



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

PUBLIC AFFAIRS

April 13, 2011

In reply refer to: DK-7

Dan Seligman, Attorney at Law  
Columbia Research Corporation  
PO Box 99249  
Seattle, WA 98139

### **RE: FOIA #BPA-2011-00621-F**

Dear Mr. Seligman:

This is a final response to your request for information that you made to the Bonneville Power Administration (BPA) under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

#### **You requested the following:**

A copy of all contract(s) between BPA and Global Energy Partners signed after January 1, 2008.

#### **Response:**

There is one responsive contract to your request. The contract has been provided in its entirety except for the "unit prices."

In addition, BPA has redacted the Global Energy Partners' employees' names from the contract. BPA has determined that these employees are lower level employees with at least some privacy interest in the non-release of their names. That being so, BPA has also determined that under these circumstances, especially since the rest of the responsive contract has been released, that the release of the employees' names would not further the public interest by shedding light on the operations or activities of BPA.

You may appeal, pursuant to 10 CFR 1004.8, the denial of information by BPA. The appeal must be made within thirty (3) calendar days of receipt of a letter denying any portion of the request. The appeal should be sent to the Director, Office of Hearings and Appeals, HG-1, U.S. L-Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue SW, Washington DC 20585-1615.

I appreciate the opportunity to assist you. Please contact Cheri Benson, FOIA/Privacy Act Specialist at (503) 230-7305 with any questions about this letter.

Sincerely,

*/S/Christina J. Munro*

Christina J. Munro

Freedom of Information Act/Privacy Act Officer

Enclosure: Responsive documents

UNITED STATES  
GOVERNMENT

CONTRACT

BONNEVILLE  
POWER ADMINISTRATION

*Mail Invoice To:*

Bonneville Power Admin  
Attn: KLK Invoices, KLK-1  
P.O. Box 3621  
Portland OR 97208-3621

Contract : 00047383  
Release :  
Page : 1

*Vendor:*

GLOBAL ENERGY PARTNERS LLC  
500 YGNACIO VALLEY RD  
SUITE 450  
WALNUT CREEK CA 94596

*Please Direct Inquiries to:*

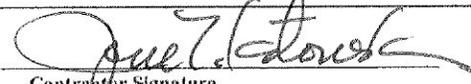
THERESA C. HUGHES  
Title: CONTRACT SPECIALIST  
Phone: 503-230-5341  
Fax : 503-230-4508

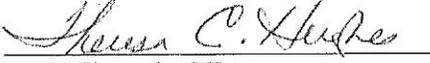
Attn: JANE V KOTOWSKI

Contract Title: COMMERCIAL & INDUSTRIAL DR PROJECT DEVELOPMENT & MANAGEMENT

Total Value : \$315,852.00  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 05/04/10 - 01/30/12

**\*\* NOT TO EXCEED \*\***  
Payment Terms: % Days Net 30

  
Contractor Signature  
JANE V. KOTOWSKI, CFO  
Printed Name/Title  
5/7/10  
Date Signed

  
BPA Contracting Officer  
5-6-10  
Date Signed

# CONTRACT TERMS AND CONDITIONS

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## UNIT 1 — SCHEDULE

### CONTRACT TYPE (7-1) (SEP 98)(BPI 7.1.9)

This is a Firm Fixed Price type contract.

### SCHEDULE OF PRICES (22-51)M (MAR 10)

The contractor shall provide all supplies/services in accordance with the Statement of Work. Provide a list of labor categories with labor rates, you anticipate utilizing for performance of Phase 1 & 2 of this contract. **To validate pricing and facilitate contract modifications, labor rates shall be provided for each phase and must be fully-burdened rates that include all overheads, profits and labor costs for each labor category. The labor rates provided for Phase 1 will be used for the fixed price of Phase 2 when this is negotiated.**

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
1.	PHASE 1 – Implementation Plan and Recommendation of Pilot Candidates Period: Date of award – August 31, 2010	Ex 4			\$ <u>315,852.00</u>
2.	PHASE 2 – Pilot Project Management Period: September 1, 2010 – January 30, 2012				(Estimate) \$ <u>608,682.00</u>

**Note: The Phase 2 level of effort cost estimate will be negotiated based on the actual level of effort determined from results of Phase 1 and labor rates used for Phase 1.**

### LABOR STANDARDS -- PRICE ADJUSTMENT (10-4) (OCT 93)(BPI 10.3.4)

- (a) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under paragraph (d) below.
- (b) The minimum monetary wages and fringe benefits required to be paid or furnished to service employees under this contract as set forth in the wage determination, shall be subject to adjustment if (1) the period of performance of this contract exceeds two years, (2) the contract contains option provisions specifying that a differing wage determination shall apply thereto, (3) an amendment to the Fair Labor Standards Act is enacted revising the minimum wage rate, (4) a contract modification significantly changes the nature of the work, or, (5) the Department of Labor otherwise directs.
- (c) The contract price or contract unit priced labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with the new rates, or the decrease is voluntarily made by the Contractor.
- (d) Any such adjustment shall be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, material costs, overhead, or profit. (For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour.)
- (e) The Contractor shall notify the Contracting Officer (CO) of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the CO. The Contractor

shall promptly notify the CO of any decrease under this clause, but nothing in the clause shall preclude the BPA from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the CO may reasonably require. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on, or determination of, any such adjustment and its effective date.

- (f) The CO or an authorized representative shall have access to and the right to examine any pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

**KEY PERSONNEL (23-2)M  
(MAR 10)(BPI 23.1.6)**

The personnel listed below are considered to be essential to the work being performed hereunder. List all essential personnel whether they are full or part time on this contract. No diversion shall be made by the Contractor without the written consent of the Contracting Officer. (List key personnel below)

Ex 6



## UNIT 2 — CONTRACT CLAUSES

### PAYMENT AND TAXES

#### ELECTRONIC FUNDS TRANSFER PAYMENT (22-20) (OCT 07)(BPI 22.6.2)

- (a) Payment Method. Payments under this contract, including invoice and contract financing payments, will be made by electronic funds transfer (EFT). Contractors are required to provide its taxpayer identification number (TIN) and other necessary banking information as per paragraph (c) of this clause to receive EFT payment.
- (b) Contractor EFT arrangement with a financial institution or authorized payment agent. The Contractor shall designate to BPA, as per paragraph (c) of this clause, and maintain at its own expense, a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under all BPA contracts, unless the BPA Vendor File Maintenance Team is notified of a change as per paragraph (d) of this clause. An initial designation should be submitted after award, but no later than three weeks before an invoice or contract financing request is submitted for payment.
- (c) Submission of EFT banking information to BPA. The Contractor shall submit EFT enrollment banking information directly to BPA Vendor File Maintenance Team, using Substitute IRS Form w9e, Request for Taxpayer Identification Number and Certification. This form is available either from the Contracting Officer(CO) or from the Vendor File Maintenance Team. Submit completed enrollment form to the Vendor Team. Contact and mailing information:
- Bonneville Power Administration  
PO Box 491  
ATTN: NSTS - MODW Vendor Maint.  
Vancouver, WA 98666-0491
- E-mail Address: VendorMaintenance@BPA.gov  
Phone: (360) 418-2800  
Fax: (360) 418-8904
- (d) Change in EFT information. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall be responsible for providing the changed information to the BPA Vendor File Maintenance Team office. The Vendor Maintenance Team must be notified 30 days prior to the date such change is to become effective.
- (e) Suspension of Payment. BPA is not required to make any payment under this contract until receipt of the correct EFT payment information from the Contractor.
- (f) EFT and prompt payment. BPA shall pay no penalty on delay of payment resulting from defective EFT information. BPA will notify the Contractor within 7 days of its receipt of EFT information which it determines to be defective.
- (g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the assignee shall provide the assignee's EFT information required by paragraph (c) of this clause.

#### BASIS OF PAYMENT -- PROGRESS PAYMENTS (22-3) (SEP 98)(BPI 22.1.3)

- (a) Progress payments. BPA shall make progress payments as the work proceeds based on the stage or percentage of work accomplished. The Contractor shall furnish a breakdown of the work as a percentage of the total contract price, in such detail as required by the CO.
- (b) Title to all material and work covered by progress payments shall pass to BPA at the time of payment. This shall not be construed as--
- (1) Relieving the Contractor from the sole responsibility for all work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of BPA to require the fulfillment of all of the terms of the contract.

- (c) Partial Payments. Unless otherwise specified, payment shall be made after acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.
- (d) Final Payment. BPA shall pay the amount due the Contractor under this contract after completion and acceptance of all work and after presentation of a release of all claims against BPA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of any assignee if the Contractor's claim to amounts payable under this contract has been assigned.

