

PART 1
BONNEVILLE PURCHASING INSTRUCTIONS SYSTEM

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1.1 OBJECTIVE.

(a) **POLICY:** The Bonneville Purchasing Instructions are based on total quality management concepts and proven purchasing principles. They are designed to obtain the best buy for each dollar spent. A best buy purchase is determined in any given instance by the relation of the quality of the goods or services offered and their overall costs to their intended function.

(b) **INFORMATION:** Five major principles were used in developing the BPI philosophy and policies. They generally reflect a private sector approach to purchasing, emphasizing good business judgment, not the Federal procurement process based on bureaucratic procedural control. Proper application of the policies and procedures outlined in the BPI require that the CO apply these principles individually to each transaction. These underlying principles are:

- (1) Provide basic policy guidance, but not rigid directives for purchasing goods and services.
- (2) Rely on the professional expertise, business judgment, and discretion of the CO to craft a purchase that achieves the “best buy” for BPA.
- (3) Select suppliers from among the best available sources.
- (4) Evaluate potential suppliers in a fair and objective manner.
- (5) Achieve the Government’s socio-economic goals.

(c) **INFORMATION:** Best buy principles: Source selection decisions shall be made based on best buy since it provides maximum latitude for the CO to determine which offer is in BPA's best interests. Best buy puts all offerors on an equal basis since they are given the same information prior to closing and are all evaluated on the same set of attributes.

1.2 SCOPE.

INFORMATION:

(a) The Bonneville Purchasing Instructions (BPI) are issued by the Head of the Contracting Activity (HCA) under the authority of the Bonneville Project Act. They establish BPA-wide policies and procedures for the purchase of supplies and services (including construction services) by the Bonneville Power Administration (BPA).

(b) The BPI does not apply to:

- (1) Financial assistance awards (see the Bonneville Financial Assistance Instructions- BFAI),
- (2) Purchases of Land (see Bonneville Power Administrative Manual- BPAM 20.9(B), 20.14(B)), including leases of property for BPA's administrative use,
- (3) Purchases or sales of electric power (BPAM 20.7), except utilities for BPA facilities,
- (4) Purchases of energy through power-savings agreements and resource proposals (BPAM 20.8),
- (5) Specific field purchases (See BPI 2.3.2.1),

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- (6) Limited types of work delegated to Senior Vice Presidents, Vice Presidents and others (BPAM 20), or
- (7) Some emergency conditions delegated to the Senior Vice President, Transmission Services (BPAM 20.9 (E)).

1.3 AUTHORITY.

INFORMATION:

(a) BPA's Status - Federal vs. Commercial. The Bonneville Power Administration (BPA) was established by Congress as an operational utility that is regional in scope and businesslike in operation. It is funded through its own revenues, not appropriation of taxpayer funds. Although BPA follows many Federal policies, it is directly involved in the utility business world and must be able to operate competitively to meet its responsibilities.

(b) Legislative Authorities.

- (1) The Bonneville Project Act, particularly Sections 2(f) and 8 (16 U.S.C. § 832 et seq.), grants authority to the BPA Administrator to contract for supplies and services.
- (2) The Federal Columbia River Transmission System Act of 1974, particularly Section 11(b) (16 U.S.C. § 838 et seq.), grants authority to the BPA Administrator to make expenditures without appropriations from Congress or limitation to fiscal year.
- (3) The Pacific Northwest Electric Power Planning and Conservation Act, particularly Section 9(a) (16 U.S.C. § 839 et seq.), which reaffirms the need for the special contracting authorities in Section 2(f) of the Bonneville Project Act.

(c) Interpretation of Authorities.

- (1) Comptroller General Decision B-159458, October 21, 1966 ruled that the BPA Administrator has the authority to do what he/she finds is necessary, desirable or appropriate to accomplish the purposes of the Act. The Comptroller General noted in particular that although section 8 provides for an "opportunity for competition," such competition, obviously in view of the authority of section 2(b), can be limited by what the Administrator seeks to accomplish. Furthermore, the Comptroller General reaffirmed that the Bonneville Project Act was designed to give the Administrator the authority to operate BPA in business matters as a public utility with powers and effectiveness similar to those of a corporate entity.
- (2) Comptroller General Decision B-114858, July 13, 1976 ruled that the BPA Administrator's contracting powers are extensive and are not subject to procurement statutes normally applicable to Federal agencies.
- (3) Comptroller General Decision B-227811, October 8, 1987 ruled that BPA is authorized to issue its own purchasing instructions based on the broad authorities of the Bonneville Project Act.

