
| **i.** | **TT&O Indirect Charges** | 59,878 |  | 4,985 |  | 9,965 |  | 49,913 |
|  |  |  |  |  |  |  |  |  |
|  | **Total TT&O Cost** | 211,660 |  | 18,132 |  | 46,710 |  | 164,950 |