



## Department of Energy

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

PUBLIC AFFAIRS

June 19, 2012

In reply refer to: DK-7

Art Marshall, Director  
Oregon Commission for the Blind  
535 SE 12th Ave  
Portland, OR 97214

### FOIA BPA-2012-01173-F

Dear Mr. Marshall:

This is a final response to your request for records 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:**

A copy of the original ARAMARK food service contract including all exhibits and all renewals connected to the cafeteria in the Bonneville Power headquarters building located at 905 N. E. 11th Ave., Portland, OR.

**Response:**

BPA is providing the documents in their entirety on the enclosed CD.

Pursuant to 10 CFR 1004.8, if you are dissatisfied with this determination, or the adequacy of the search, you may appeal in writing within 30 calendar days of receipt of a final response letter. The appeal should be made to the Director, Office of Hearings and Appeals, HG-1, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA Appeal is being made.

I appreciate the opportunity to assist you. Please contact Kim Winn, Communications Specialist at 503-230-7305 with any questions about this letter.

Sincerely,

*For/s/Kim S. Winn*  
Christina J. Munro  
Freedom of Information Act/Privacy Act Officer

UNITED STATES  
GOVERNMENT

CONTRACT

BONNEVILLE  
POWER ADMINISTRATION

Mail Invoice To:

Contract : 00010707  
Release :  
Page : 1

Vendor:

ARAMARK CORPORATION  
GSA FEDERAL BUILDING  
905 NE 11TH  
PORTLAND OR 97232

Please Direct Inquiries to:

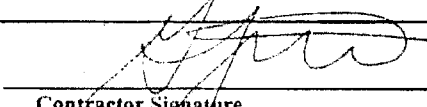
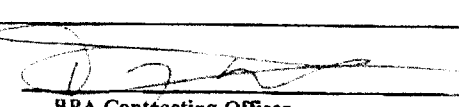
GLENN A. NISHIDA  
Title: CONTRACTING OFFICER  
Phone: 360-619-6099  
Fax : 360-619-6958

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES

Total Value : \$3,538.26  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 08/10/02 - 08/08/14

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

 Contractor Signature <u>Gary J. Chapman, President</u> Printed Name/Title <u>12/22/11</u> Date Signed	 BPA Contracting Officer <u>12/21/2011</u> Date Signed
--	---

Title : ADD 1 PARKING SPACE TO CONTRACT TERMS  
Modification: 007  
Modified Performance Period: -  
Modification Value:  
Pricing Method :

~~Scan of Work Attached~~ GH

**Contract 10707  
Modification 007  
CAFETERIA SERVICES**

---

This is an administrative Modification to confirm the availability and use of one parking space at the 905 building for Aramark. This modification will provide Aramark one (1) parking space at the 905 building at no cost to be used through the end of the contract.

No costs or fees are associated with this modification.

All other terms and conditions remain unchanged.

<End of Modification Number 007>

UNITED STATES  
GOVERNMENT

CONTRACT

BONNEVILLE  
POWER ADMINISTRATION

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GSA FEDERAL BUILDING  
905 NE 11TH  
PORTLAND OR 97232

Please Direct Inquiries to:

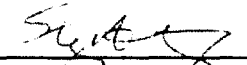
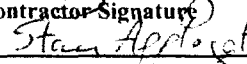

GLENN A. NISHIDA  
Title: CONTRACTING OFFICER  
Phone: 360-619-6099  
Fax : 360-619-6958

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES

Total Value : \$3,538.26  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 08/10/02 - 08/08/14

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

 Contractor Signature  Printed Name/Title 11-1-11 Date Signed	 BPA Contracting Officer 11-1-11 Date Signed
--	---

Title : CAFETERIA SERVICES--EXERCISE OPTION YR 3  
Modification: 006  
Modified Performance Period: - 08/08/14  
Modification Value:  
Pricing Method :