(d) Purchases for program operations. BPA contracts for goods and services are entered into under the authority of Section 2(f) of the Bonneville Project Act (16 U.S.C. § 832a(f)). That authority pertains to purchases for BPA's program operations, since it is subject only to the provisions of that Act. The signature of the requisitioner constitutes a determination that the proposed purchase is for such purpose, in addition to certifying the availability of obligational authority.

1.3.1 Clause Usage Prescriptions.

PROCEDURE: The Contracting Officer (CO) shall insert clause 1-1, Applicable Regulations, in all solicitations and contracts exceeding \$50,000. The clause need not be used in contracts with individuals, or contracts for commercial supplies and/or services, including construction. The

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clause need not be used in contracts with individuals, or contracts for commercial supplies and/or services, including construction.

1.4 PUBLICATION OF THE BPI.

POLICY: The BPI is not published in the Federal Register. The decision not to publish was made on the basis of BPA's status as a regional entity. However, a notice announcing the availability of the BPI is placed in the Federal Register annually.

1.5 PURCHASING POLICY CHANGE BOARD.

POLICY: The Head of the Contracting Activity (HCA) appoints and chairs a Policy Change Board (PCB). This group, made up of standing members, is convened by the HCA, as necessary, to assist in the review of significant changes to BPA's purchasing policies. The PCB will follow a formal process for reviewing proposed policy changes. The HCA may hold formal discussions or provide written materials as deemed appropriate. This group is intended to function as an advisory group and is made up of representatives of the following organizations: Supply Chain Services, Office of General Counsel, Finance (Accounts Payable), and any others deemed appropriate. The responsibility for establishing purchasing policy remains with the HCA.

POLICY: Proposals to change policy must be submitted on form 4210.01e, "BPI or BFAI Policy Change Proposal." Anyone in BPA with an interest in improving BPA purchase policy may submit the form with the required background information and analysis.

1.6 ORGANIZATION OF THE BPI.

INFORMATION:

(a) Contents: The BPI is organized to contain in one purchasing manual:

- (1) Policies,
- (2) Procedures which are appropriate for use agency-wide, and
- (3) Useful information that is not readily available elsewhere.

(b) Target audience: The BPI is intended as a ready reference for:

- (1) BPA's purchasing professionals,
- (2) BPA's purchasing requisitioners/customers,
- (3) Businesses who sell goods/services to BPA.

(c) Sequence of topics: Topics covered by the BPI are generally organized in the same chronological sequence as the purchasing process. Temporary Instructions and Appendices are included at the end of the BPI and have the same force and effect as the preceding portions of the BPI.

1.7 DEVIATIONS FROM THE BPI.

POLICY: Deviations from mandatory requirements of the BPI (those indicated by the words "shall" or "shall not") must be approved by the HCA and documented before the deviation is made.

1.8 DEFINITIONS.

INFORMATION: Terms defined here are used throughout the BPI, and may differ from those used within panels of the Enterprise Resource Planning (ERP) system, PassPort and PeopleSoft systems, used by BPA. Other terms used primarily in only one subpart will be defined in that subpart.

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"BPA" means the Bonneville Power Administration.

"BPI" means the Bonneville Purchasing Instructions.

"BPAM" means Bonneville Power Administration Manual.

"Chief Executive Officer" means the Administrator of the Bonneville Power Administration

"CO" means Contracting Officer, a person delegated authority by the HCA to enter into, administer, or terminate contracts (see BPI 2.2).

"Commercial" means:

- (1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities and—
 - (A) Has been sold, leased, or licensed to the general public; or
 - (B) Has been offered for sale, lease, or license to the general public;
- (2) Any item that evolved from an item described in paragraph (1) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a BPA solicitation;
- (3) Any item that would satisfy a criterion expressed in paragraphs (1) or (2) but for—
 - (A) Modifications of a type customarily available in the commercial marketplace; or
 - (B) Minor modifications of a type not customarily available in the commercial marketplace and made to meet BPA requirements. Minor modifications do not significantly alter the function or essential characteristics of an item. Factors to be considered include the value and size of the modification in comparison to the value and size of the final product.
- (4) Any combination of items meeting the requirements of paragraphs (1), (2), (3), or (5) of this definition that are of a type customarily combined and sold in combination to the general public;
- (5) Installation services, maintenance services, repair services, training services, and other services if—
 - (A) Such services are procured for support of an item referred to in paragraph (1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and
 - (B) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the BPA;
- (6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed. For purposes of these services-
 - (A) "Catalog Price" means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to significant numbers of buyers constituting the general public; and
 - (B) "Market Price" means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors;
- (7) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments.

