SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature: Steve Blazek Date: 3/15/2010
NEPA Compliance Officer

FIELD OFFICE MANAGER DETERMINATION

☐ Field Office Manager review required

NCO REQUESTS THE FIELD OFFICE MANAGER REVIEW FOR THE FOLLOWING REASON:

☐ Proposed action fits within a categorical exclusion but involves a high profile or controversial issue that warrants Field Office Manager's attention.
☐ Proposed action falls within an EA or EIS category and therefore requires Field Office Manager's review and determination.

BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :

Field Office Manager's Signature: _____ Date: _____
Field Office Manager

NRE Req Review 1
(07/09)

NAVARRO RESEARCH & ENGINEERING

PEER REQUISITION REVIEW

Requisition Number: 10EE003271
CID/Award Number: DE-EE0002877
Name of Recipient: Solazyme, Inc.
Link to File on S Drive: S:\Biomass\2010 Competitive Awards\EE0002877 - Solazyme, Inc\001 - Lift Conditions PH1 FY10 - REQ

Information	Action
Date of Request: 3/4/10 Peer Reviewer: Josh M Date of Review: 3/5/10	Review PR Package, attach comments, and return to originating Project Engineer/Analyst. ☐ PR Package OK to submit to Project Officer ☐ Address Comments before submitting to Project Officer ☒ Address Comments and Re-Submit for Peer Review
Date of Request: Peer Reviewer: Date of Review:	Review PR Package, attach comments, and return to originating Project Engineer/Analyst. ☐ PR Package OK to submit to Project Officer ☐ Address Comments before submitting to Project Officer ☐ Address Comments and Re-Submit for Peer Review

REQUISITION CHECKLIST (Project Monitors: Check all items that are included in the Requisition)

Review Codes:	X – Complete	N/A – Not Applicable	MI – Missing Item	CP – Comment	CA – Comment Addressed

ITEM	CODE	COMMENT
FUNDING OPPORTUNITY ANNOUNCEMENTS		☒ **Not Applicable**
☐ Requisition (STRIPES)		
☐ Mini-Requisition (PMC)		
☐ PMC 104.1 (Procurement Requirements)		
☐ Procurement Strategy Document, PMC 105.1		
☐ PMC 110.1 (Determination of Restricted Eligibility)		
☐ PMC 113.1 (Draft Funding Opportunity Announcement)		
☐ PMC 116.1 (Draft Evaluation Plan)		
AWARD ACTIONS ☐ New Award ☐ Incremental Funding ☐ Change Scope ☐ Change Budget ☐ Cost Overrun ☐ De-obligation ☐ No Cost Time Extension ☐ Administrative Actions Only ☐ Acquisition ☒ Other: Lift conditions on BP1		☐ **Not Applicable**
☒ Requisition (STRIPES)	CP	1) Main-text-Footer, Notes, and Buyer: You will need to include this info. Come talk to me so you know what is required here. 2) Item-0001-Amount: this should be $0 (the $ is already obligated, the req is simply lifting conditions) 3) Item-0001-Ship To: Similarly you will need to zero all of these areas out as well. I will want to either review this again or sit with you to make sure you get all of the $ out of the req from the correct areas.
☒ Mini-Requisition (PMC)	CP	1) Req Description: you will need to enter one, use the STRIPES Header Text. 2) Funding Res: Delete this reservation, see note above. 3) Project start date doesn't match the budget start date, please revise.
☒ Guidance Letter ☐ SF-424 (Application) ☒ Statement of Project Objectives (SOPO) ☒ Technical Application (Project Narrative)	X	
☐ SF-424A (Budget Overview) ☐ PMC 123.1 (Budget Justification) ☒ PMC 120.1 (Cost/Technical Evaluation)	CP	See remarks in 120.1, also please make sure the new 424a and 123.1 match the 120.1.
☐ PMC 4600.2 (Reporting Requirements)	MI	1) You will need to include this in the mini-req, let's sit down and I will show you how to do this, sorry for not showing you earlier.
☒ EF1 (Environmental Checklist) ☒ EF2 (NEPA Recommendation) ☐ EF2a (NEPA Determination)	X	
SELECTION DOCUMENTATION		☒ **Not Applicable**
☐ PMC 109 (Determination of Non-Competitive Financial Assistance)		
☐ Competitive Selection Documentation		

OTHER DOCUMENTATION		☒ Not Applicable
☐ IDW Report (De-obligation Actions Only)		
☐ Supporting Documents		
☐ Correspondence		

NRE Req Review 1
(07/09)

NAVARRO RESEARCH & ENGINEERING

PEER REQUISITION REVIEW

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AWARD ACTIONS ☐ New Award ☐ Incremental Funding ☐ Change Scope ☐ Change Budget ☐ Cost Overrun ☐ De-obligation ☐ No Cost Time Extension ☐ Administrative Actions Only ☐ Acquisition ☒ Other: Lift conditions on BP1		☐ **Not Applicable**
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☒ Mini-Requisition (PMC)	CP	1) Req Description: you will need to enter one, use the STRIPES Header Text. 2) Funding Res: Delete this reservation, see note above. 3) Project start date doesn't match the budget start date, please revise.
☒ Guidance Letter ☐ SF-424 (Application) ☒ Statement of Project Objectives (SOPO) ☒ Technical Application (Project Narrative)	X	
☐ SF-424A (Budget Overview) ☐ PMC 123.1 (Budget Justification) ☒ PMC 120.1 (Cost/Technical Evaluation)	CP	See remarks in 120.1, also please make sure the new 424a and 123.1 match the 120.1.
☐ PMC 4600.2 (Reporting Requirements)	MI	1) You will need to include this in the mini-req, let's sit down and I will show you how to do this, sorry for not showing you earlier.
☒ EF1 (Environmental Checklist) ☒ EF2 (NEPA Recommendation) ☐ EF2a (NEPA Determination)	X	
SELECTION DOCUMENTATION		☒ **Not Applicable**
☐ PMC 109 (Determination of Non-Competitive Financial Assistance)		
☐ Competitive Selection Documentation		

OTHER DOCUMENTATION		☒ Not Applicable
☐ IDW Report (De-obligation Actions Only)		
☐ Supporting Documents		
☐ Correspondence		

REDACTED

FOIA EXEMPTION 4

PMC 112.2
(08/27/2009)

U.S. DEPARTMENT OF ENERGY
PROJECT MANAGEMENT CENTER

REQUEST FOR REVIEW

☐ Normal Review ☒ Expedited Review Date: 03/15/2010

Justification for Expedited Review ARRA March 31st Deadline

Award Number: DE-EE0002877 - Solazyme FOA Number, if new award: N/A

Item(s) For Review: Lift Budget Period 1 Conditions Total Project: EX 4
Federal Funds: $ 21,765,738

Specialist Listed on Award: Molly Hames Phone: 303-275-4864

Specialist Who Prepared Award: Phone:

Note to Specialist: Send 72 Hour Congressional Notification for FOA action reviews, as required.