Scope of Work Attached

**Contract 10707  
Modification 6**

**CAFETERIA SERVICES**

---

In accordance with the Clause 7-7 Performance Period and Options this Contract is hereby modified as follows:

1. Extend the performance period from August 9, 2011 to August 8, 2014. This will be the final extension period authorized through the contract.
2. The Vendor Agrees under this contract to comply with the provisions of the Service Contract Act and regulations promulgated thereunder by the U.S. Department of Labor (29 C.F.R.Part 4), which are hereby incorporated by reference. The Vendor further agrees to comply with Wage Determination No.1995-0723, Rev .14, dated 6/13/2011 which is attached hereto and made a part hereof (See Attachment 1). BPA agrees to provide the Vendor with any applicable revised Wage Determination prior to any of the following events: (a) the exercise of a renewal hereunder, or (b) every two years on the anniversary date of this contract. (See Attachment 1).

The Vendor will be afforded the opportunity to submit a written request for an "equitable adjustment" to the contract as a result of increased wages or level of benefits in the event that a revised Wage Determination is provided. In such case, the Vendor will negotiate with BPA to establish the type of "equitable adjustment", e.g., increase in the fees paid hereunder, price increases, service/staff level changes as appropriate and mutually agreed upon between the parties. Upon agreement, the revised Wage Determination and negotiated changes shall be incorporated into the contract by amendment, and the revised Wage Determination will take effect on the next anniversary date of the contract upon execution of the amendment.

All other terms and conditions remain unchanged.

# ATTACHMENT 1

WD 95-0723 (Rev.-14) was first posted on www.wdol.gov on 06/17/2011  
 FL/HH/MS

\*\*\*\*\*

REGISTER OF WAGE DETERMINATIONS UNDER	U.S. DEPARTMENT OF LABOR
THE SERVICE CONTRACT ACT	EMPLOYMENT STANDARDS ADMINISTRATION
By direction of the Secretary of Labor	WAGE AND HOUR DIVISION
	WASHINGTON, D.C. 20210

Diane C. Koplewski	Division of Wage	Wage Determination No: 1995-0723
Director	Determinations	Revision No: 14
		Date Of Revision: 06/13/2011

-----  
 States: Oregon, Washington  
 Area: Oregon Counties of Clackamas, Clatsop, Columbia, Gilliam, Hood River,  
 Marion, Multnomah, Polk, Sherman, Tillamook, Washington, Yamhill  
 Washington Counties of Clark, Cowlitz, Klickitat, Pacific, Skamania, Wahkiakum  
 -----

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
Food & Lodging:		
07041 - Cook I		12.40
07042 - Cook II		14.81
07070 - Dishwasher		9.16
07130 - Food Service Worker		9.62
07260 - Waiter/Waitress		9.16
11060 - Elevator Operator		9.16
11210 - Laborer, Grounds Maintenance		9.82
11240 - Maid or Houseman		9.82
99030 - Cashier		9.82
99050 - Desk Clerk	(see 1)	9.82
Halfway House & Residential Community Treatment:		
01011 - Accounting Clerk I		12.02
01012 - Accounting Clerk II		13.17
01111 - General Clerk I		11.23
01311 - Secretary I		14.34
01611 - Word Processor I		11.23
07041 - Cook I		12.40
07042 - Cook II		14.81
07070 - Dishwasher		9.16
07130 - Food Service Worker		9.62
11150 - Janitor		9.82
11210 - Laborer, Grounds Maintenance		9.82
11240 - Maid or Houseman		9.82
23370 - General Maintenance Worker		13.20
27101 - Guard I		11.87
27102 - Guard II		12.74
99050 - Desk Clerk	(see 1)	11.23

Moving & Storage:

21020 - Forklift Operator	12.40
21050 - Material Handling Laborer	10.66
21110 - Shipping Packer	12.40
21410 - Warehouse Specialist	12.40
31361 - Truckdriver, Light	12.40
31362 - Truckdriver, Medium	13.20
31363 - Truckdriver, Heavy	13.99
31364 - Truckdriver, Tractor-Trailer	14.81

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.59 per hour or \$143.60 per week or \$622.27 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of nine paid holidays per year: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) Rates are applicable only under the appropriate occupational category.