**PAYMENT (22-12)**  
**(SEP 09)(BPI 22.2.5)**

- (a) Payment Due Date. Payment (including partial payments or progress payments, if authorized, shall be due not later than thirty (30) calendar days after the later of the date on which BPA actually receives a proper invoice in the designated billing office or the date when the items delivered or completed services are accepted by BPA. According to the Prompt Payment Act, a proper invoice to a Federal Agency is to include bank account information requisite to enable Electronic Funds Transfer (EFT) as method of payment. For purposes of payment only, items will be deemed accepted not later than seven (7) working days after proper delivery. If delivered items or completed services are found defective, the provisions of this paragraph will be reapplied upon receipt of a corrected item or service.
- (b) Billing Instructions.
- (1) Invoices must include the contractor's name and address, invoice date, contract number, task order number (if applicable), contract line item number, description of products delivered or work performed, price and quantity of item(s) actually delivered or rendered (amounts billed for work performed under a task order must be separately identified by task order number), and the name and address of the person to whom payment will be made, and name (where practicable), title, phone number, mailing address of person to be notified in event of a defective invoice and bank account information required to enable Electronic Funds Transfer (EFT) as method of payment (Invoices will not require banking information if the contractor has that information on file at BPA). Failure to submit a proper invoice may result in a delay in payment including a rejection of invoice pending receipt of a properly amended invoice.
- (2) Contractors may bill monthly, or at more frequent intervals as may be agreed to by the CO. The contractor may submit invoices electronically (e-mail, fax, etc.).
- (c) Payment Method. Payments under this contract will be made by electronic funds transfer whenever possible, or by check in very limited circumstances, at the option of BPA.
- (d) Prompt Payment Act. This contract is subject to the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), and regulations at 5 CFR Part 1315.
- (e) Interest Penalty Payments. If interest penalty payments are determined due under the provisions of the Prompt Payment Act, payment shall be made at the rates determined by the U.S. Treasury Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

**DISCOUNTS FOR PROMPT PAYMENT (22-10)**  
**(SEP 98)(BPI 22.2.5)**

In connection with any discount offered for prompt payment, time shall be computed from the date shown on the invoice or if no date is shown then from the date BPA receives the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

**WITHHOLDING (22-9)**  
**(SEP 98)(BPI 22.1.5.1)**

- (a) The CO reserves the right to withhold an amount not to exceed **10** percent of the contract price if determined necessary to protect BPA's interests.
- (b) Upon completion and acceptance of each severable item of work for which the price is stated separately in the contract, payment shall be made for the completed work, less liquidated damages (if any), without withholding of a percentage.

**FEDERAL, STATE, AND LOCAL TAXES (22-15)**  
**(SEP 98)(BPI 22.5.3.4)**

- (a) The contract price shall include all applicable Federal, State, and local taxes and duties.
- (b) The contract price shall be increased by the amount of any after-imposed Federal excise tax or duty, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price.
- (c) The contract price shall be decreased by the amount of any after-relieved Federal excise tax or duty.
- (d) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the CO.
- (e) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
- (f) Notwithstanding any of the above provisions for adjustment of the contract price in the event of a change in a Federal excise tax or duty after the contract date, no increase in the contract price shall be made for any duty imposed under the Tariff Act of 1930, as amended, (19 U.S.C. 1303) or the Anti-dumping Act of 1921, as amended (19 U.S.C. 160-171).

**INTEREST ON AMOUNTS DUE BPA (22-13)**  
**(SEP 98)(BPI 22.3.1)**

- (a) Notwithstanding any other clause of this contract, all amounts that become payable by the Contractor to BPA under this contract (net of any applicable tax credit under the Internal Revenue Code (26°U.S.C.°1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six month period as fixed by the Secretary until the amount is paid.
- (b) Amounts shall be due at the earliest of the following dates:
  - (1) The date fixed under this contract;
  - (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination;

- (3) The date BPA transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt; and
  - (4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification;
- (c) Payment will be due within 30 days of the date of the invoice. The collection actions available under the Debt Collection Act of 1982 (Public Law 97-365), as amended, and the revised Federal Claims Collections Standards (4 CFR 102), will be utilized. Administrative charges and penalties will be charged in accordance with 31 USC 3717, except where prohibited or explicitly provided for by statute or regulation required by statute.

## **GENERAL CONTRACT ADMINISTRATION**

### **APPLICABLE REGULATIONS (1-1) (NOV 08)(BPI 1.3.1)**

Purchases made by the Bonneville Power Administration are subject to the policies and procedures outlined in the Bonneville Purchasing Instructions. The BPI is available without charge on the Internet at <http://www.bpa.gov>. Copies are available for purchase from the Head of the Contracting Activity. The public may purchase unbound copies of the BPI from the Head of the Contracting Activity – DGP-7, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. The cost is \$30.00. Subscriptions are not available.

### **POST AWARD ORIENTATION (14-19) (SEP 07)(BPI 14.5.3)**

The successful offeror will be required to participate in a post award orientation as designated by the Contracting Officer.

### **SUBCONTRACTS (14-7) (SEP 98)(BPI 14.9.1)**

The Contractor shall not subcontract any work without prior approval of the Contracting Officer, except work specifically agreed upon at the time of award. BPA reserves the right to approve specific subcontractors for work considered to be particularly sensitive. Consent to subcontract any portion of the contract shall not relieve the contractor of any responsibility under the contract.

### **CONTRACT ADMINISTRATION REPRESENTATIVES (14-2) (SEP 98)(BPI 14.3.2)**

- (a) In the administration of this contract, the Contracting Officer may be represented by one or more of the following: Contracting Officer's Representative for administrative matters, and Contracting Officer's Technical Representative, Receiving Inspector, and/or Field Inspector for technical matters.
- (b) These representatives are authorized to act on behalf of the Contracting Officer in all matters pertaining to the contract, except: (1) contract modifications that change the contract price, technical requirements or time for performance, unless delegated field modification authority (see clause 24-25); (2) suspension or termination of the Contractor's right to proceed, either for default or for convenience of BPA; and (3) final decisions on any matters subject to appeal, as provided in a disputes clause. In addition, Field Inspectors may not make final acceptance under the contract.

**STOP WORK ORDER (14-14)**  
**(SEP 98)(BPI 14.12.1)**

- (a) The Contracting Officer may order the Contractor to suspend all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of BPA.
- (b) The contractor shall immediately comply with the Contracting Officer's order and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order.
- (c) If a stop work order is issued for the convenience of BPA, the Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, if the order results in a change in the time required for, or the costs properly allocable to, the performance of any part of this contract.
- (d) A claim under this clause shall not be allowed (1) for any cost incurred more than 20 days before the Contractor notified the Contracting Officer of the basis of the claim in writing, and (2) unless the claim stating the amount of time or money requested, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

**CHANGES - FIXED-PRICE (14-8)**  
**(SEP 98)(BPI 14.10.5.1.1)**

- (a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract to any one or more of the following:
  - (1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for BPA in accordance with the drawings, designs, or specifications.
  - (2) Method of shipment or packing.
  - (3) Place of delivery or performance.
  - (4) Description of services to be performed.
  - (5) Time of performance (i.e., hours of the day, days of the week, etc.).
  - (6) BPA-furnished property.
  - (7) Place of inspection or acceptance.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
- (c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order, but not later than final payment.
- (d) Failure to agree to any adjustment shall be a dispute under a disputes clause if one is included in this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) Constructive Changes. If the Contractor considers that a BPA action or inaction constitutes a change to the contract (constructive change), and the change is not identified as such in writing and signed by the CO, the Contractor shall promptly notify the CO in writing. No equitable adjustment will be made for costs incurred more than 20 days before the Contractor gives written notice of the constructive change.
- (f) Notwithstanding other provisions herein, only the Contracting Officer, or persons specifically delegated authority to do so by the Contracting Officer, are authorized to orally modify or affect the terms of this contract. Contractor response to oral direction from any other source is at its own risk of liability.

**MODIFICATION COST PROPOSAL - PRICE BREAKDOWN (14-13)**  
**(SEP 98)(BPI 14.10.5.1.1)**

- (a) The contractor, in connection with any proposal it makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. The breakdown shall be in enough detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by similar price breakdowns from those subcontractors.
- (b) In addition, if the proposal includes a time extension, a justification thereof shall also be furnished. Notwithstanding any other provisions of this contract, it is mutually understood that the time extension for changes in the work will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of work. The contract completion dates will be extended only for those specific elements so delayed and the remaining contract completion dates for all other portions of the work will not be altered.
- (c) The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

**PRICING OF ADJUSTMENTS (14-12)**  
**(SEP 98)(BPI 14.10.5.1.1)**

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other modification in connection with this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 13 of the Bonneville Purchasing Instructions which are in effect on the date of this contract.