☐ PEER REVIEW

Comments:

Signature: Date:

☐ CONTRACTING OFFICER REVIEW

☐ Approved ☐ Approved subject to comments below/attached ☐ Not Approved; Comments below/attached

Comments:

Signature: Date:

☐ INDEPENDENT REVIEW

Comments:

Signature: Date:

☐ LEGAL REVIEWS – SEE PAGE 2 (Delete page 2 if not required)

☐ OAFA BRANCH CHIEF REVIEW

☐ Approved ☐ Approved subject to comments below/attached ☐ Not Approved; Comments below/attached

Comments:

Signature: Date:

☐ DIRECTOR FINANCIAL ASSISTANCE REVIEW – SEE PAGE 3 (Delete page 3, if not required)

☐ HEAD OF CONTRACTING ACTIVITY REVIEW – SEE PAGE 3 (Delete page 3, if not required)

IPLD REVIEW FOR FUNDING OPPORTUNITY ANNOUNCEMENTS

Comments: IPLD Review Results e-mails on: [insert date]

Signature: _____

IPLD REVIEW FOR NEW AWARDS & MAJOR MODS

Comments: IPLD Review Results e-mails on: [insert date]

LEGAL REVIEW FOR NEW AWARDS, MAJOR MODS & OTHER ACTIONS

Type of Review:
- ☐ New Award
- ☐ Mod, include short explanation:
- ☐ Novation/Name Change
- ☐ Other Action

Total Project: $
Federal Funds: $

Tailored Provisions Require Review for New Awards:
- ☐ Substantial Involvement Provision for Cooperative Agreements
- ☐ At Risk
- ☐ Conditional Availability of Funds
- ☐ NEPA
- ☐ Subcontractor Approval
- ☐ Specify other:

FOA Number: Title:

☐ Legally Sufficient ☐ Legally Sufficient subject to comments below/attached ☐ Legally Insufficient; Comments below/attached

Comments:

Signature: _____ Date: _____

☐ **FINANCIAL ASSISTANCE DIRECTOR REVIEW** **(Required for award actions greater than $25M)**

☐ Approved ☐ Approved subject to comments below/attached ☐ Not Approved; Comments below/attached

Comments:

Signature: _____ Date: _____

☐ **HEAD OF CONTRACTING ACTIVITY REVIEW** **(Required for award actions greater than $25M)**

☐ Approved ☐ Approved subject to comments below/attached ☐ Not Approved; Comments below/attached

Comments:

Signature: _____ Date: _____

PMC 120.1
(12/09)

U.S. DEPARTMENT OF ENERGY
GOLDEN FIELD OFFICE

FINANCIAL ASSISTANCE COMBINED COST/TECHNICAL EVALUATION AND NEGOTIATION MEMORANDUM

SECTION I - GENERAL INFORMATION

This technical evaluation/negotiation memorandum will be prepared jointly by the assigned DOE/Golden OCPM AND OAFA personnel, to document the specific action being evaluated and supported. Each office is responsible for certain sections of this document. The assigned OCPM and OAFA personnel responsible for the action will both sign this document upon its completion, demonstrating their agreement on its contents.

1. Recipient: Solazyme, Inc.

2. Grant/Cooperative Agreement No.: DE-EE0002877 Modification No. 001
   Requisition No: 10EE003271
   Project Title: Recovery Act: Solazyme Integrated Biorefinery (SzIBR): Diesel Fuels from Heterotrophic Algae

3. Type of Action: ☐ New Award ☐ Renewal ☐ Continuation ☒ Revision

Description of this Action: (NOTE: Indicate what is addressed by this Action only):

The purpose of this action is to lift the conditions on the $EX 4 to be used in Budget Period 1 of the award for Solazyme, Inc. for the project entitled "Recovery Act: Solazyme Integrated Biorefinery (SzIBR): Diesel Fuels from Heterotrophic Algae." It also approves the scope and budget for Budget Period 1. Please note in the dates below that there may be a EX 4 (to be decided in BP2); hence the difference between the Budget Period 2 end date and the project Period end date.

4. Award type, as determined at Procurement Strategy Meeting (for new awards): ☐ Grant ☒ Cooperative Agreement

If Cooperative Agreement, provide the specifics of the Substantial Involvement. (Note: This language will be used in the Substantial Involvement provision of the award.):

1. Government Insight

   In order to adequately monitor project progress and provide technical direction and/or redirection to the Recipient, DOE must be provided an adequate level of insight into various Recipient activities. Government Insight activities by DOE include attendance at Recipient meetings, reviews and tests, as well as access for DOE's consultants to perform independent evaluations of Recipient's plans and processes. Recipient shall notify the DOE Project Officer of meetings, reviews, and tests in sufficient time to permit DOE participation, and provide all appropriate documentation for DOE review.

2. Specific activities to be conducted by DOE:

   a. Risk Evaluation – DOE will review the Recipient's initial Risk Mitigation Plan (RMP) for quality and completeness. DOE will also monitor updates to the RMP and actions taken by the Recipient during the performance of its award to mitigate risks and improve the probability of successful execution of the integrated Biorefinery project. At DOE's discretion, additional independent risk analyses of the project by DOE consultants may be requested.

   b. Independent Engineering Assessments – DOE will engage a private, independent engineering (IE) firm to assist in assessing the progress of the project and provide timely and accurate reports to DOE. The Recipient will ensure that the IE has access to any and all relevant documentation sufficient to allow the IE to provide independent evaluations to DOE on the progress of the project. Such documentation includes but is not limited to the following:

- Drawings and specifications
- Construction and Execution plans
- Resource loaded schedules
- Design functions and requirements for the site final design review
- Risk management plans
- Value management and engineering studies and/or plans
- Acquisition strategies
- Project execution plans
- Project controls including earned value management systems
- Qualifications of the integrated project team.
- Financial strategy for funding the construction project
- Updated marketing and business plan
- Invoices submitted to DOE

DOE will evaluate the quality and completeness of information and documentation provided by the Recipient to DOE and its consultants in order to allow DOE to provide technical direction and/or redirection to the Recipient about how best to achieve the purposes of the award. Consultants to DOE may not provide technical direction and/or redirection to the Recipient.