\*\* UNIFORM ALLOWANCE \*\*

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

\*\* NOTES APPLYING TO THIS WAGE DETERMINATION \*\*

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and 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), be classified by the contractor 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 classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b) (2) of Regulations 29 CFR Part 4).



4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

BONNEVILLE  
POWER ADMINISTRATION

CONTRACT

Mail Invoice To:

Contract : 00010707  
Release :  
Page : 1

Vendor:

ARAMARK CORPORATION  
GSA FEDERAL BUILDING  
905 NE 11TH  
PORTLAND OR 97232

Please Direct Inquiries to:

GLENN A. NISHIDA  
Title: CONTRACT SPECIALIST  
Phone: 360-418-2379  
Fax : 360-418-2363

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES

Total Value : \$3,538.26  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 08/10/02 - 08/09/11

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

~~ARAMARK CORPORATION~~

By:

Contractor Signature

*Gary Crompton, President, Business Dining*

Printed Name/Title

*2/27/09*  
Date Signed

BPA Contracting Officer

Date Signed

Title : ADMINISTRATIVE AMENDMENT TO CORRECT OPTION YR 2 END DATE  
Amendment: 005  
Amended Performance Period: 08/10/02 - 08/09/11  
Amendment Value:  
Pricing Method : FIRM FIXED PRICE

**BONNEVILLE**  
**POWER ADMINISTRATION**

**CONTRACT**

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ARAMARK CORPORATION  
GSA FEDERAL BUILDING  
905 NE 11TH  
PORTLAND OR 97232

Please Direct Inquiries to:

GLENN A. NISHIDA  
Title: CONTRACT SPECIALIST  
Phone: 360-418-2379  
Fax : 360-418-2363

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES


Total Value : \$3,538.26  
Pricing Method: FIRM FIXED PRICE  
Performance Period: 08/10/02 - 08/09/09

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

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Date Signed



BPA Contracting Officer

10-27-08

Date Signed

Title : INCREASE FUNDS FOR ONE TIME PAYMENT FOR GOODS LOST.

Amendment: 004

Amended Performance Period: -

Amendment Value: \$3,537.26

Pricing Method : FIRM FIXED PRICE

Scope of Work Attached

**Contract 00010707-Amendment 004**  
Cafeteria Services

---

This contract is hereby amended as follows:

- Funding in the amount \$3,537.26, is added to cover goods damaged by a defective fire sprinkler.
- Performance period ending date remains August 9, 2008

**Statement of work and all other terms and conditions remain the same.**

RONNEVILLE  
POWER ADMINISTRATION

CONTRACT

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Page : 1

Vendor:

ARAMARK CORPORATION  
GSA FEDERAL BUILDING  
905 NE 11TH  
PORTLAND OR 97232

Please Direct Inquiries to:

GLENN A. NISHIDA  
Title: CONTRACT SPECIALIST  
Phone: 360-418-2379  
Fax : 360-418-2363

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES

Total Value : \$1.00  
Pricing Method: ESTIMATE  
Performance Period: 08/10/02 - 08/09/09

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

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
BPA Contracting Officer

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

Contract Amendments

Title : EXERCISE OPTION YEAR

Amendment: 003

Amended Performance Period: - 08/09/09

Amendment Value:

Pricing Method :

**Contract 00010707-Amendment 003**

Cafeteria Services

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This contract is hereby amended as follows:

- Exercises option year two per clause 7-7 of the terms and conditions
- Performance period extend to August 9, 2009