**PRICE REDUCTION FOR INACCURATE COST OR PRICING INFORMATION (12-2)**  
**(SEP 98)(BPI 12.5.4.1)**

BPA retains the right to reduce the contract price, including profit or fee, if the cost or pricing information submitted by the contractor was not complete, accurate, and current at the time of final price agreement. This right applies to the contract as awarded, to any subsequent modifications, and to any data submitted by subcontractors.

**PRINTING (6-2)**  
**(OCT 93)(BPI 6.8.3.1)**

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8-1/2 by 11 inches, one side only, one color.

- (a) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, silk screening, or the end items produced by such processes.
- (b) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on BPA's behalf production, purchase, and dissemination of printed matter.
- (c) Printing services not obtained in compliance with this guidance may result in the cost of such printing being disallowed.
- (d) The contractor shall include in each subcontract hereunder a provision substantially the same as this clause including this paragraph (d).

**SCREENING REQUIREMENTS FOR PERSONNEL HAVING ACCESS TO BPA FACILITIES (23-4)  
(MAY 07)(BPI 23.4.1)**

(a) The following definitions shall apply to this contract:

(1) "Access" means the ability to enter BPA facilities as a direct or indirect result of the work required under this contract.

(2) "Sensitive unclassified data" means information requiring a degree of protection due to the risk and magnitude of loss or harm that could result from inadvertent or deliberate disclosures, alteration, or restriction. Sensitive unclassified data may include, but are not limited to: personnel data maintained in systems or records subject to the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a); proprietary business data within the meaning of 18 U.S.C. 1905 and the Freedom of Information Act (5 U.S.C. 552); unclassified controlled nuclear information within the meaning of 42 U.S.C. 2168; critical infrastructure information, energy supply data; economic forecasts; and financial data.

(b) BPA personnel screening activities are based on the Homeland Security Presidential Directive 12 (HSPD-12), and DOE rules and guidance as implemented at BPA. The background screening process to be conducted by the Office of Personnel Management is called a National Agency Check with Inquiries (NACI). The results of the NACI process will provide BPA with information to determine an individual's initial eligibility or continued eligibility for access to BPA facilities including IT access. Such a determination shall not be construed as a substitute for determining whether an individual is technically suitable for employment.

(c) The contractor is responsible for protecting BPA property during contract performance, including sensitive unclassified data. Effective October 27, 2005, all new-hire contract employees expected to work at federal facilities for six or more consecutive months must be screened according to HSPD-12. To initiate the federal screening process discussed in paragraph (b) above, the contractor shall ensure that all prospective contract employees present the required forms of personal identification and complete SF85 - Questionnaire for Non Sensitive Positions and submit it to BPA for processing. All contract employees on board prior to that date will be screened in phases according to length of service. Rescreenings of longer-term contract employees will occur at periodic intervals, generally of five years.

(d) As part of the NACI, the government's determination of approval for an individual's access shall be at least based upon criteria listed below. However, the contractor also has a responsibility to affirm that permitting the individual access to BPA facilities and/or computer systems is an acceptable risk which will not lead to improper use, manipulation, alteration, or destruction of BPA property or data, including unauthorized disclosure. Positive findings in any of these areas shall be sufficient grounds to deny access.

(1) Any behavior, activities, or associations that may show the individual is not reliable or trustworthy.

(2) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(3) Any criminal, dishonest or immoral conduct (as defined by local Law), or substance abuse.

(4) Any illness, including any mental condition, of a nature which, in the opinion of competent medical authority, may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(e) If the NACI screening process described above prompts a determination to disapprove access, BPA shall notify the contractor, who will then inform the individual of the determination and the reasons therefor. The contractor shall afford the individual an opportunity to refute or rebut the information that has formed the basis for the initial determination, according to the appeal process prescribed by HSPD-12 and supplemental implementing guidance.

(f) If the individual is granted access, the individual's employment records or personnel file shall contain a copy of the final determination as described in paragraph (e) above and the basis for the determination. The contractor shall conduct periodic reviews of the individual's employment records or personnel file to reaffirm the individual's continued suitability for access. The reviews should occur annually, or more often as appropriate or necessary. If the contractor becomes aware of any new information that could alter the individuals' continued eligibility for approved access, the contractor shall notify the COTR immediately.

- (g) If a security clearance is required, then the applicant's job qualifications and suitability must be established prior to the submission of a security clearance request to DOE. In the event that an applicant is specifically hired for a position that requires a security clearance, then the applicant shall not be placed in that position until a security clearance is granted by DOE.
- (h) In addition to the requirements described elsewhere in this clause, all contractor employees who may be accessing any of BPA's information resources must participate annually in a BPA-furnished information resources security training course.
- (i) The contractor is responsible for obtaining from its employees any BPA-issued identification and/or access cards immediately upon termination of an employee's employment with the contractor, and for returning it to the COTR, who will forward it to Security Management.
- (j) The substance of this clause shall be included in any subcontracts in which the subcontractor employees will have access to BPA facilities and/ or computer systems.

**ORDER OF PRECEDENCE (14-3)**  
**(SEP 98)(BPI 14.4.1.1)**

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications or statement of work); (b) contract clauses; (c) the specifications or statement of work; and (d) other documents, exhibits, and attachments.

**BANKRUPTCY (14-18)**  
**(OCT 05)(BPI 14.19.1)**

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identify of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting officers for all Government contracts against final payment has not been made. This obligation remains in effect until final payment under this contract.

**STANDARDS OF CONDUCT AND BUSINESS PRACTICES**

**ORGANIZATIONAL CONFLICTS OF INTEREST (3-2)**  
**(SEP 98)(BPI 3.4.6)**

- (a) The offeror or contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts which could give rise to organizational conflicts of interest, as defined in BPI 3.4.1, and that the offeror or contractor has disclosed all relevant information to the Contracting Officer.
- (b) The offeror or contractor agrees that, if after award, an organizational conflict of interest with respect to this contract is discovered, an immediate and full disclosure in writing shall be made to the Contracting Officer which shall include a description of the action which the contractor has taken, or proposes to take, to avoid or mitigate such conflicts.
- (c) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the Contracting Officer, BPA may terminate the contract for default.
- (d) The provisions of this clause shall be included in all subcontracts for work to be performed in aid of the services provided by the prime contractor, and the terms "contract," "contractor," "Contracting Officer" modified appropriately.

**CERTIFICATION, DISCLOSURE, AND LIMITATION REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (3-3)**  
**(SEP 98)(BPI 3.5.6)**

- (a) As used in this clause:

"Covered Federal action" means

- (1) The awarding of any Federal contract.
- (2) The extension, continuation, renewal, amendment, or modification of any Federal contract.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and includes Alaskan Natives.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, includes a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes all contractors and subcontractors. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract or the extension, continuation, renewal, amendment, or modification of any Federal contract.
- (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, Standard Form-LLL, Disclosure of Lobbying Activities, to the Contracting Officer.
- (3) He or she will include the language of this certification in all subcontract awards at any tier and that all sub-recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10, 000 and not more than \$100,000 for each such failure.
- (d) A contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under this clause if paid for with appropriated funds.
- (e) The contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (b) of this clause. An event that materially affects the accuracy of the information reported includes--
  - (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  - (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
  - (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (f) The contractor shall require the submittal of a certification, and if required, a disclosure form, by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.
- (g) All subcontractor disclosure forms (but not certifications), shall be forwarded from tier to tier until received by the prime contractor. The prime contractor shall submit all disclosure forms to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding contractor.
- (h) Any person who makes an expenditure prohibited under this clause or who fails to file or amend the disclosure form to be filed or amended by this clause shall be subject to a civil penalty as provided by 31 U. S. Code 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

**DRUG-FREE WORKPLACE (3-6)**  
**(SEP 98)(BPI 3.6.4)**

- (a) The contractor agrees that with respect to all employees to be employed under this contract it will provide a drug-free workplace as described in this clause.
- (b) Definitions. As used in this clause "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), as from time to time amended, and as further defined in regulation at 21 CFR 1308.11-1308.15, as amended.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the contractor in connection with a specific contract at which employees of the contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other contractor employees who have other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

- (c) The Contractor, if other than an individual, shall -- within 30 calendar days after award (unless a longer period is agreed to in writing for contracts of 30 calendar days or more performance duration); or as soon as possible for contracts of less than 30 calendar days performance duration--
- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
  - (2) Establish an on-going drug-free awareness program to inform such employees about--
    - (A) The dangers of drug abuse in the workplace;
    - (B) The contractor's policy of maintaining a drug-free workplace;
    - (C) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (D) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - (3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (c)(1) of this clause;
  - (4) Notify such employees in writing in the statement required by subparagraph (c)(1) of this clause that, as a condition of continued employment on this contract, the employee will--
    - (A) Abide by the terms of the statement; and
    - (B) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction.
  - (5) Notify the Contracting Officer in writing within ten (10) days after receiving notice under subdivision (c)(4)(B) of this clause, from an employee, or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
  - (6) Within 30 days after receiving notice under subparagraph (c)(4)(B) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
    - (A) Taking appropriate personnel action against such employee, up to and including termination; and/or
    - (B) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
  - (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (c)(1) through (c)(6) of this clause.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (c) of this clause may, pursuant to BPI 3.6.3 render the contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