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"Commercial construction" means services for the purpose of construction, as separately defined in BPI 24.2, which are commonly sold to the general public, described with performance requirements in the manner and to the level of detail that is consistent with standard industry practices and sound business judgment, and priced in the manner commonly used by the firm and industry in the normal course of business dealings with similar customers and transactions. Commercial construction may include, but is not limited to examples, such as, but not limited to roofing, excavation, painting, fencing or other construction services procured and performed in the manner as defined as "commercial construction."

"Commercial Off the Shelf" (COTS) means:

- (1) Any item of supply-
 - (A) Other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that has been sold, leased, or licensed to the general public;
 - (B) That is sold, leased, or licensed in substantial quantities in the commercial marketplace; and
 - (C) That is offered to BPA, without modification, in the same form in which it is sold, leased, or licensed in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. § 1702, such as agricultural and petroleum products.

"COR" means Contracting Officer's Representative, a person who has been delegated specific responsibilities by the CO for non-technical matters.

"COTR" means Contracting Officer's Technical Representative, a person who has been delegated specific responsibilities by the CO for technical matters, and who has been formally trained and certified at BPA to perform such duties.

"Contract" means any mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. § 6301, et seq., and described in BFAI.

"Contractor" means a firm or individual that currently has a contract to supply goods or services to BPA.

"Department" or "Departmental" means the U.S. Department of Energy.

"Design-Supply-Construct Contract" means a contract that places the responsibility for total system performance on the equipment manufacturer.

"Furnish and Install Supply Contract" means a contract that purchases equipment, and the installation thereof, which requires no substantial changes to a facility.

"General Scope of the Contract" means the work that was fairly and reasonably within the contemplation of the parties when they entered into the contract. Generally, changes, additions or deletions to specific elements, or parts of the work, are considered "within the scope" as long as the end product of the contract is essentially the same as that contracted for initially.

"Head of the Contracting Activity (HCA)" means the official who has overall responsibility for direction of purchasing activities. At BPA, the Chief Executive Officer delegates this responsibility to the Manager for Purchasing/Property Governance (BPAM 20.14).

"IGC" means Intergovernmental Contract. See Part 25.

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"In writing," "writing," or "written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information. The scope of the definition includes facsimile transmissions, electronic images of a signed facsimile, and electronic files with an image of a signature.

"Offer" means a response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. An offer may be called a "proposal."

"Offeror" means a supplier who has submitted an offer to sell goods or services to BPA.

"Purchase Order" means an order for supplies or services. It is signed only by the Contracting Officer. The Purchase Order becomes a contract binding on BPA and the seller when accepted by the seller in writing or by performance. Purchase Orders may be issued for any dollar value. The CO may request that the seller countersign the Purchase Order.

"Purchasing" means the acquiring by contract of supplies or services (including construction) by and for the use of the Bonneville Power Administration. Purchasing includes renting, leasing (but not including leasing of real property under 40 U.S.C. § 472), bartering or otherwise obtaining supplies or services. Purchasing activities include description (but not determination) of supplies and services required, selection and solicitation of sources, preparation and award of contracts and all phases of contract administration. It also includes the sale of property and other types of contractual arrangements other than land, power and energy efficiency service agreements.

"Signature" or "signed" means the discrete, verifiable symbol of an individual which, when affixed to a writing with the knowledge and consent of the individual, indicates a present intention to authenticate the writing. The scope of the definition includes electronic symbols.

"Supplier" means a firm or individual that provides goods or services.

"Supplies" means personal property and does not include real property or incorporeal rights.

1.50 TEXT OF CLAUSES.

The following clause is referred to in Part 1:

1-1 Applicable Regulations.

Clause 1-1 APPLICABLE REGULATIONS (Jun 12)(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 from the Head of the Contracting Activity - DGP, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. Subscriptions are not available.

(End of Clause)