**Statement of work and all other terms and conditions remain the same.**

BONNEVILLE  
POWER ADMINISTRATION

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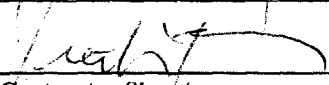
VASIA POLIZOS  
Title: CONTRACT SPECIALIST  
Phone: 503-230-4164  
Fax : 503-230-4508

Attn: MR. PRENTISS HALL

Contract Title: CAFETERIA SERVICES

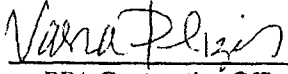
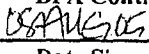
Total Value : \$1.00  
Pricing Method: ESTIMATE  
Performance Period: 08/10/02 - 08/09/08

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

  
\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Date Signed

  
\_\_\_\_\_  
BPA Contracting Officer  
  
\_\_\_\_\_  
Date Signed

Title : EXERCISE OPTION YEAR ONE

Amendment: 002  
Amended Performance Period: - 08/09/08  
Amendment Value:  
Pricing Method :

**Contract 00010707-Amendment 002**  
Cafeteria Services

---

This contract is hereby amended as follows:

- Exercises option year one per clause 7-7 of the terms and conditions
- Performance period extend to August 9, 2008

**Statement of work and all other terms and conditions remain the same.**





**Contract 10707-Amendment 001**  
Cafeteria Services

---

This contract is hereby amended as follows:

- Incorporates revised pricing effective June 1, 2004 per Attachment A
- Incorporates language pertaining to the usage of supplier rebates and discounts

**Statement of work, performance period and all other terms and conditions remain the same.**

Additional rebate and discount language is as follows:

**Any rebates and/or discounts from suppliers attained in the direct purchase of products for the BPA Headquarters' Aramark location may and should be used to maintain costs and prices for this location.**

## Attachment A

### Revised Prices

ITEM	CURRENT PRICE	PROPOSED PRICE
LARGE LATTE	\$2.15	\$2.25
SMALL LATTE	\$1.90	\$2.00
ESPRESSO	\$1.40	\$1.50
B.FAST BURRITO	\$2.25	\$2.40
B.FAST MUFFIN	\$1.75	\$1.90
BACON SLICE	\$0.45	\$0.50
SAUSAGE LINK	\$0.65	\$0.70
SAUSAGE PATTY	\$0.65	\$0.70
EGG	\$0.50	\$0.55
OMELET	\$2.25	\$2.40
CHEF SALAD	\$3.25	\$3.40
SALAD BAR	\$0.25 OZ	\$0.30 OZ
PLATE SALAD	\$3.50	\$3.75
WITH BREADSTICK	\$3.75	\$4.00
COOKIES	\$0.40 EACH \$0.75 TWO	\$0.45 EACH \$0.85 TWO
SOUP	8 OZ \$1.20 12 OZ \$1.65 16 OZ \$2.10	\$1.25 \$1.70 \$2.15
CHILI	8 OZ \$1.35 12 OZ \$1.70 16 OZ \$2.50	\$1.40 \$1.75 \$2.55
HOT TEA	\$0.50	\$0.55
TEA MUG	\$0.45	\$0.50
CUP	\$0.10	\$0.15
CASSEROLES, MEATLOAF, ETC.		
DINNER	\$3.75	\$3.85
ALA CARTE	\$2.70	\$2.80
MOLLY MUFFIN	\$0.90	\$1.00
COFFEE 8 OZ	\$0.65	\$0.75
COFFEE 12 OZ	\$0.85	\$0.95
COFFEE 16 OZ	\$1.10	\$1.15

**BONNEVILLE  
POWER ADMINISTRATION**

**CONTRACT**

*Mail Invoice To:*

**DISBURSEMENT OPERATIONS - DFRD  
BPA CORPORATE OFFICE  
P.O. BOX 3621  
PORTLAND OR 97208-3621**

**Contract : 00010707  
Release :  
Page : 1**

*Vendor:*  
**ARAMARK CORPORATION  
GSA FEDERAL BUILDING  
909 NE 11TH  
PORTLAND OR 97232**

*Please Direct Inquiries to:*  
**ELAINE LESLIE  
Title: CONTRACT SPECIALIST  
Phone: (503) 230-4833  
Fax : 503-230-4508**