5. New/Revised Project Period for this Award: From: 01/28/2010 To: 03/31/2013
New/Revised Budget Period 1 for this Award: From: 01/28/2010 To: 09/30/2010
New/Revised Budget Period 2 for this Award: From: 10/01/2010 To: 03/31/2013

6. Compliance Assessment (skip if new award):
   a. Deliverables
   The Recipient is current in submitting required reports: ☒ Yes ☐ No
   If no, identify the delinquent report(s), indicate what action(s) have been taken to remedy the situation, and identify what further action(s) are necessary, if any:

   The original award was fully conditional; therefore, there were no reporting requirements aside from RA reporting, of which the first report is due after the end of this quarter.

   b. Financial
   The Recipient is current in meeting the cost share requirement: ☐ Yes ☐ No
   If no, indicate what action(s) have been taken to remedy the situation and validate why this new action should proceed:

   N/A – the original award was fully conditional.

7. Check the applicable box for Funding Appropriation:
☒ Energy and Water ☐ Other _____

8. Check the applicable box for Statutory Authority:

☒ 109-58, Energy Policy Act 2005
☐ 110-140, Energy Independence and Security Act 2007
☒ ARRA
☐ Other: _____

9. Per 10 CFR 600, the preferred payment method for State/Local Governments, Institutions of Higher Education, Hospitals, or Other Non-Profit Organizations is **Advance**. The preferred Payment Method for For-Profit organizations is **Reimbursement**. Please state the payment method that will be used for this award in the box below. If the preferred payment method is not planned for a new award, provide an explanation below. Also, explain below if the payment method for the award is being changed by this action. If the ACH or the "ASAP Approval Required" payment methods is required, include an explanation for the restriction.

The recipient is receiving ARRA funds and will continue to be on the ACH payment method to monitor their funds to ensure costs outside of Budget Period 1 are not charged to the award.

10. Is the proposed Recipient on the debarred or suspended list? Yes ☐ No ☒
Are any of the proposed subrecipients/subcontractors on the debarred or suspended list? Yes ☐ No ☒
Is the Project Director on the debarred or suspended list? Yes ☐ No ☒
If yes for either response above, award cannot be made without obtaining a waiver. See attached waiver.
The review was conducted on the Internet on 03/15/2010 (Include Printout in permanent STRIPES file)

11. A risk determination has been completed on the PMC Form 460.2 Yes ☒ N/A ☐

12. Negotiation:

	Government Negotiator(s)		Recipient Negotiator(s)	
	Name	Organization	Name	Position
1.	Molly Hames	DOE – Contract Specialist	David Brinkmann	VP Manufacturing (PI)
2.	Christy Sterner	DOE – Project Officer	Dr. Anthony Day	VP R&D
3.	Chris Lindeman	Navarro – Project Engineer	Gypsy Achong	Project Manager

SECTION II – NEGOTIATION SUMMARY

1. Please record any significant application or budget submissions that resulted in a revised budget in the Negotiation History Table below (including SF424A, budget justifications, e-mails, etc.):

Application/Budget Submission	Reference Document (s)	Date of Submission	Summary of Change
Original		7/8/2009	
Revision 1	SF 424A; PMC 123.1	1/20/2010	Updated SF-424a and PMC 123.1 to reflect Solazyme 20% cost share
Revision 2	SF 424A; PMC 123.1	3/2/2010	Updated to reflect shifting some tasks
Revision 3 - final	SF 424A; PMC 123.1	3/3/2010	Updated and finalized after correcting small error

REDACTED
EXEMPTION 4

2. Complete Budget Table below (only include the original budget and final negotiated costs – the Percent of Total Negotiated Budget will calculate automatically)
Note: List proposed amounts by category even if there are no differences in the dollar amount.

Element of Cost	Original Budget Submission	Final Negotiated Costs	Percent of Total Negotiated Budget	Fringe Benefits and Indirects	
				Proposed Rate	Negotiated Rate
Personnel					
Fringe Benefits					
Travel					
Equipment					
Supplies					
Contractual					
Construction					
Other					
Total Direct Charges					
Indirect Charges					
TOTAL					
Program Income					
DOE Share (non-FFRDC)					
DOE Share (FFRDC)					
Total DOE Share					
Non-Federal Cost Share					

REDACTED
EXEMPTION 4

SEE ATTACHED SF 424A FOR BUDGET PERIOD BREAKDOWN

3. Total Allowable Adjustment without Concurrence from the Selection Official per the Selection Statement: ___

   Actual Total Adjustment based on Budget Table Above: ___

*Total Budget (not Budget Period 1) has not changed other than adding the required cost share per the Selection Statement.

Is the original budget the same as the negotiated budget: ☐ Yes ☒ No

If No, please check all boxes that apply:

☒ Change in the Project Scope

Original scope did not have any detailed engineering/design work in BP1; these engineering/design tasks were shifted from BP2 in original application to BP1 in current negotiated BP1 scope. Also, preliminary testing of one of the Subcontractor's was moved from BP1 to BP2.

REDACTED
EXEMPTION 4

☐ Changes due to Time Delays

☒ Math Errors in Budget (Final revision on 3/3/2010 was due to a minor math error.)

☐ Changes in Indirect/Fringe Costs Caused Changes in Direct Costs or Total Project Costs

☐ Indirect/Fringe Rates incorrectly applied

☒ Other (explain) Original application cost share; Solazyme o $5.4M to reach the cost share requirement while maintaining the same level of DOE funding.

4. Briefly describe and explain any substantial change(s) to the original Statement of Project Objectives submitted by the recipient:

Project Officer commentary: SOPO was not submitted in original application. However, as noted above, the original BP1 effort included performing preliminary evaluations on one of the Subcontractor's This effort has been moved to BP2.

REDACTED
EXEMPTION 4

SECTION III – TECHNICAL EVALUATION SUMMARY

A. For each cost category, the Project Officer and the Specialist will complete his/her Technical Evaluation of the Negotiated Costs to confirm that they are all reasonable, allowable, and allocable. Additional comments should be added as necessary and as indicated below.

1. Personnel:

Total Negotiated Personnel Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Personnel costs: ☐

Project Officer:
The labor hours proposed in the negotiated budget are reasonable for the scope of work: ☒

The types of labor and labor mix proposed in the negotiated budget is reasonable: ☒

The proposed labor rates are reasonable: ☒

The proposed rates appear reasonable based on the activities being performed in BP1, the staff/positions listed as participating in the activities, and the distribution of hours assigned to each activity and position.

