



## Department of Energy

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

PUBLIC AFFAIRS

March 21, 2011

In reply refer to: DK-7

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

### **RE: FOIA #BPA-2011-00677-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 have requested the following:**

1. A copy of BPA's intellectual property strategy.
2. A copy of all agreements with private companies to help develop patents or innovations and/or encourage wider use of these products.
3. The name of each BPA employee awarded a bonus, incentive award or special compensation for patents or innovations.
4. The amount of the bonus, incentive award or special compensation identified in #3 above.

#### **Response:**

1. BPA is reviewing a draft chapter on intellectual property strategy for the BPA Manual, therefore, we have no responsive documents.
2. BPA has no responsive documents.
3. BPA has no responsive documents.
4. BPA has no responsive documents.

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

	<h1>BPA MANUAL</h1> <h2>Chapter 144: Inventions and Patents</h2> <p>Part: Management and General Administrative</p>	<b>Page:</b> 144-1
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**144.1 PURPOSE AND SCOPE** This chapter prescribes procedures for reporting inventions by BPA employees and contractors' employees. It also covers the procedure to be followed when unsolicited ideas are received from members of the public.

### 144.2 DEFINITIONS

**A. Invention** means any new and useful art, design, machine, manufacture, or composition of matter, or any new or useful improvement thereof, which is or may be patentable under US laws.

**B. Employee** includes full-time, part-time, and intermittent employees, contractors, and consultants.

**144.3 POLICY** Employee inventions must be reported promptly to the BPA General Counsel through the Patent Coordinator. The report, which is held confidential, is submitted before any information about the invention is made public.

### 144.4 RESPONSIBILITIES

**A. The Transmission Business Line Manager of Project Management** is designated as the BPA Patent Coordinator. He/She is responsible for

1. Transmitting required reports on inventions to General Counsel
2. Assisting and advising employees as to their rights and obligations with respect to inventions and patents
3. Custody of BPA records and files concerning inventions

**B. Employee-inventors and their supervisors** are jointly responsible for promptly reporting inventions to the Patent Coordinator for submission to General Counsel, unless the invention is obviously unpatentable.

### 144.5 PROCEDURE FOR FILING REPORTS ON EMPLOYEE INVENTIONS

**A. The employee-inventor completes Form DOE F 2000.4**, Record of Invention, in original and four copies. If the invention is a group product, the report is prepared by the supervisor and signed by all the employees who contributed to the invention.

**B. The employee's supervisor reviews the report** and adds any information he/she may have concerning the circumstances under which the invention was made, his/her opinion of the potential governmental or commercial value of the invention, and any foreign countries that may find it useful or valuable.

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### 144.5 PROCEDURE FOR FILING REPORTS ON EMPLOYEE INVENTIONS (continued)

**C. If a determination of rights is desired,** the employee-inventor also submits a report on Form DOE F 2050.4, Invention Rights Questionnaire (original and four copies).

**D. The forms are forwarded to the Patent Coordinator,** who reviews them for the Administrator and adds any information he/she may have concerning the potential governmental or commercial value of the invention, and his/her recommendation as to the assignment of rights.

**E. The Patent Coordinator forwards the original and two copies** of the form to General Counsel. One copy is retained by the Patent Coordinator, and one copy is returned to the employee. General Counsel reviews the submission, and then forwards it to the DOE Richland Office for further processing, including final review by the DOE Office of General Counsel in Washington, DC.

### 144.6 DETERMINATION OF RIGHTS AND OBTAINING PATENT PROTECTION

**A. Determination by the DOE Office of General Counsel.** The DOE Office of General Counsel determines ownership of domestic and foreign rights in the invention, according to Federal patent regulations.

**B. Obtaining a Domestic Patent.** If the DOE Office of General Counsel determines that the employee is not required to assign his/her domestic rights to the Government, and the invention is being used (or is likely to be used) by the Government, the DOE Office of General Counsel may prosecute a patent application for the employee in exchange for a royalty-free, nonexclusive, irrevocable license to the Government.

**C. Foreign Patents.** If the DOE Office of General Counsel does not file for patent rights in a foreign country within 6 months after filing for a US patent, the employee may file for a patent in that country, subject to the same license rights to the Government as for a domestic patent. The employee should

1. Notify the DOE Office of General Counsel if he/she files any foreign patent applications
2. Find out what the foreign patent requirements are before he/she releases information about the invention through publication or other medium. Generally speaking, publication of an invention before a domestic patent application is filed is a bar to patenting in foreign countries.

**144.7 APPEALS** The employee is notified of the DOE Office of General Counsel's determination of rights to the invention. If the employee is not satisfied with the determination, he/she may obtain a review by filing an appeal to the Commissioner of Patents within 30 days after receiving the notice. The Commissioner's decision on the appeal is final.

**144.8 RECOGNITION THROUGH INCENTIVE AWARDS PROGRAM** Employees who have contributed to efficiency, economy, or improvement in Government operations through their inventions

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are entitled to recognition and reward through the incentive awards program. However, to insure that the inventor's and the Government's patent rights are not endangered by premature disclosure, referral and processing through incentive awards channels should not take place until after the DOE Office of General Counsel has advised that a patent application has been filed.

**144.9 INVENTIONS BY CONTRACTORS' EMPLOYEES** Under Departmental policies, the Government generally acquires rights to inventions arising out of research and development contracts. Contractors are required to report inventions made in the course of their research and development work to the responsible Contracting Officer, who notifies the Patent Coordinator.

**144.10 UNSOLICITED IDEAS OR INVENTIONS SUBMITTED BY MEMBERS OF THE PUBLIC** BPA welcomes the submission of constructive suggestions or ideas from the general public; however, there is a legal problem involved since the inventor may later claim compensation for the use of his/her idea or invention. For this reason, ideas or inventions received from the public will be treated as unsolicited proposals and forwarded to Corporate Purchasing or to Acquisition Services in the Transmission Business Line for processing in accordance with the *BPA Guide for Preparation of Unsolicited Proposals*.

#### 144.11 REFERENCES

- A. 28 U.S.C. 1498(a)
- B. Executive Orders 10096 and 10930
- C. President's Patent Policy Statement of August 23, 1971 (36 F.R. 16887)
- D. Code of Federal Regulations, Title 37, Part 100, Patent Policy re Government Employees
- E. *BPA Manual* 400/451A, Incentive Awards