**Attn: TED MONK**

**Contract Title: CAFETERIA SERVICES**

**Total Value : \$1.00  
Pricing Method: ESTIMATE  
Performance Period: 08/10/02 - 12/09/05**

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

<p><u><i>E. J. Monk</i></u> Contractor Signature <u>EDWARD MONK</u> Printed Name/Title <u>8/12/02</u> Date Signed</p>	<p><u><i>Elaine Leslie</i></u> BPA Contracting Officer <u>8-9-02</u> Date Signed</p>
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**UNIT 3 — STATEMENT OF WORK**

## **UNIT 1 — SCHEDULE**

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

This is a concession type contract.

### **PERFORMANCE PERIOD AND OPTIONS (7-7) (SEP 98)(BPI 7.2.6)**

- (a) This is a three year contract with options to extend for three additional three year periods.
- (b) BPA may unilaterally extend the term of this contract by written notice to the Contractor. BPA will give the Contractor preliminary notice of its intent to extend at least 30 days before the contract expires.

## **UNIT 2 — CONTRACT CLAUSES**

### **GENERAL CONTRACT ADMINISTRATION**

#### **APPLICABLE REGULATIONS (1-1)**

**(SEP 98)(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 - CK, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. The cost is \$30.00. Subscriptions are not available.

#### **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.

#### **SCREENING REQUIREMENTS FOR PERSONNEL HAVING ACCESS TO BPA FACILITIES (23-4)**

**(SEP 98)(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; energy supply data; economic forecasts; and financial data.
- (b) The contractor is responsible for protecting BPA property including sensitive unclassified data. Based on the review discussed in paragraph (d) below, the contractor shall make a determination as to an employee's eligibility or continued eligibility for access to such BPA facilities. When the contractor is an individual, BPA will conduct the screening.
- (c) As part of its effort to protect BPA facilities and attendees of on-site child care centers, the contractor shall establish a personnel screening procedure for those employees that have access to such facilities. The personnel screening process need not be applied to contractor personnel who currently have a DOE or other government agency access authorization or security clearance.
- (d) In instances where an individual requiring access is an employee of a subcontractor, the contractor shall be responsible for ensuring that the subcontractor has successfully screened the employee before granting the individual eligibility for access.



- (e) The personnel screening activities listed in (1) through (6) below shall be conducted to determine an individual's eligibility or continued eligibility for access to BPA facilities. Such a determination shall not be construed as a substitute for determining whether an individual is suitable for employment. At a minimum, the personnel screening process shall include:
- (1) Verification of employment history;
  - (2) A review of references listed on the employment application;
  - (3) Verification of employment for the last 5 years;
  - (4) Verification of education (high school or beyond) that resulted in the awarding of a degree;
  - (5) A credit check; and
  - (6) A law enforcement check in the state of residence over the past 5 years, and a fingerprint check.
- (f) In addition to the requirements described in (e) and (h) of 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.
- (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) Contractor approval for an individual's access shall be based upon the issues below and constitutes a determination that permitting the individual to access BPA facilities 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 issues shall be sufficient grounds to deny access.
- (1) Any behavior, activities, or associations which 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.
- (i) The contractor's screening process shall provide that when an initial determination is made to disapprove, the individual shall be informed 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. If the individual provides new information, the unfavorable information that formed the basis in the initial disapproval of access, as well as the new information presented by the individual, shall again be reviewed in order to render a final determination as to whether access shall be approved. The individual shall be informed of the final determination.
- (j) The individual's employment records or personnel file shall contain a copy of the final determination and the basis for the determination. If access is approved, annual reviews of the individual's employment records or personnel file shall be conducted by the employer to assure the individual's continued eligibility for access. Annual reviews and recertification or approvals for access shall be noted in the records or file.
- (k) The personnel screening process shall be made available, as required, to the BPA Security Officer or his designee, and Government representatives conducting contract audits or computer security program compliance reviews.