**CONTRACTOR COMPLIANCE WITH BPA POLICIES (3-8)**  
**(SEP 09)(BPI 3.7.1)**

- (a) The contractor shall comply with all BPA policies affecting the BPA workplace environment. Examples of specific policies are:
- (1) Harassment-free workplace;
  - (2) Non-smoking workplace;

- (3) Firearms and other weapons (BPAM 1086);
  - (4) Safety and health clauses in this contract;
  - (5) Visits to BPA substations, rights-of-way work sites, other electrical hazardous work sites, and non-electrical hazardous work sites;
  - (6) Standards of conduct regarding transmission information (BPI 3.2);
  - (7) Dissemination of Critical Program Information (BPA Security Standards Manual, Chapter 300-2); and
  - (8) Identity verification and background screening for all contractors, and pre-approval for non-US Citizen access to BPA facilities, as prescribed by the BPA Security office procedures.
- (b) The contractor shall obtain from the CO information describing the policy requirements. A contractor who fails to enforce workplace policies is subject to suspension or default termination of the contract.

**RESTRICTION ON COMMERCIAL ADVERTISING (3-9)  
(OCT 05) (BPI 3.8.1)**

The Contractor agrees that without the Bonneville Power Administration's (BPA) prior written consent, the Contractor shall not use the names, visual representations, service marks and/or trademarks of the BPA or any of its affiliated entities, or reveal the terms and conditions, specifications, or statement of work, in any manner, including, but not limited to, in any advertising, publicity release or sales presentation. The Contractor will not state or imply that the BPA endorses a product, project or commercial line of endeavor.

**SOCIO-ECONOMIC ISSUES**

**UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (8-3)  
(SEP 98)(BPI 8.3.4)**

- (a) It is the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts.
- (b) Prime contractors shall establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.
- (c) The Contractor hereby agrees to carry out the policies in (a) and (b) in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the Department of Energy as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (d) As used in this contract, the terms "small business concern" and "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

**LIQUIDATED DAMAGES -- SMALL BUSINESS SUBCONTRACTING PLAN (8-5)  
(SEP 98)(BPI 8.3.4)**

- (a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the subcontracting plan approved under this contract, or willful or intentional action to frustrate the plan.
- (b) If the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides that the Contractor failed to made a good faith effort to comply with its subcontracting plan, the Contractor shall pay BPA liquidated damages in an amount stated. The amount of damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the contractor failed to achieve each subcontract goal, or in the

case of a commercial products plan, that portion of the dollar amount allocable to the BPA contract by which the Contractor failed to achieve each subcontract goal.

- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If the Contracting Officer finds that the contractor failed to made a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.
- (d) With respect to approved commercial products plans, i.e., company-wide or division-wide subcontracting plans, the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.
- (e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.
- (f) Liquidated damages shall be in addition to any other remedies that the Government may have.

**NONDISCRIMINATION AND AFFIRMATIVE ACTION (10-1)**  
**(APR 09)(BPI 10.2.1)**

- (a) The Contractor shall not discriminate against its employees or applicants because of their race, color, religion, sex, national origin, age, status as Disabled or Vietnam Veterans, or physical or mental handicaps. The Contractor certifies that it does not, and will not, maintain segregated facilities or accommodations on the basis of race, color, religion or national origin. Regarding any position for which an employee or an applicant is qualified, the Contractor agrees to take affirmative action to employ, train, advance in employment and retain individuals in accordance with applicable laws and regulations including:
  - (1) For nondiscrimination based on race , color, religion, sex or national origin this includes, but is not limited to, the U. S. Constitution, and Parts II and IV of Executive Order 11246, September 24, 1965 (30 Fed. Reg. 12319). Contractor disputes related to compliance with its obligations shall be handled according to the rules, regulations and relevant orders of the Secretary of Labor (See 41 CFR 60).
  - (2) For nondiscrimination based on Disabled or Vietnam Veterans this includes, but is not limited to, the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4012); Executive Order 11701, January 24, 1973 (38 CFR 2675); and the regulations of the Secretary of Labor (41 CFR Part 60-250).
  - (3) For nondiscrimination based on the Handicapped this includes, but is not limited to, Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793); Executive Order 11758, January 15, 1974; and the regulations of the Secretary of Labor (41 CFR Part 60-741).
  - (4) For nondiscrimination based on Age this includes, but is not limited to, Executive Order 11141, February 12, 1964 (29 CFR 2477).
- (b) The Contractor shall include the terms of this clause in every subcontract or purchase order exceeding \$50,000 and shall act as specified by the Department of Labor to enforce the terms and implement remedies.

**SERVICE CONTRACT ACT OF 1965 (10-3)**  
**(SEP 98)(BPI 10.3.4)**

- (a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, [41 U.S.C. 351, et seq.].

"Contractor," as used in this clause or in any subcontract, shall include the subcontractor, except in the term "BPA Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in

Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all service employees regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2) Conforming additional classifications.

(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee not listed therein which is to be employed under the contract [i.e., the work to be performed is not performed by any classification listed in the wage determination] so as to provide a reasonable relationship [i.e., appropriate level of skill comparison] between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits which are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer (CO) no later than 30 days after the unlisted class of employee performs any contract work. The CO shall review the proposed classification and rate and promptly submit the completed SF 1444 [which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves, together with the agency recommendation], and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action, or render a final determination in the event of disagreement, within 30 days of receipt or will notify the CO within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be posted as a part of the wage determination or a written copy shall be furnished to each affected employee.

(iv) Establishing rates.

(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination, depending upon the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contract succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the CO of the action taken, but the other procedures in paragraph (c)(2)(ii) of this section need not be followed.

- (C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.
- (v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.
- (vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits, which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) Adjustment of compensation. If the term of this contract is more than two years, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after two years under wage determinations to be issued by the Wage and Hour Division.
- (d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments only in accordance with Subpart D of 29 CFR Part 4.
- (e) Minimum wage. In the absence of a wage determination for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.
- (f) Successor contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality, and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the wage determination for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR Part 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR Part 4.10, that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR Part 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for similar services in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (g) Notification to employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Records.

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for three years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(A) For each employee subject to the Act --

- (i) Name, address and social security number;
- (ii) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payment in lieu of fringe benefits and total daily and weekly compensation;
- (iii) Daily and weekly hours worked by each employee; and
- (iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(B) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(iv)(B) of this clause will fulfill this requirement.

(C) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (m) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the CO, upon direction of the Department of Labor and notification of the Contractor, shall take action to suspend or any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(i) Pay periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(j) Withholding of payments and termination of contract. The CO shall withhold or cause to be withheld from the BPA prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests, or such sums as the CO decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the CO may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the BPA may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(k) Subcontracts. The Contractor agrees to include this clause in all subcontracts subject to the Act.

(l) Collective bargaining agreements applicable to service employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the BPA prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the BPA prime contractor shall report such fact to the CO, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees

engaged in work on the contract, together with a copy of the collective bargaining agreement. Such report shall be made upon commencing performance on the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

- (m) Seniority Lists. Not less than ten days prior to completion of any contract being performed at a BPA facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (29 CFR Part 4.173), the incumbent prime contractor shall furnish to the CO a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The CO shall provide this list to the successor contractor at the commencement of the succeeding contract.
- (n) Rulings and interpretations. Rulings and interpretations of the Act are contained in 29 CFR Part 4.
- (o) Variations, tolerances and exemptions involving employment. Notwithstanding any of the provisions in paragraphs (b) through (n) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.
  - (1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the DOL (29 CFR Parts 520, 521, 524, and 525).
  - (2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).
  - (3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.
- (p) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.
- (q) Disputes concerning labor standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes concerning labor standards requirements within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U. S. Department of Labor, or the employees or their representatives.

**WAGE DETERMINATION (10-5)**  
**(OCT 93)(BPI 10.3.4)**

The hourly rates and fringe benefits to be paid service employees under this contract shall not be less than those listed in the attached Service Contract Act wage determination.

**EMPLOYMENT ELIGIBILITY VERIFICATION (10-18)**  
**(NOV 09) (BPI 10.6.2)**

(a) E-Verify enrollment and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at the time of the contract award, the Contractor shall:

(A) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(B) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (a) (3) of this section); and

(C) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(A) All new employees.

(i) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract within 3 business days after the date of hire (but see paragraph (a)(3) of this section); or

(ii) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph(3) of this section ); or

(B) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (4) of this section).