Specialist:
Please fill out the following table with the negotiated costs:

Labor Type	Budget Period 1		
	Hours	Rate	Total
Project Manager			
Project Manager			
Sr. Dir. Prog. Mgmt & Logistics			
Dir. Bus. Develop.			
VP Manufacturing			
VP R&D			
SVP R&D			
Sr. Mgr. Ferment.			
SVP Manufact. & Proc. Develop.			
Mgr. Downstream Proc. Develop.			
Proc. Develop. Eng.			
Dir. Of Ops.			
Ops. Mgr.			
Total:			

REDACTED
EXEMPTION 4

Negotiated labor rates are reasonable: ☒

Please detail the basis for the reasonable determination: The negotiated personnel costs are necessary and reasonable for the activities involved in budget period 1 of the award. The personnel are all comparable to labor rates in the area based upon www.salary.com and the department of labor rates.

2. Fringe Benefits:

Total Negotiated Fringe Benefit Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Fringe Benefit costs: ☐
Specialist: Does the Recipient have an approved rate agreement: ☐ Yes ☒ No If Yes, List the Date of Rate Agreement: _____ Cite Federal Cognizant Agency: _____ If No, select one of the following: ☐ Rate proposal was reviewed by the Cost/Price Analyst and found to be reasonable, allowable, and allocable (attach Cost/Price Analyst Determination) ☐ Rate Proposal was reviewed by the Cost/Price Analyst for a previous award (attach Cost/Price Analyst Determination) List Date of review: ☐ Specialist determined that rate was reasonable ☒ Other: **Due to time constraints, the "Reopener Clause" will be placed into the Special Terms and Conditions of the award. These costs will be addressed and approved at a later date.** The fringe benefit costs in the negotiated budget were appropriately applied and are reasonable: ☐	

3. Travel:

Total Negotiated Travel Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Travel costs: ☐
Project Officer: The number and type of trips proposed in the negotiated budget are reasonable for the scope of work: ☒ The costs per trip proposed in the negotiated budget are reasonable: ☒ Is foreign travel included in the negotiated budget: ☐ Yes ☒ No	
☒ Specialist concurs: The proposed travel costs are reasonable for the scope of work to be performed under budget period 1 for this award.	

4. Equipment:

Total Negotiated Equipment Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Equipment costs: ☒
Project Officer: The type(s) of equipment proposed in the negotiated budget is/are reasonable for the scope of work: ☒ The cost of equipment proposed in the negotiated budget are reasonable: ☒ Is there any proposed equipment with a total cost exceeding $50,000: ☐ Yes ☒ No	
☒ Specialist concurs.	

5. Supplies:

Total Negotiated Supplies Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Supplies costs: ☒
Project Officer: The types /quantities of supplies proposed in the negotiated budget are reasonable based on the scope of work: ☒ The costs of supplies proposed in the negotiated budget are reasonable: ☒	

☒ Specialist concurs.

6. Contractual:

Total Negotiated Contractual Costs:	Not Applicable, the recipient did not propose Contractual costs: ☐

Project Officer: REDACTED EXEMPTION 4

The subrecipients proposed in the negotiated budget are appropriate for the scope of work: ☒

The contractual costs proposed in the negotiated budget are reasonable: ☒ Yes

Please fill out the following table with the negotiated costs:

Subrecipient/ Vendor Name	BP 1 Cost	BP 2 Cost	Total Cost	Role in Project (Identify SOPO Tasks)

REDACTED EXEMPTION 4

The changes in the contractual budget since the original application are primarily due to :

All subrecipients are expected to have scopes and budgets in BP2 that exceed the $250,000 threshold for separate evaluation.

Solazyme is preparing to send a request for proposals to :

REDACTED EXEMPTION 4

Did the Recipient propose any subrecipients with total costs above $250,000? ☐ Yes ☒ No (If Yes, a separate Technical Evaluation/Negotiation Memorandum is required for each subrecipient/vendor – see below)

☒ Specialist concurs: The proposed contractual and vendor costs are necessary for budget period 1 activities and they are reasonable. The appropriate documentation has been received for each.

7. Construction:

Total Negotiated Construction Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Construction costs: ☒

Project Officer: Please note that the SF 424A included the EPC Contractual costs under the 'Construction' budget category. These are contractual costs and have been moved to the 'Contractual' budget category.

The type of construction proposed in the negotiated budget is appropriate for the scope of work: ☒

The construction costs proposed in the negotiated budget are reasonable: ☒
☒ Specialist concurs.

8. Other Direct Costs:

Total Negotiated Other Direct Cos REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Other Direct costs: ☒
Project Officer: The types of other direct costs proposed in the negotiated budget are reasonable for the scope of work: ☒ The costs proposed in the negotiated budget for other direct costs are reasonable for the scope of work: ☒	
☒ Specialist concurs.	

9. Indirect Charges:

Total Negotiated Indirect Costs: REDACTED EXEMPTION 4	Not Applicable, the recipient did not propose Indirect Costs: ☐
Specialist: Does the Recipient have an approved rate agreement: ☐ Yes ☒ No If Yes, List the Date of Rate Agreement: _____ Cite Federal Cognizant Agency: _____ If No, select one of the following: ☐ Rate proposal was reviewed by the Cost/Price Analyst and found to be reasonable, allowable, and allocable (attach Cost/Price Analyst Determination) ☐ Rate Proposal was reviewed by the Cost/Price Analyst for a previous award (attach Cost/Price Analyst Determination) List Date of review: ☐ Specialist determined that rate was reasonable ☒ Other: **Due to time constraints, the "Reopener Clause" will be placed into the Special Terms and Conditions of the award. These costs will be addressed and approved at a later date.** The indirect costs proposed in the negotiated budget were appropriately applied and are reasonable: ☐	

10. Cost Share:

Project Officer:

Project is a: ☒ Research ☒ Development ☐ Demonstration ☐ Other: Pilot Plant

The minimum recipient's cost share required for this award is: [redacted] REDACTED EXEMPTION 4

The recipient proposed cost share for this award is: [redacted]

Does the proposed cost share meet the minimum requirement: ☒ Yes ☐ No

Specialist:

Is the proposed cost share: ☒ Cash ☐ In-kind

	Organization	Type of Cost Share (cash or in-kind)	Cost Share Amount	Basis of Value (how the recipient calculated value)
	[redacted]			
Total				

REDACTED EXEMPTION 4

Third Party cost share commitment letters have been obtained: ☒ (Please include letters in permanent STRIPES file)

B. The following Project Officer and Specialist evaluation and negotiation commentary and recommendations address their agreement on all additional considerations for this award.

1. Please list any other special provisions agreed upon for inclusion in this award and describe the rationale for their inclusion below.

This recipient is receiving ARRA funds, and the Davis Bacon Act applies; therefore, the ARRA provisions have been included in the award. The indirect rates have not been negotiated for the prime and the Reopener provision has been added to the Special Terms and Conditions of the award, so that we may address these at a later date. Continuation provision, Funding of Budget Periods, Blanket CX NEPA provision, and Contingency provision have also been included in the special terms and conditions of this award, due to the holds on budget period 2 for the prime and subrecipients.