- (f) 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.
- (m) The substance of this clause shall be included in any subcontracts in which the subcontractor employees will have access to BPA facilities.

## STANDARDS OF CONDUCT AND BUSINESS PRACTICES

### 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 98)(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 1073);
  - (4) Safety and health (clauses 15-2 and 15-4);
  - (5) Visits to BPA substations, rights-of-way work sites, other electrical hazardous work sites, and non-electrical hazardous work sites; and
  - (6) Standards of conduct regarding transmission information (BPI 3.2).
- (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.

**PRIVACY ACT (5-1)**  
**(SEP 98)(BPI 5.1.2)**

- (a) The Contractor shall be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974, (5 U.S.C. 552a) and applicable DOE regulations.
- (b) The Contractor agrees to:
  - (1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals.

- (2) Include this clause in all subcontracts awarded under this contract which require the design, development, or operation of such a system of records.
- (c) In the event of violations of the Act, a civil action may be brought against BPA if the violation concerns the design, development, or operation of a system of records on individuals to accomplish a BPA function, and criminal penalties may be imposed upon the employees of BPA when the violation concerns the operation of a system of records on individuals to accomplish a BPA function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor are considered to be employees of BPA.

## **SOCIO-ECONOMIC ISSUES**

### **NONDISCRIMINATION AND AFFIRMATIVE ACTION (10-1) (SEP 98)(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 FR 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 60-1.1).
  - (2) For nondiscrimination based on Disabled or Vietnam Veterans this includes, but is not limited to, the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended (38 U.S.C. 4012)(the Act); Executive Order 11701, January 24, 1973 (38 CFR 2675, January 29, 1973); 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)(the Act); 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 of 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)**  
**(SEP 98)(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.

**ENVIRONMENT AND SAFETY**

**SAFETY HEALTH AND PROPERTY PROTECTION – SERVICES (15-4)**  
**(SEP 98)(BPI 15.2.1)**

- (a) The Contractor shall protect the safety and health of its employees while working on a BPA site. The Contractor shall prevent damage to property, materials, supplies and equipment. In fulfilling these requirements, the Contractor shall comply with applicable laws, regulations, and any BPA safety and health requirements stated elsewhere in this contract. The Contractor shall immediately report to the Contracting Officer's Technical Representative (COTR) or Field Inspector (FI) any onsite injuries or property damage.
- (b) The Contractor shall be responsible for damages caused by the Contractor's failure to comply with this clause, including failures of subcontractors. The Contractor shall hold BPA harmless from any suits, actions and claims for injuries to or death of persons or damage to property arising from any action or omission of the Contractor, its subcontractors, in any way related to the work under this contract.
- (c) The Contractor shall immediately correct any noncompliance upon discovery, or upon notification by the Contracting Officer or a designated representative. The Contracting Officer or a designated representative may issue a stop work order if the Contractor fails to promptly correct their noncompliance. No time extension, claims of damages, or excess costs resulting from the stop work order or corrective action will be allowed.

**HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (15-6)**  
**(SEP 98)(BPI 15.3.1)**

- (a) The Contractor agrees to submit a Material Safety Data Sheet (Department of Labor Form OSHA-20), as prescribed in Federal Standard No. 313C, for all hazardous material 5 days before delivery of the material whether or not it is listed in

Appendix A of the Standard. This obligation applies to all materials delivered under this contract which will involve exposure to hazardous materials or items containing these materials.