(3) If the Contractor is an institution of higher education but not subject to an intergovernmental contract; or a surety performing under a takeover agreement entered into pursuant to a performance bond performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (a)(1) or (a)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(A) Enrollment in the E-Verify program; or

(B) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program MOU.

(A) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(B) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(b) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(c) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(d) *Subcontracts*. The contractor shall include the requirements of this clause, including this paragraph (d) (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for:

(A) Services other than commercial services that are part of the purchase of a commercial-of-the-shelf (COTS) item, performed by the COTS provider and are normally provided for that COTS item;

(B) Construction.

(2) Has a value of more than \$3,000; and

(3) Includes work performed in the United States.

## **ENVIRONMENT AND SAFETY**

### **SAFETY AND HEALTH – NON-ELECTRICAL CONTRACTOR(S) (15-55)M (MAR 10)(BPI 15.2.1)**

(a) General

(1) The Contractor shall assure that no person employed on this contract works in surroundings or under conditions that are unsanitary, hazardous, or dangerous to their health or safety. In fulfilling these requirements, the Contractor shall comply with:

(A) Department of Labor Safety and Health Standards for Construction under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.).

(B) Occupational Safety and Health Act of 1970, (Public Law 91-598) and applicable rules and regulations as may have been delegated to the States.

- (C) All Federal and state safety and health rules and regulations applicable to the contract work, as supplemented by BPA safety and health requirements stated below or elsewhere in the contract.
- (2) If there are conflicts between any of the requirements referenced in this contract, the more stringent requirement will prevail.
  - (3) If the Contractor fails or refuses to promptly comply with any safety or health requirement, the Contracting Officer's Technical Representative (COTR) may notify the Contractor of any noncompliance and the Contractor shall take immediate corrective action. Such notice, whether oral or written, when served on the Contractor or any of its employees at the site of the work shall be deemed sufficient. If the Contractor fails or refuses to promptly correct the condition, the COTR may stop all or any portion of the work. When satisfactory corrective action has been taken, the Contractor shall request permission to resume work from the COTR. When all work on a contract has been suspended for a Safety and Health violation, accident, or incident by the Contracting Officer (CO), the Contractor shall meet with representatives of BPA's Contracting Office, and the BPA Safety Office to present a written statement outlining specific changes in work procedures that the contractor will make in order for work to safely resume. BPA must be satisfied that the Contractor is capable of completing the contract in a safe manner before allowing work to resume. No time extension or additional costs, resulting from the directive to stop work shall be allowed. Failure of the COTR to provide notice of noncompliance or to stop work shall not relieve the Contractor of its responsibility for the safe performance of the work.
  - (4) The Contractor shall maintain an accurate record of, and shall immediately report to the COTR in the manner prescribed by the latter, all cases of death, occupational diseases, and injury arising from, or incident to, performance of work under this contract. The record and report shall include a description of the preventative measures to be taken to avoid recurrence, any restitution or settlement made, or the status thereof. The Contractor shall complete and file with the COTR, BPA form 6410.15e (Contractor's Report of Personal Injury, Illness, or Property Damage Accident) within five (5) working days of such an occurrence. In the case of a Near Miss Incident that does not involve injury, illness, or property damage, the Contractor shall complete and file with the COTR, BPA Form 6410.18e (Contractors Report of Incident/Near Miss) within five (5) working days of such an occurrence.
  - (5) In case of an injury, the Contractor shall have 30 days to make full restitution or settlement. If the Contractor fails to make full restitution or settlement within 30 days, BPA may:
    - (A) Make, or cause to be made, the required remedial action or cash settlement to the person or persons who have been injured, and
    - (B) Charge to the Contractor's account an equitable amount, not to exceed \$2,500, for any injury claim. More than one such payment, and charge, can be assessed if more than one injury has occurred.
  - (6) The Contractor bears sole responsibility for ensuring that all personnel engaged in work related to the contract possess the necessary knowledge and skills to perform their work safely and to otherwise function in compliance with the foregoing criteria. (See also the Material and Workmanship clause)
  - (7) The Contractor shall hold BPA harmless from any and all suits, actions, and claims for injuries to or death of persons arising from any act or omission of the Contractor, its subcontractors, or any employee of the Contractor or subcontractors, in any way related to the work or operations under this contract.
  - (8) The Contractor shall indemnify and hold harmless the property owners or parties lawfully in possession against all claims or liabilities asserted by third parties, including all governmental agencies, resulting directly or indirectly from the Contractor's wrongful or negligent acts or omissions.
  - (9) Nothing stated herein shall be construed to be a limitation on the Contractor's liability. The rights and remedies of BPA provided in this clause are in addition to any other rights and remedies provided by law or under this contract.
- (b) Personal Protective Equipment. The Contractor shall furnish non-conductive hard hats and all other required safety and personal protective equipment, except that which has been specified to be furnished by BPA. All persons on all construction projects shall wear non- conductive hard hats meeting the requirements of OSHA/ANSI. Contract employees shall not wear yellow non- conductive hard hats. (A yellow hat signifies a qualified BPA electrical worker.) Only a BPA approved safety watcher may wear orange non-conductive hard hats.

## BONDS AND INSURANCE

### INSURANCE (16-2) (SEP 09)(BPI 16.3.3)

(a) Before commencing work under this contract, the Contractor shall provide to the Contracting Officer certificates of insurance from the insurance company, or an authorized insurance agent, stating the required insurance has been obtained and is in force. The certificate(s) shall identify the Contractor and name BPA as the certificate holder as follows:

Bonneville Power Administration  
Attention: Contracting Officer – NSSP-4

The certificate shall also identify the contract number(s) for which coverage is provided, and shall contain a statement that the insurer will endeavor to give notice of cancellation or any material change to the certificate holder at least 30 days before the effective date.

(b) Throughout the period of the contract the Contractor shall deliver a new certificate of insurance to the Contracting Officer within 10 business days of existing policy expiration, changes, and/or changes in insurance providers. If the Contractor's insurance does not cover the subcontractors involved in the work, the Contractor shall provide the Contracting Officer with certificates of insurance stating that the required insurance has been obtained by the subcontractors.

(c) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(d) The following minimum kinds and amounts of insurance are applicable in the performance of the work under this contract. All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(1) **Workers' compensation and employer's liability.** Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. Employer's liability coverage of at least \$1,000,000 shall be required. BPA may require Contractors who are individuals (whether incorporated or not) to carry workers' compensation to protect agency interests. The Contracting Officer shall advise the Contractor regarding specific requirements.

(2) **Commercial General liability.** The contractor shall provide commercial general liability insurance of at least \$1,000,000 per occurrence. Any policy aggregate limits which apply shall be modified to apply to each location and project. The policy shall name BPA, its officials, officers, employees and agents, as additional insureds with respect to the contractor's performance of services under the contract. The contractor's policy shall be primary and shall not seek any contribution from any insurance or self-insurance programs of BPA.

(3) **Automobile liability.** The contractor shall provide automobile liability insurance covering the operation of all automobiles used in performing the contract. Policies shall provide limits of at least \$1,000,000 per accident and include coverage for all owned, non-owned and hired automobiles.

(7) **Professional liability.** The contractor shall provide professional liability insurance. Coverage shall be at least \$1,000,000 per occurrence for claims arising out of negligent acts, errors or omissions.

## PATENTS, DATA, AND COPYRIGHTS

### RIGHTS IN DATA-- COPYRIGHT ON SPECIAL WORKS (17-5.1) ALTERNATE I (OCT 05)(BPI 17.4.4.1)

(a) Allocation of Rights.

(1) BPA shall have--

(A) Unlimited rights, meaning 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, in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (b) of this clause for copyright.

(B) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (b)(1) of this clause.

(C) The right to limit the release and use of certain data in accordance with paragraph (c) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with subparagraph (b)(1) of this clause, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(b) Copyright.

(1) Data, computer software and documentation, and source code material first produced in the performance of this contract.

(A) The Contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without the prior written permission of the Contracting Officer. If a claim to copyright is made, the Contractor grants to the Government, and others acting on its behalf, a paid-up non-exclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(B) If BPA desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (b)(1)(A) of this clause, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain a copyright notice, unless the Contractor identifies such data and grants to the Government or acquires on its behalf, a license of the same scope as set forth in subparagraph (b)(1) of this clause.

(c) Release and use restrictions. Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor shall the Contractor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(d) Indemnity. The Contractor shall indemnify BPA and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless BPA provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Contractor by BPA and incorporated in data to which this clause applies.

(e) BPA Ownership of special works.