2. If a negotiation strategy, or strategies, is/are specified in the selection statement, provide a discussion below of how this was addressed and resolved.

Solazyme REDACTED Solazyme
cost share 20%. EXEMPTION 4

Solazyme was required to have 25% contingency on total project cost, per the selection statement.

REDACTED
EXEMPTION 4

3. Any other comments or concerns of the Project Officer and/or Specialist for this award, and the recommended approach to mitigating them, will be explained and addressed below.

The forthcoming evaluation for the BP2 scope and activities will include subrecipients with budgets above the $250,000 threshold for additional evaluation. These additional evaluations will be addressed at that time.

The Project Officer has determined, based on the SOPO and certification from the Recipient, that the tasks within BP1 are consistent with those categorically excluded from additional NEPA review under the Blanket CX, particularly CX A.9. Task B.3 in the SOPO titled, 'Prepare Manufacturing Site' does NOT include It is the task for finalizing the EPC contract compl

REDACTED
EXEMPTION 4

4. Is this a Recovery Act award? ☒ Yes ☐ No

- If Yes, does the Buy American Act apply (see applicability below)? ☐ Yes ☒ No
- If Yes, does Davis Bacon Act apply (see applicability below)? ☒ Yes ☐ No

If the answer to either the Buy American Act or Davis Bacon Act questions is Yes, provide a short discussion below on: 1) the type of entity; 2) what applies; Davis Bacon, Buy American, or both; 3) whether it applies to the prime, subrecipient, or both; and 4) work to be performed that requires applicability of Buy American and/or Davis Bacon.

Solazyme, their subrecipients, contractors, vendors, and other entities involved in this project will comply with Davis Bacon Act requirements where those requirements are applicable for this project. The Davis Bacon Act will apply to Budget Period 2. Neither the Recipient not its subcontractors will be constructing, altering, or repairing anything in Budget Period 1.

SECTION IV – RECOMMENDATIONS/APPROVAL

Signatures of the Project Officer and Specialist, indicating their recommendations, as indicated below, will occur after their mutual agreement on the contents of this document, and before the review and approval process for the action. The signatures below indicate that the costs in the negotiated budget are reasonable, allowable, and allocable.

1. Technical Recommendation

The project costs are acceptable and should be considered for a financial assistance award. The resources have been reviewed relative to the Statement of Project Objectives and are found to be reasonable, except as previously noted herein.

Signature _____ Date _____

Christy Sterner
Project Officer

2. Specialist Recommendation

In view of the above analysis, the technical evaluation, and considering all known factors, this Award is recommended.

Signature _____ Date _____

Molly Hames
Grants and Agreements Specialist

3. Contracting Officer Approval *

☐ I concur with the above recommendation and have determined that the Recipient is responsible. I consider this Award to be in the best interest of the Government, and approve the award documents. (Select this box if the preparer is not the contracting officer)

☐ In view of the analysis, the technical evaluation, and considering all known factors, I have determined that the Recipient is responsible. This Award is considered to be in the best interest of the Government and approved. (Select this box if the preparer is also the contracting officer and indicate N/A in Block 2.)

Signature _____ Date _____

Melissa Wise
Contracting Officer

PMC 128.1
06-18-2009

U.S. Department of Energy
Project Management Center

FINANCIAL ASSISTANCE AWARD
INDEX and CHECKLIST
(BUYER USE ONLY)

Award #:	**DE-EE0002877 / 001 - Approve Budget Period 1**	**Program:**	The Office of the Biomass Program
Recipient Name:	**Solazyme, Inc.**		
FOA #:	**DE-FOA-0000096**		
Specialist:	**Molly Hames**	**Phone:**	303-275-4864
Contracting Officer:	**Melissa Wise**	**Phone:**	303-275-4907
Project Officer:	**Christy Sterner**	**Phone:**	303-275-4720

Act[illegible]em	*Indicate Completion of Action Item by inserting a date in the applicable box below*	
	Verify Recipient's registration with the Central Contractor Registration (CCR) (http://www.ccr.gov)	CCR Registration Valid through: 01/14/2011
2	Verify Recipient's registration with FedConnect (goto P:\STRIPES\Fedconnect Reports)	Registration Confirmed on: 03/15/2010
3	ASAP Enrollment; if Recipient is not enrolled in ASAP, send .pdf of completed PMC 121.1 to 'GO Finance' mailbox	PMC 121.1 sent to 'GO Finance' on: N/A
4	Vendor Supplier/Site Information Form; send completed PMC 128.8 to 'GO Finance' mailbox (MS 2007)	Vendor Supplier/Site Information Form sent to 'GO Finance' on: N/A

STRIPES Index #	Supporting Document		Form #	applicable	not applicable	Supporting Document Naming Convention	pdf. required
AWD-001	Award Index and Checklist		PMC 128.1	X		AWD-001 AWDChecklist	
AWD-002	Selection Statement		n/a		X	AWD-002 SelStat	.pdf
AWD-003	Determination of Non-Competitive Financial Assistance (DNFA) Documentation (include Request for Review PMC.112.2)		PMC 109.x		X	AWD-003 DNFADocs	batch .pdf
AWD-004	HCA Approval (Total Project Value greater than $25M and less than $50M) (include Request for Review PMC.112.2)		n/a	X		AWD-004 HCAApvl	.pdf
AWD-005	HQ Business Clearance Documentation (Total Project Value greater than or equal to $50M)						
	AWD-005a	HQ Business Clearance Worksheet	PMC 107.1		X	AWD-005 HQBusClrDocs	batch .pdf
	AWD-005b	HQ Business Clearance Transmittal Letter(s)	PMC 107.4		X		
	AWD-005c	HQ Business Clearance; Correspondence received from HQ	n/a	X			
AWD-006	Congressional Affairs Notification		DOE F 4220.10		X	AWD-006CongNotification	.pdf
AWD-007	Successful Application Documentation (Prime) - Solazyme, Inc.						
	AWD-007a	Application for Federal Assistance	SF-424	X		AWD-007a AppDocsPrime (Solazyme)	batch .pdf
		SF-424A Budget Information	SF-424A	X			
		Budget Justification	PMC 123.1	X			
		Disclosure of Lobbying Activities	SF-LLL		X		
		Cost Share Commitment Ltrs from Third Parties	n/a	X			
	Successful Application Documentation (Sub #1) Abengoa						
	AWD-007b	SF-424A Budget Information	SF-424A		X	AWD-007b AppDocsSub[Abengoa]	batch .pdf
		Budget Justification	PMC 123.1		X		
	Successful Application Documentation (Sub #2) BlueFire						
	AWD-007c	SF-424A Budget Information	SF-424A	X		AWD-007c AppDocsSub[BlueFire]	batch .pdf
		Budget Justification	PMC 123.1		X		
	Successful Application Documentation (Sub #3) Cherokee Pharmaceuticals (CP)						
	AWD-007d	SF-424A Budget Information	SF-424A	X		AWD-007d AppDocsSub[CP]	batch .pdf
		Budget Justification	PMC 123.1		X		
	Successful Application Documentation (Sub #4) UOP						
	AWD-007e	SF-424A Budget Information	SF-424A		X	AWD-007e AppDocsSub[UOP]	batch .pdf
		Budget Justification	PMC 123.1		X		