- (b) "Hazardous material," as used in this clause, is as defined in Federal Standard No. 313C, in effect on the date of this contract.
- (c) Neither the requirements of this clause nor any act or failure to act by BPA shall relieve the Contractor of any responsibility or liability for the safety of BPA, Contractor, or subcontractor personnel or property.
- (d) The Contractor shall comply with applicable Federal, state, and local laws, codes, ordinances, and with regulations (including the obtaining of licenses and permits) in connection with hazardous material.
- (e) The Contractor shall insert this clause, including this Paragraph (e), with appropriate changes in the designation of the parties, in subcontracts at any tier (including purchase orders) under this contract involving hazardous material.

## BONDS AND INSURANCE

### INSURANCE (16-2) (SEP 98)(BPI 16.3.3)

- (a) 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 \$100,000 shall be required.
  - (2) **General liability.** The Contractor shall provide general liability insurance of at least \$1 million 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 insureds with respect to the Contractor's performance of services. The Contractor's policy shall be primary to 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 million per accident and include coverage for all owned, non-owned and hired automobiles.

The Contractor shall provide to the Contracting Officer certificates of insurance from the insurance company stating the insurance required has been obtained and is in force. The certificate(s) shall identify the Contractor and the contract(s) for which coverage is provided, and shall contain a statement that the insurer will give notice of cancellation or any material change to the Contracting Officer at least 30 days before the effective date. In addition, the Contractor shall provide certificates as the policies are renewed throughout the period of the contract. If the Contractor's insurance does not cover the subcontractors involved in the work, the Contractor shall provide certificates stating that the required insurance has been obtained by the subcontractors.

## INSPECTION

## SERVICES

- (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. Facilities operated under this contract will be inspected periodically by representatives of the Government and, when circumstances warrant, by local health departments. After each inspection, the Contractor will be advised of any unsatisfactory conditions for which he/she is responsible. Deficiencies thus reported shall be corrected in the time period specified by such inspections or written justification for an extension of not more than one (1) full workday.
- (b) Corrections shall be at no cost to BPA, and any services or materials corrected or reperfomed by the Contractor shall be subject to this clause to the same extent as work initially performed.

## PROPERTY

### BPA PROPERTY FURNISHED "AS IS" (19-2) (SEP 98)(BPI 19.7)

- (a) BPA makes no warranty whatsoever with respect to BPA property furnished "as is", except that the property is in the same condition when placed at the F.O.B. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation, or if not inspected by the Contractor, as when last available for inspection under the solicitation.
- (b) The Contractor may repair any property made available on an "as is" basis. Such repair will be at the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of BPA.
- (c) If there is any change in the condition of BPA property furnished "as is," from the time inspected or last available for inspection under the solicitation to the time placed on board at the location specified in the solicitation, and such change will adversely affect the Contractor, the Contractor shall, upon receipt of the property, notify the CO detailing the facts, and, as directed by the CO, either (1) return the property at BPA's expense or otherwise dispose of the property, or (2) effect repairs to return the property to its condition when inspected under the solicitation, or if not inspected, its condition when last available for inspection under the solicitation. After completion of the directed action and upon written request of the Contractor, the CO will equitably adjust any contractual provisions affected by the return, disposition or repair, in accordance with the procedures provided for in the Changes clause of this contract. The foregoing provisions for adjustment are the exclusive remedy available to the Contractor and BPA shall not be otherwise liable for any delivery of BPA property furnished "as is" in a condition other than that in which it was originally offered.

## TERMINATION

### TERMINATION FOR CONVENIENCE BY EITHER PARTY (20-1) (SEP 98)(BPI 20.3)

Either party may terminate all or any part of this contract at any time upon 30 days written notice to the other party. Termination costs will be negotiated between the parties. Notwithstanding the Disputes Clause of this contract, if the parties are unable to agree upon the termination costs, the parties may utilize the services of the American Arbitration Association to assist in resolving the issue.