(1) Contractor agrees to promptly disclose to BPA all ideas, inventions, discoveries and improvements (whether patentable or not), that are made, conceived or reduced to practice by Contractor, solely or jointly with others, that are related to the performance of, or arising out of, the Work Product. Contractor further agrees to assign to BPA all right, title and interest in and to the special works and all such ideas, inventions, discoveries and improvements contained therein which are created, compiled or collected for BPA in connection with this Contract. Contractor understands and agrees that all new developments of the special work product which are subject to copyright protection under the United States Copyright Act of 1976, as amended, shall be considered special works within

the meaning of Section 101 of the Copyright Act and that such works constitute and contain valuable proprietary assets and trade secrets of BPA.

- (2) In the event that, notwithstanding the foregoing, title to and ownership of the Work Product initially vests in Contractor, Contractor agrees to execute, at BPA's request, all documents as may be necessary to grant, transfer and assign all such title and ownership to BPA. Contractor shall execute and aid in the preparation of any papers that BPA may consider necessary or helpful to obtain or maintain any patents, copyrights, trademarks or other proprietary rights at no charge to BPA, but at BPA's expense. BPA shall reimburse Contractor for reasonable out-of-pocket expenses incurred.
- (3) Contractor agrees to obtain or has obtained written assurances from its employees and subcontractor of their contracts to the terms hereof.
- (4) Contractor agrees that the Work Product is BPA's sole and exclusive property. Contractor shall treat the Work Product on a confidential basis and not disclose to any third party with BPA's written consent, except when reasonably necessary to perform the services under this Contract. Contractor shall be relieved of this confidentiality obligation if and when BPA discloses the Work Product without any restriction upon further disclosure.
- (5) The provision of this clause shall survive any termination of this contract.

#### **UNAUTHORIZED REPRODUCTION OR USE OF COMPUTER SOFTWARE (23-3) (SEP 98)(BPI 23.3.1)**

The contractor shall hold BPA harmless for unauthorized reproduction or use of copyrighted or proprietary computer software and/or manuals or other documentation by the contractor's employees or subcontractors in the performance of the contract.

#### **INSPECTION AND WARRANTY**

##### **INSPECTION - SERVICES (18-4) (SEP 98)(BPI 18.3.1)**

- (a) BPA may inspect the work called for by the contract at any time and place. BPA will perform inspections in a manner that will not unduly delay the work.
- (b) If any of the services do not conform with contract requirements (including services performed on a cost-reimbursement or time-and-materials basis), BPA may require the Contractor to perform the services again in conformity with the contract at no cost to BPA. When the defects in services cannot be corrected by re-performance, BPA may deduct from the contract payments an amount which reflects the reduced value of the services performed.
- (c) Neither inspection, lack of inspection, acceptance, nor payment shall relieve the Contractor of any of its obligations under this contract.

##### **WARRANTY - SERVICES (18-11) (SEP 98)(BPI 18.5.1)**

- (a) The Contractor warrants that all services performed under this contract will be performed in a professional manner, be free from defects in workmanship and conform to the requirements of this contract. The Contractor further warrants that any materials provided will be free from defects. This warranty is valid for 1 year from date of acceptance by BPA. The Contracting Officer will give written notice of any defect or nonconformance to the Contractor within a reasonable period of time after discovery.
- (b) Corrections shall be at no cost to BPA, and any services or materials corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed.

## TERMINATION

### TERMINATION FOR THE CONVENIENCE OF BPA (20-2) (MAY 07)(BPI 20.4.1)

- (a) BPA may terminate all or any part of this contract, at any time, upon written notice to the contractor. Upon receipt of the termination notice, the contractor shall stop work on the terminated portion of the contract.
- (b) The contract amount shall be revised as a result of termination under this clause. On fixed-price contracts the revised amount shall not exceed the pre-termination contract price, excluding payments already received, plus reasonable termination expenses. On cost-reimbursement contracts it will not exceed the total of allowable and allocable costs of performance prior to termination, excluding payments already received, plus reasonable termination expenses, plus an adjustment of the fee on the terminated portion of the contract. No payment will be made for anticipated profits on the terminated portion, or consequential damages, of the contract. The contractor shall submit a settlement proposal within 30 days of the notice of termination.
- (c) The Contracting Officer may direct the disposition of material produced or acquired for the work terminated, or any completed or partially completed items.

### TERMINATION FOR DEFAULT (20-3.1) ALTERNATE I (OCT 93)(BPI 20.5.1)

- (a) BPA reserves the right to terminate any or all of any undelivered or unexecuted portion of this contract for cause if the contractor fails to make any delivery, fails to prosecute the work, or to perform as scheduled, or if any of the contract terms are breached. However, the contractor shall not be terminated for default if the failure to perform arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of those causes are: (1) acts of God or of the public enemy, (2) acts of the Government in its sovereign or BPA in its contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather.
- (b) The Contracting Officer may direct the disposition of material produced or acquired for the work terminated, and the disposition of any completed or partially completed items.
- (c) BPA may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to BPA for any excess costs for those supplies or services, including administrative costs.

## DISPUTES

### APPLICABLE LAW (21-5) (SEP 98)(BPI 21.3.12)

Irrespective of the place of performance, this contract will be construed and interpreted according to the federal common law of government contracts, as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the Federal Government. To the extent that the federal common law of government contracts is not dispositive, the laws of the State of Oregon shall apply.

### RELEASE OF CLAIMS (21-4) (SEP 98)(BPI 21.3.12)

After completion of work, and prior to final payment, the Contracting Officer may, at his or her option, require the Contractor to furnish a release of claims against BPA arising out of the contract, other than claims specifically excepted from the operation of the release.

**DISPUTES RESOLUTION PROCESS (21-3)**  
**(OCT 05)(BPI 21.3.12)**

- (a) All disputes arising under or relating to this contract shall be resolved under this clause.
- (b) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment or equitable adjustment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by complying with the requirements of this clause, if it is not disputed either as to liability or amount or is not acted upon in a reasonable time.
- (c) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision before final payment. A claim by BPA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of receipt of the request. For Contractor claims in excess of \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date when the decision will be made. At any time prior to issuance of the Contracting Officer's final decision, either party may request mediation or other alternate disputes resolution process (see paragraph (g)) by a third party in order to assist in settling the claim. Should the contractor request the use of an alternate disputes resolution process, the time frames for issuing a CO decision and payment of interest shall be suspended.
- (e) The decision of the Contracting Officer shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency unless:

- (1) Within 90 days from the date of receipt of such decision the Contractor or Contracting Officer initiates disputes resolution processes described in Subchapter IV of the Administrative Disputes Resolution Act of 1990 (P. Law 101-552, 104 Stat. 2736) with the Seattle Office of the American Arbitration Association at the address,

American Arbitration Association  
701 Pike Street, Suite 950  
Seattle, WA 98101-4111

whose telephone number is (206) 622-6435 and facsimile number is(206) 343-5679; or

- (2) Within 90 days from the date of receipt of such decision the Contractor appeals the decision to the US Department of Energy, Board of Contract Appeals at either its postal or courier address:

US Postal Service (USPS) mailing address: US Department of Energy  
Board of Contract Appeals  
HG-50, Building 950  
L'Enfant Plaza Building  
1000 Independence Avenue SW  
Washington, DC 20585-0116

Courier and other than USPS address: US Department of Energy  
Board of Contract Appeals  
Suite 810  
950 L'Enfant Plaza SW  
Washington, DC 20024

whose telephone number is (202) 287-1900 and facsimile (202) 287-1700, in the manner specified in the decision; or

- (3) Within 12 months from the date of receipt of such decision the Contractor brings an action thereon in the United States Court of Federal Claims.

- (f) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.
- (g) Alternative disputes resolution process.
- (1) The parties are encouraged to attempt an alternative dispute resolution as described by Subchapter IV of the Administrative Disputes Resolution Act of 1990 (P. Law 101-552, 104 Stat. 2736), including, at the request of any party, mediation or binding arbitration, prior to commencing litigation in any court, board or tribunal. Mediation shall be accomplished as agreed between the parties. Arbitration, if any, shall be done through the Seattle, Washington Office of the American Arbitration Association, and shall be done according to the Commercial Arbitration Rules of the American Arbitration Association, using one arbitrator unless otherwise agreed to by the parties. If the contractor rejects BPA's request to use an alternate dispute resolution process, the reason for its rejection shall be furnished to the Contracting Officer.
  - (2) The parties stipulate that any tribunal to which any controversy or claim is brought should stay its proceedings, except in aid of arbitration, pending completion of arbitration and the issuance of the Arbitrator's award.
  - (3) Service of summons in any court action to enforce or challenge an award must be effectuated according to Rule 4 of the Federal Rules of Civil Procedure for the United States District Courts or under the comparable rule of another court or tribunal with subject matter jurisdiction.
  - (4) Except as specified below in this paragraph, there shall be no discovery in connection with any dispute resolution process. However, in the event that any party to such dispute resolution process shall receive information pertaining to the dispute through anyone's use of the Freedom of Information Act with the Department of Energy or Bonneville Power Administration, then, at the option of Bonneville Power Administration, other discovery shall be permitted and, if thus permitted at all, shall be opened fully to all parties. To the extent that such discovery cannot be effectuated by consent and agreement, it shall be under the supervision of the individual assisting with the dispute resolution.
- (h) BPA shall pay interest on the amount found due and unpaid from: (1) the date the Contracting Officer receives the claim, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate fixed by the Secretary of the Treasury, and applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

## UNIT 3 — STATEMENT OF WORK

### Commercial & Industrial Demand Response Project Development & Management

#### STATEMENT OF WORK

##### Part A General

##### A.1 Goal of this contract

The objective of this contract is for the Bonneville Power Administration (BPA) to hire a Contractor to provide assistance to BPA and identified participants to develop and mature viable Demand Response pilots in the commercial and industrial (C&I) sectors. The vision is that experiences from these pilots will be used to broaden the base of Demand Response knowledge in the Pacific Northwest and that findings from these pilots will ultimately be shared in some form with regional participants. For the purposes of this contract, Demand Response is defined as changes in electric usage by end-use customers from their normal consumption patterns in response to utility or power system needs.