STRIPES Index #	Supporting Document		Form #	applicable	not applicable	Supporting Document Naming Convention	pdf. required
AWD-008	National Environmental Policy Act (NEPA) Documentation						
	AWD-008a	NEPA Checklist	EF-1		X	AWD-008 NEPADocs	batch .pdf
	AWD-008b	NEPA Review	EF-2		X		
	AWD-008c	NEPA Determination	EF-2a		X		
	AWD-008d	Blanket A9 CX for ARRA IBR BP1	e-mail	X			
AWD-009	Pre-Award Information Sheet		PMC 121.1	X		AWD-009 PreAwardInfo	.pdf
AWD-010	Dun&Bradstreet Risk Assessment		PMC 460.2		X	AWD-010 D&BAssessment	.pdf
AWD-011	Combined Technical Evaluation / Negotiation Memorandum		PMC 120.2	X		AWD-011 TechEvalNegMem	.pdf
AWD-012	Intellectual Property Law Division (IPLD) Documentation						
	AWD-012a	IPLD Petition for Advance Waiver of Patent Rights	PMC 133.2		X	AWD-012 IPLDDocs	batch .pdf
	AWD-012b	IPLD Pre-Award Review Request	PMC 133.3	X			
	AWD-012c	IPLD Recommendation	e-mail	X			
AWD-013	Cost Share Determination Documentation						
	AWD-013a	Cost Share Determination	PMC 112.2		X	AWD-013a CostShareDet	.pdf
	AWD-013b	Cost Share Waiver	PMC 142.2		X	AWD-013b CostShareWaiver	.pdf
AWD-014	Cost / Price Documentation						
	AWD-014a	Financial Information	PMC 410.1		X	AWD-014 CostPriceDocs	batch .pdf
	AWD-014b	Indirect Rate Agreement or Rate Proposal	n/a		X		
	AWD-014c	Response from C/P Analyst regarding Indirect Rates	PMC 420.3		X		
AWD-015	Excluded Parties List System (EPLS) Query (https://www.epls.gov)		n/a	X		AWD-015 EPLS	
AWD-016	Pre-Award Cost Request and Authorization		n/a		X	AWD-016 PreAwdCostAuth	.pdf
AWD-017	Justification for Use of Conditional Availability of Funds Provision		PMC 132.2		X	AWD-017 JustificationCondAvail	.pdf
AWD-018	Correspondence to Recipients (use this section for correspondence not issued at FOA level)						
	AWD-018a	Correspondence		X		AWD-018a Correspondence	batch .pdf
AWD-019	Internal Review(s)						
	AWD-019a	Request for Review (Review of Award Package)	PMC 112.2	X		AWD-019a RvwAwdPkg	.pdf
	AWD-019b	HCA Approval and Business Clearance	n/a	X		AWD-019b DDRvw	.pdf
AWD-020	Deviations		n/a		X	AWD-020 Deviations	.pdf
Cover Page	Assistance Agreement Form		n/a	X			
Body	Special Terms and Conditions		n/a	X			
Attachment 1	Intellectual Property Provisions		n/a	X			
Attachment 2	Statement of Project Objectives		n/a	X			
Attachment 3	Federal Assistance Reporting Checklist and Instructions		DOE F 4600.2	X			
Attachment 4	Budget Information		n/a	X			
Attachment 5	Contingency Appendix		n/a	X			

PMC 133.3

(12/09)

U.S. DEPARTMENT OF ENERGY
PROJECT MANAGEMENT CENTER

IPLD PRE-AWARD REVIEW REQUEST

TO: IPLD E-Mail: IPLegalReviews@go.doe.gov	Date Submitted:	01/08/2010
Attachments: (1) Financial Assistance Pre-Award Information Sheet (PMC 121.1) (2) Scope of Work or Statement of Project Objectives	Request Reply By:	03/31/2009

FROM: Molly Hames	PHONE: 303-275-4864
Name of Specialist (if different from submitter):	PHONE:

Awardee:	Solazyme, Inc.		
Project Title:	**Recovery Act - Solazyme Integrated Biorefinery (SzIBR): Diesel Fuels from Heterotrophic Algae**		
Award/Mod/Amendment No:	**DE-EE0002877 / 001**	Awardee POC:	Anthony Day
FOA Title: Recovery Act - Demonstration of Integrated Biorefinery Operations		Phone:	650-780-4777
Topic Area(s): Topic Area 5		E-mail Address:	tday@solazyme.com
Date of Application (including any modifications): 12/23/2009		Business Type:	☐ Large, For-Profit ☒ Small, For-Profit ☐ 501(c)(3) Nonprofit ☐ Other Nonprofit ☐ Other:_____
Type of Instrument:	☐ Grant ☒ Cooperative Agreement ☐ Other		

Project Officer:	Christy Sterner	DOE PO Phone:	303-275-4720

Response to B.3 on PMC 121.1 indicates Limited Rights Data or Restricted Computer Software will be used in the Award:	☒ YES	☐ NO	
Will 5-year data protection under EPAct apply for the Topic Areas included in this Award?	☒ YES	☐ NO	☐ This is a CDP

IPLD USE ONLY:

PMC 420.3
(12/09)

U.S. DEPARTMENT OF ENERGY
PROJECT MANAGEMENT CENTER

REQUEST FOR COST PRICE ASSISTANCE

Award No./DUNS	DE-EE0002877/14-586-2012	Awardee: (Legal Name in CCR)	SOLAZYME, INC.
Specialist:	Molly Hames	Project Officer:	Christy Sterner
Requestor:		Project Monitor:	Chris Lindeman
Business Contact Name:	Gypsy Achong	Business Contact Ph. No:	650-780-4777 x5273
Business Contact Email:	gachong@solazyme.com	Date of Request:	01/20/2010
Program Area:	Biomass Program	Award Type: ☒ Recovery	☐ CDP ☐ Other_____

Complete Section and Forward to Analyst for Completion

SPECIALIST: Mark below whether pre-award, post award, or audit and provide any comments or special needs:

1) ☒ Pre-award Proposal- submitted documents should include budget documents summary and detail, additional supporting information to support proposed calculations. **Comments:**

This is a Recovery Act, Integrated Biorefinery (IBR) project in the Biomass Program. The Total Project Cost is ; DOE Share is $21,765,738, and Recipient Share is The project will be awarded fully conditional by the end of January 2010 with plans to lift conditions shortly thereafter, so the budget submitted with this request is still in negotiations and is not the final budget.

Solazyme, Inc. has had two prior Federal awards, one with the Defense Logistics Agency (DLA) for $8.574M and one with the Defense Energy Support Center (DESC) for $223K. The Defense Logistics Agency is the Cognizant Federal Agency. Solazyme, Inc. has marked that their financial management system is in compliance with 10 CFR 600. They answered "yes" to every question on the Accounting System Survey. Solazyme, Inc. has had previous audits with the Defense Audit Contracting Agency; a copy of the most recent audit has been provided. The Recipient provided a written letter with the copy of the audit confirming that they have addressed the concerns found in the audit regarding their indirect calculation, timekeeping system and unallowable costs.

REDACTED
EXEMPTION 4

2) ☐ Post Award Review- actual cost true up or other related data needed for incurred cost type review. **Comments:**

3) ☐ Audit: ☐ Project Specific ☐ Systems: Accounting, Billing etc. ☐ Annual Incurred/Indirect ☐ Other_____
Comments:

4) Save this request in the corresponding award on the S: drive and then **email this completed form, along with any/all attachments needed** to complete the requested review, to CostPrice@go.doe.gov

COST PRICE ANALYST: Upon receipt from the requestor, the assigned C/P Analyst will analyze and make recommendations. The analysis will include reviewing and evaluating elements of cost included in the calculation of the indirect rates to determine reasonableness, allocability and allowabilty of the proposed rates based on guidance in the appropriate cost principles in OMB circulars and/or FAR 31-205.

Findings, Recommendations & Comments:

Completed by: _____ Date: _____

Reviewed by: _____ Date: _____

CDSB-1003
Intellectual Property Provisions (CDSB-1003)
Cooperative Agreement - Special Data Statute
Research, Development, or Demonstration
Domestic Small Businesses

01. FAR 52.227-1	Authorization and Consent (JUL 1995)-Alternate I (APR 1984)
02. FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996) *This clause is not applicable if the award is for less than $100,000, in aggregate*
03. 10 CFR 600.325 Appendix A	Rights in Data - Programs Covered Under Special Data Statutes (OCT 2003) *If the contracting officer, in consultation with DOE patent counsel and the DOE program official, determines that delivery of limited rights data or restricted computer software is necessary, Alternates I and II may be inserted into the clause after negotiations with the applicant.*
04. FAR 52.227-23	Rights to Proposal Data (Technical) (JUN 1987)
05. 10 CFR 600.325 Appendix A	Patent Rights (Small Business Firms and Nonprofit Organizations) (OCT 2003)

NOTE: In reading these provisions, any reference to “contractor” shall mean “recipient,” and any reference to “contract” or “subcontract” shall mean “award” or “subaward.”

01. FAR 52.227-1 Authorization and Consent (JUL 1995)-Alternate I (APR 1984)

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for research and development expected to exceed the simplified acquisition threshold; however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

02. FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101.

(End of clause)

03. 10 CFR 600.325 Appendix A, Rights in Data - Programs Covered Under Special Data Statutes (OCT 2003)

(a) Definitions

Computer Data Bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the computer program to be produced, created or compiled. The term does not include computer data bases.

Data, as used in this clause, 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.

Form, fit, and function data, as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

Limited rights data, as used in this clause, means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and confidential or privileged; or is published copyrighted computer software; including modifications of such computer software.

Protected data, as used in this clause, means technical data or commercial or financial data first produced in the performance of the award which, if it had been obtained from and first produced by a non-federal party, would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of 5 U.S.C. 552(b)(4) and which data is marked as being protected data by a party to the award.

Protected rights, as used in this clause, mean the rights in protected data set forth in the Protected Rights Notice of paragraph (g) of this clause.

Technical data, as used in this clause, means that data which are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

Unlimited rights, as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) Allocation of Rights

(1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in--

(i) Data specifically identified in this agreement as data to be delivered without restriction;

(ii) Form, fit, and function data delivered under this agreement;

(iii) Data delivered under this agreement (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this agreement; and

(iv) All other data delivered under this agreement unless provided otherwise for protected data in accordance with paragraph (g) of this clause or for limited rights data or restricted computer software in accordance with paragraph (h) of this clause.

(2) The Recipient shall have the right to--

(i) Protect rights in protected data delivered under this agreement in the manner and to the extent provided in paragraph (g) of this clause;

(ii) Withhold from delivery those data which are limited rights data or restricted computer software to the extent provided in paragraph (h) of this clause;

(iii) Substantiate use of, add, or correct protected rights or copyrights notices and to take other appropriate action, in accordance with paragraph (e) of this clause; and

(iv) Establish claim to copyright subsisting in data first produced in the performance of this agreement to the extent provided in subparagraph (c)(1) of this clause.

(c) Copyright

(1) Data first produced in the performance of this agreement. Except as otherwise specifically provided in this agreement, the Recipient may establish, without the prior approval of the Contracting Officer, claim to copyright subsisting in any data first produced in the performance of this agreement. If claim to copyright is made, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including agreement number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For such copyrighted data, including computer software, the Recipient grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(2) Data not first produced in the performance of this agreement. The Recipient shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this agreement any data that are not first produced in the performance of this agreement and that contain the copyright notice of 17 U.S.C. 401 or 402, unless the Recipient identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; provided, however, that if such data are computer software, the Government shall acquire a copyright license as set forth in subparagraph (h)(3) of this clause if included in this agreement or as otherwise may be provided in a collateral agreement incorporated or made a part of this agreement.

(3) Removal of copyright notices. The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) Release, Publication and Use of Data

(1) The Recipient shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Recipient in the performance of this contract, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract.