This contract encompasses the services of the vendor to assist in the identification and recommendation of pilot candidates and the management of pilots, and does not include the costs or objectives of any pilot agreements (e.g. hardware, installation, etc) that are arranged either directly between BPA and/or Contractor and a pilot participant.

##### A.2 Background

The BPA has, in the past, been able to meet peak capacity needs and address variations in daily electrical loads through the flexibility of its hydropower system. However, load growth, wind integration, and other operational constraints have reduced much of the flexibility of the Northwest power system. BPA's power system is not alone in this regard. The Northwest Power and Conservation Council's Sixth Power Plan encourages all Northwest utilities to begin exploring the use of Demand Response to address an upward trend of increasing capacity constraints. In order to meet the needs of individual utilities and the Northwest power system as a whole, BPA is seeking to identify and develop Demand Response strategies that work effectively with BPA's customer utilities and the end-use commercial and industrial operations within their service territories.

##### A.3 Location of Project

The primary location will be at the vendor's place of work; however, meetings and work time may be requested up to 2 days/week at the BPA headquarters in Portland or as the Workplan necessitates throughout all phases of the contract.

The site specific implementation of this contract could occur anywhere in BPA's control area, which includes the service territories of its power customer public utilities located in: Washington, Oregon, Idaho, western Montana, northwestern Wyoming, northern Nevada, northern Utah and northern California.

##### A.4 BPA-Furnished Property or Services

BPA will provide visual identity standards for the Contractor to use in producing business and marketing materials under this contract. BPA will furnish the following documents as needed by the Contractor and as deemed necessary by BPA:

- a. Copies of formal proposals received from customer utilities seeking to work with BPA to develop commercial and industrial Demand Response resources in their respective service territories;
- b. A spreadsheet of BPA customers and corresponding account executives that distinguishes between the different type of BPA customers;
- c. A map of BPA's control area, identifying service territories of customer and non-customer utilities;
- d. Documentation of BPA's past Demand Response projects;
- e. Background documents on Demand Response in the Pacific Northwest, including Demand Response section (chapter 5) of the draft Pacific Northwest 6th Power Plan;

## Part B Technical Approach/Tasks

### B.1 General Requirements

At the highest level, the Contractor will work with BPA to craft an implementation plan, engage regional stakeholders, identify and recruit pilot candidates, recommend viable pilots to BPA, and manage Demand Response projects in the commercial and industrial sectors. Emphasis will be given, but not limited to, the development of Open Automated Demand Response projects in large commercial and grocery facilities operated by entities with a regional presence.

For the purposes of this document, Open Automated Demand Response is defined as a communications data model designed to facilitate sending and receiving of Demand Response signals from a utility or independent system operator to electric customers. The intention of the data model is to interact with building and industrial control systems that are pre-programmed to take action based on a Demand Response signal, enabling a demand response event to be fully automated, with no manual intervention. Open specification is intended to allow anyone to implement the signaling systems, the automation server or the automation clients.

The Contractor shall be expected to communicate with outside parties per the communication protocols agreed upon in Phase 1, Task 1.

### B.2 Methods to be Used

The Contractor shall use its best efforts to accomplish goals and tasks as laid out in Section B.3 below, and will maintain close communication with BPA. All marketing and business communication materials shall be consistent with the BPA visual identity standards and shall be approved by BPA prior to release/publication. The Contractor shall submit communication templates in advance for BPA Contracting Officer's Technical Representative (COTR) review.

All work products and marketing materials, including but not limited to Web sites, data, reports and conference presentations, shall become the property of BPA as a condition of this contract.

### B.3 Specific Requirements

The contract will be managed in a phased approach. To meet the General Requirements of the contract, the vendor shall be responsible for the activities as described in this section. In building timelines for accomplishing the tasks below, the Contractor shall incorporate worksteps and sufficient time for BPA to review and approve deliverables.

#### PHASE 1: Development of Implementation Plan and Recruitment of Pilot Candidates

**Task 1: Draft Implementation Plan.** The Contractor shall work with BPA to develop a draft implementation plan that will provide a framework to guide the Contractor in their pursuit of all tasks carried out for BPA under this contract. The draft implementation plan will address:

- Roles and responsibilities
- Lines of authority
- Decision-making protocols
- Documentation standards and software to be used
- Location of shared documents
- Communication protocols. BPA and Contractor shall establish an agreed upon protocol for communication between the Contractor and BPA customer utilities prior to start of any communication by the Contractor on behalf of BPA. Once established, the Contractor may begin contacting customer utilities in pursuit of the BPA's interests.
- Protocols for engaging the NW Trade Ally Network
- Desired pilot candidate characteristics
- Any other items deemed necessary by BPA for the facilitation of efficient implementation.

**Task 2: Workplan.** The Contractor shall review BPA furnished background documents, consult with the BPA Demand Response team and representatives from the Energy Efficiency commercial and industrial sectors as requested, and create a draft workplan that details steps and key dates. This workplan shall be a refinement of the timeline proposed in the RFP response. The workplan shall also be revised in accordance with the development of the implementation plan and updated as needed. Materials that will be used for communicating and presenting the program with potential pilot

candidates will be created as a part of this task and reviewed and approved by BPA COTR prior to the first BPA-led stakeholder meeting (Phase 1, Task 3).

**Task 3: Participation in BPA-led Stakeholder Meetings.** The Contractor shall participate with BPA in the planning and facilitation of stakeholder meetings designed to identify and address key issues of importance that will influence the effectiveness of the commercial and industrial demand response efforts being initiated by BPA. During the course of these stakeholder meetings, the Contractor will serve as a representative of BPA and will apply its expertise to assist BPA in the timely pursuit of action items resulting from the meetings.

**Task 4: Recruitment of Pilot Candidates.** Based on the BPA approved implementation and workplans, the Contractor shall prepare needed presentation materials and gain BPA approval of these materials, proceed with identifying potential candidates, facilitate initial meetings with these contacts, and recommend suitable and interested candidates to the BPA point of contact.

**Task 5: Revised Implementation Plan.** The Contractor shall provide a revised implementation plan that incorporates the findings from the stakeholder meetings into the draft implementation plan. Interim approvals and review times with BPA will be scheduled such that the revised implementation plan will provide both BPA and the Contractor with a guiding framework for action in regard to the development and management of pilot projects. Any further revisions to the implementation plan will be informed by experience and will be addressed as needed by the BPA.

**Task 6: Pilot Candidate Recommendations.** The Contractor shall document and present recommendations to the BPA COTR on the optimal pilot candidates. The presentation will include a detailed brief on each candidate, including but not limited to general background, the nature of the opportunity and pilot to be conducted, goals and objectives, potential impact, readiness and relevant capabilities, technologies to be tested, the location, the point of contacts, budget and cost-sharing details, and an objective assessment of each candidate's potential.

## **PHASE 2: PILOT PROJECT MANAGEMENT**

The objective of this phase is for the Contractor to provide project management services for the selected commercial and industrial pilots.

**Task 1: Preparation of Project Scope Documents.** BPA will provide pilot project Statements of Work or review and comment on Contractor-prepared Statements of Work for pilot projects. In either case, the Contractor shall support BPA by providing project scope documents, including specific tasks, budgets, timelines and other needed relevant and requested background information. Such support shall be provided by closely coordinating with pilot participants to design detailed project plans. The Contractor shall also work closely with the BPA evaluation team to ensure a plan is in place to gather information that is useful to furthering regional Demand

Response knowledge. Upon BPA approval, either party may contract with a pilot project utility and/or pilot participant. Such decisions will be made through the revised implementation plan process

**Task 2: Pilot Implementation.** The Contractor shall work closely with the pilot participant to implement the pilot project plan in alignment with the Statement of Work. As requested by BPA, the Contractor shall assist pilot participants with technical, marketing and programmatic issues to support effective execution.