(2) The Recipient agrees that to the extent it receives or is given access to data necessary for the performance of this agreement which contain restrictive markings, the Recipient shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(e) Unauthorized Marking of Data

(1) Notwithstanding any other provisions of this agreement concerning inspection or acceptance, if any data delivered under this agreement bears any restrictive or limiting markings or notices not authorized by this agreement, the Contracting Officer may at any time either return the data to the Recipient or cancel or ignore the markings. However, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer shall make written inquiry to the Recipient affording the Recipient 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Recipient fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time not exceeding 90 days approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Recipient provides written justification to substantiate the propriety of the markings within the period set in subdivision (e)(1)(i) of this clause, the Contracting Officer shall consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Recipient shall be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer shall furnish the Recipient a written determination, which determination shall become the final agency decision regarding the appropriateness of the markings unless the Recipient files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government shall continue to abide by the markings under this subdivision (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination become final (in which instance the Government shall thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in subparagraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(f) Omitted or Incorrect Markings

(1) Data delivered to the Government, without any restrictive or limiting markings or notices authorized by this agreement, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Recipient may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Recipient's expense, and the Contracting Officer may agree to do so if the Recipient--

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also:

(i) Permit correction at the Recipient's expense of incorrect notices if the Recipient identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Rights to Protected Data:

(1) The Recipient may, with the concurrence of DOE, claim and mark as protected data, any data first produced in the performance this award that would have been treated as a trade secret if developed at private expense. Any such claimed "Protected Data" will b clearly marked with the following Protected Rights Notice, and will be treated in accordance with such Notice, subject to the provisio of paragraphs (e) and (f) of this clause.

PROTECTED RIGHTS NOTICE
These protected data were produced under Agreement No. DE-EE0002877 with the U.S. Department of Energy and may not be published, disseminated, or disclosed to others outside the Government until, unless express written authorization is obtained from the recipient. Upon expiration of the period of protection set forth in this Notice, the Government shall have unlimited rights this data. This Notice shall be marked on any reproduction of this data, in whole or in part.
(End of notice).

(2) Any such marked Protected Data may be disclosed under obligations of confidentiality for the following purposes:
(a) For internal DOE evaluation and planning purposes under the restriction that the Protected Data be retained in confidence a not be further disclosed; or
(b) To DOE staff members or authorized DOE contractors or subcontractors performing work under the Government's program under the restriction that the Protected Data be retained in confidence and not be further disclosed.

(3) The obligations of confidentiality and restrictions on publication and dissemination shall end for any Protected Data:
(a) At the end of the protected period;
(b) If the data become publicly known or available from other sources without a breach of the obligation of confidentiality with respect to the Protected Data;
(c) If the same data are independently developed by someone who did not have access to the Protected Data and such data are made available without obligations of confidentiality; or
(d) If the Recipient disseminates or authorizes another to disseminate such data without obligations of confidentiality.

(4) However, the Recipient agrees that the following types of data are not considered to be protected and shall be provided to the Government when required by this award without any claim that the data are Protected Data: General test results and data that demonstrate progress toward meeting DOE's technical goals to design, construct, build, and operate a demonstration- or pilot-scale integrated biorefinery employing lignocellulosic or algal feedstocks, and in certain special cases starch feedstocks, for the productio of (i) liquid transportation fuels, (ii) biobased chemicals, products or co-products, or (iii) substitutes for petroleum-based feedstocks and products. These results and data will be made available to the public and included in the final project report, and in other report and presentations, as appropriate. The parties agree that notwithstanding the data enumerated above, nothing precludes the Government from seeking delivery of additional data in accordance with this award, or from making publicly available additional nonprotected data, nor does the preceding enumerated data constitute any admission by the Government that technical data not so enumerated are Protected Data. The general data described above shall not include the following types of data, which Recipient intends, without limitation, to claim and mark as Protected Data:

a) Process Flow Diagrams
b) Mass & Energy Balances
c) Process Performance Parameters and Costs by Unit Operation, including the quality of the data used for those performance parameters, (e.g., scale, replication, degree of integration, range of values, etc.)
d) Capital Cost Estimate and Basis thereof: e.g. factored, vendor quotes, actual purchase prices, etc.
e) Pro Forma with best reproducible results to date with all assumptions listed and the basis/rationale behind all pro forma input parameters explained, including but not necessarily limited to:
    i. Production cost parameters: e.g. consumables, utilities, labor, etc.
    ii. Water consumption requirements and costs
    iii. Waste disposal requirements and costs
f) Any additional financial and technical project information necessary and sufficient to validate the current and actual conversion costs associated with the facility or system as constructed and projected to be operated for converting

lignocellulosic or algal feedstocks, and in certain special cases starch feedstocks, into (i) liquid transportation fuels, or (i biobased chemicals, products or co-products, or (iii) substitutes for petroleum-based feedstocks and products.

g) Technical results based on data collected, to enable the analysis, assessment and evaluation of other areas of interest, including but not necessarily limited to life cycle assessments, green house gas emissions, and sustainability metrics.

(5) The Government's sole obligation with respect to any protected data shall be as set forth in this paragraph (g).

(h) Protection of Limited Rights Data

(1) When data other than that listed in subparagraphs (b)(1)(i), (ii), and (iii) of this clause are specified to be delivered under this agreement and such data qualify as either limited rights data or restricted computer software, the Recipient, if the Recipient desires continue protection of such data, shall withhold such data and not furnish them to the Government under this agreement. As a condition to this withholding the Recipient shall identify the data being withheld and furnish form, fit, and function data in lieu thereof.

(2) Notwithstanding subparagraph (h)(1) of this clause, the agreement may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise b withholdable. If delivery of such data is so required, the Recipient may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, in accordance with such Notice:

LIMITED RIGHTS NOTICE
(a) These data are submitted with limited rights under Government Agreement No. DE-EE0002877. These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Recipient, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(1) Use (except for manufacture) by Federal support services contractors within the scope of their contracts;
(2) These "limited rights data" may be disclosed for evaluation purposes under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
(3) These "limited rights data" may be disclosed to other contractors participating in the Government's program, of which this Recipient is a part, for information or use (except for manufacture) in connection with the work performed under their awards, an under the restriction that the "limited rights data" be retained in confidence and not be further disclosed;
(4) These "limited rights data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "limited rights data" be retained in confidence and not be further disclosed; and
(5) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, f information or evaluation, or for emergency repair or overhaul work by such government.

(b) This Notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

(i) Subaward/Contract

The Recipient has the responsibility to obtain from its subrecipients/contractors all data and rights therein necessary to fulfill the Recipient's obligations to the Government under this agreement. If a subrecipient/contractor refuses to accept terms affording the Government such rights, the Recipient shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subaward/contract award without further authorization.

(j) Additional Data Requirements

In addition to the data specified elsewhere in this agreement to be delivered, the Contracting Officer may, at anytime during agreement performance or within a period of 3 years after acceptance of all items to be delivered under this agreement, order any data first produced or specifically used in the performance of this agreement. This clause is applicable to all data ordered under this subparagraph. Nothing contained in this subparagraph shall require the Recipient to deliver any data the withholding of which is authorized by this clause or data which are specifically identified in this agreement as not subject to this clause. When data are to be delivered under this subparagraph, the Recipient will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.