**Task 3: Project Management Tasks during and after Implementation.** Tasks to be completed by the Contractor shall include, but are not limited to, the following project management tasks:

- a. Monitor and adhere to budgets and schedules. Provide a monthly update of accrued and projected costs.
- b. Identify and resolve technical and management problems related to projects
- c. Copy all email correspondence with customers to Joshua Binus ([jdbinus@bpa.gov](mailto:jdbinus@bpa.gov)) and/or any other designated BPA contacts
- d. Hold weekly meetings with the COTR and designated BPA staff
- e. Produce weekly meeting summaries and progress updates that outline challenges, accomplishments, risks/issues and coming activities
- f. Prepare formal assessment reports for each project managed for BPA
- g. Prepare an annual summary report which aggregates all activity undertaken for BPA
- h. Upon request of BPA, prepare case studies for specific projects.
- i. Document and share meeting minutes and/or meeting summary notes from meetings held with pilot participants
- j. Document and share meeting minutes and/or meeting summary notes from meetings held with BPA staff

#### Task 4: Summary of Pilot Results

The Contractor will work with each pilot participant to collect demand response data and summarize the learnings of the pilot in alignment with the project plan. The Contractor shall present draft presentations to BPA (case studies). BPA will provide comments on these presentations, and the Contractor will make changes as required. The findings will be reported with a consideration that they will need to be repurposed and shared with a broader audience.

#### B.4 Deliverables.

BPA will review all deliverables for completeness and accuracy. Deficiencies in the Contractor's reports will be referred back to Contractor for completion, and BPA will retain the option to not accept reports until all deficiencies have been addressed to BPA's satisfaction. The time schedule for each task and deliverable are identified in B.5 below. Sub-deliverables and due dates derived from the Tasks shall be defined and scheduled in the Workplan.

#### B.5 Time Schedule

The tasks and deliverables will follow the timeline below:

##### Phase 1: Development of Implementation Plan and Pilot Candidate Recruitment

Deliverable	Due Date	Recipient
Task 1: Draft Implementation Plan	Within 30 Days of the Award	Joshua Binus
Task 2: Workplan	Within 35 Days of the Award	Joshua Binus
Task 3: Pilot Candidate Recruitment	Presentation materials made ready & available by the first Stakeholder meeting (No later than 45 Days after the Award). Recruitment Period begins at this stage.	Joshua Binus
Task 4: Participation in BPA-led Stakeholder Meetings (provide any supporting documents or labor deemed necessary for planning, facilitation, action items)	Hold the first meeting within 45 Days of the Award	Joshua Binus
Task 5. Finalize Implementation Plan	Within 120 Days of the Award	Joshua Binus
Task 6: Pilot Candidate Recommendations	Within 120 Days of the Award	Joshua Binus

##### Phase 2

Deliverable	Due Date	Recipient
Task 1: Preparation of Project Scope Documents	As defined by BPA COTR	Joshua Binus
Task 2: Pilot Implementation	Duration of Contract	Joshua Binus
Task 3: Project Management Tasks	Duration of Contract	Joshua Binus

Task 4: Summary of Pilot Results	Within 30 days of the completion of key test periods or the pilot as a whole	Joshua Binus
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## **B.6 Contacts**

Contracting Officer's Technical Representative (COTR)  
Joshua Binus, Demand Response Project Manager  
[jdbinus@bpa.gov](mailto:jdbinus@bpa.gov)  
Bonneville Power Administration, KLH-1  
905 N.E. 11<sup>th</sup> Avenue  
Portland, OR 97232  
(503) 230-5298

Contracting Officer (CO):  
Theresa Hughes  
[tchughes@bpa.gov](mailto:tchughes@bpa.gov)  
Bonneville Power Administration, NSSP-4  
PO Box 3621  
Portland, OR 97208  
(503) 230-5341

## UNIT 4 — WAGE DECISION

Service Contract Act Wage Determinations are available at <http://www.wdol.gov>. Listed below are the applicable wage decisions for this Contract.

WAGE DETERMINATION	STATE	COUNTY
2005-2565 Rev 8 07/30/2009	Washington	Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanagan, Pend Oreille, Spokane, Stevens, Whitman
2005-2559 Rev 11 07/01/2009	Washington	Clallam, Grays Harbor, Jefferson, Kitsap, Mason
2005-2561 Rev 13 07/01/2009	Washington	Island, San Juan, Skagit
2005-2563 Rev 10 07/01/2009	Washington	King, Snohomish, Whatcom
2005-2567 Rev 12 07/01/2009	Washington	Lewis, Pierce, Thurston
2005-2441 Rev 8 10/15/2009	Oregon, Washington	Oregon: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Yamhill  Washington: Clark, Cowlitz, Klickitat, Pacific, Skamania, Wahkiakum
2005-2569 Rev 10 10/27/2009	Oregon, Washington	Oregon: Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa, Wheeler  Washington: Benton, Franklin, Walla Walla, Yakima
2005-2439 Rev 9 10/29/2009	Oregon	Benton, Coos, Crook, Curry, Deschutes, Douglas, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn
2005-2159 Rev 9 10/27/2009	Idaho	Idaho Statewide
2005-2317 Rev 8 05/26/2009	Montana	Montana Statewide
2005-2587 Rev 7 10/15/2009	Nebraska, Wyoming	Nebraska: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux  Wyoming Statewide
2005-2333 Rev 8 06/11/2009	California, Nevada	California: Lassen, Mono  Nevada: All counties except Clark, Esmeralda, Lincoln, Nye
2005-2331 Rev 8 07/15/2009	Arizona, Nevada	Arizona: Mohave  Nevada: Clark, Esmeralda, Lincoln, Nye
2005-2531 Rev 8 06/10/2009	Utah	Utah Statewide
2005-2055 Rev 10 05/26/2009	California	Alphine, Amador, Butte, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Mendocino, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, Yuba

UNITED STATES  
GOVERNMENT

CONTRACT

BONNEVILLE  
POWER ADMINISTRATION

Mail Invoice To:

Bonneville Power Admin  
Attn: KLK Invoices, KLK-1  
P.O. Box 3621  
Portland OR 97208-3621

Contract : 00047383  
Release :  
Page : 1

Vendor:

GLOBAL ENERGY PARTNERS LLC  
500 YGNACIO VALLEY RD  
SUITE 450  
WALNUT CREEK CA 94596

Please Direct Inquiries to:

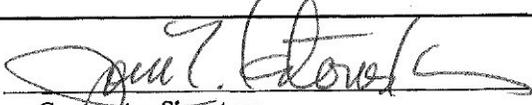
THERESA C. HUGHES  
Title: CONTRACT SPECIALIST  
Phone: 503-230-5341  
Fax : 503-230-4508

Attn: JANE V KOTOWSKI

Contract Title: COMMERCIAL & INDUSTRIAL DR PROJECT DEVELOPMENT & MANAGEMENT

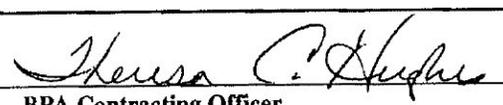
Total Value : \$859,787.00  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 05/04/10 - 08/31/12

**\*\* NOT TO EXCEED \*\***  
Payment Terms: % Days Net 30

  
Contractor Signature

JANE V. KOTOWSKI, CFO  
Printed Name/Title

12/6/10  
Date Signed

  
BPA Contracting Officer

12-1-10  
Date Signed

Title : REVISE FUNDING FOR PHASE II

Modification: 002

Modified Performance Period: -

Modification Value: (\$159,708.04)

Pricing Method :



COVER SHEET CONTINUATION

Contract No. 00047383 Modification No. 002

Commercial & Industrial Demand Response  
Project Development & Management

The purpose of this modification is to authorize the following, effective December 1, 2010:

- 1. Revise the contract line item #2 in the Schedule of Prices to read ---

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Amount</u>
2.	PHASE 2 – Pilot Project Management Period: September 1, 2010 – August 31, 2012		Ex 4	\$543,935.00

- 2. Total funding amount for item no. 2 – Phase 2 has been reduced by \$159,708.04, from \$703,643.04 to \$543,935.00. The adjusted amount reflects the project management costs for **two** pilots that BPA has selected.
- 3. Monthly invoices will be paid in accordance with the contract clause 22-3 Basis of Payment – Progress payments.
- 4. The total contract value is reduced from \$1,019,495.04 to **\$859,787.00**.
- 5. This modification constitutes the total equitable adjustment for the negotiated changes described herein.
- 6. All other terms and conditions of the contract remain unchanged.