## 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 21.2.12)**

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 (21-2)**  
**(SEP 98)(BPI 21.3.12)**

Disputes arising under or related to this contract will be settled in accordance with Bonneville Purchasing Instructions, Subpart 21.3. 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 pending decision of the Contracting Officer regarding matters in dispute.

## UNIT 3 — STATEMENT OF WORK

## STATEMENT OF WORK:

### FOOD SERVICE AGREEMENT

Food Service, Schedule & Sales: The Contractor will provide food services 5 days per week, Monday through Friday except holidays observed by the Federal Government. Hours of operation will be approximately 6:00 AM to 3:30 PM but may be adjusted by agreement of the Contractor and the Contracting Officer.

Modifications or changes to this Agreement shall not be binding upon either party unless submitted in writing and mutually agreed upon by the parties hereto.

Bonneville Power Administration (BPA) grants the Contractor the right to control and operate food and beverage services and sales for customers, including but not limited to the cafeteria area. The food services may include other services such as catering and delivery for various functions as requested by specific program offices at such prices and times as agreed upon by both the Food Services Director and requesting party.

Prices. Prices for the sale of food services may be adjusted by the Contracting Officer following a review via market survey. In the event the Contractor incurs material changes or costs to any of the operating charges, the Contractor may adjust prices proportionate to reflect the increases reflected by such changes. In the event the Contractor is not realizing a reasonable profit, or is incurring a loss, adjustments may be negotiated to permit a reasonable profit. For the purposes of this provision, a net profit of 4-6 % will be considered a reasonable profit.

Other Concessions Services. The Contractor shall have the right to operate and provide such other concession type services and product sales as agreed upon from time to time jointly by the Contracting Officer and the Contractor.

Quality of Services. The Contractor shall supply services of good quality, on a timely basis, and with appropriate products in accordance with the terms herein.

Sanitation Services. The Contractor shall supply be responsible for such daily housekeeping and sanitation in the food preparation, storage, dining, serving, and other assigned areas of the premises consistent with the current Food Code Manual, Public Health Service Publication (FDA) and any local Health Department most recent codes.

- (1) Cleaning kitchen, serving, and dining areas.
- (2) Cleaning, floors, walls up to 6 feet above floor level, and the interior & exterior of hoods (not flues), and other equipment and fixtures used by Contractor on food storage and preparation areas.
- (3) Collecting and properly packing dry refuse from such areas and placing the packed refuse at site(s) on premises designated by CO.

Inspection of Services. BPA may inspect the services, without notice, on any day at any time at its sole discretion. The inspection will be conducted in a manner to avoid disruption to the services or the Contractor.



Staff for Services. The Contractor shall keep and maintain an adequate staff of qualified employees and agents for the performance of services and related administration.

Identification/Building Pass. The Contractor and each employee engaged in work under this contract shall execute and submit to the Security Office of BPA, all forms as requested by that office. As of the date of this Agreement, Forms BPA 5632.06e, and BPA5632.07e shall be provided and processed by BPA.

Employees without properly execute forms will not be allowed to work on site. All contractor personnel who receive favorable security clearances will be allowed to continue to perform work under the contract. Any individual who is found to be otherwise unsuitable will be removed from work under this contract.

The Contractor shall furnish a list of employees assigned to work this contract and shall keep this list current. Contractor personnel are not authorized access to any area where classified information is used, stored, or processed.

Contract employees are to wear BPA-supplied security badges, above the waist, on the front of the body, and on the outermost clothing, upon entrance and exit of the premises, or as requested by security officers. Upon termination of employment, badges shall be returned to the Security Office, BPA.

Inventory for Services. The Contractor shall provide or cause the provision of adequate and appropriate inventory sufficient for the performance of Services.

Equipment. The Contractor shall provide all equipment not provided by BPA and necessary to provide services under this Agreement.

Contractor Performed Repairs. The operator shall continuously maintain in a satisfactory condition, all Contractor owned equipment and utensils used under this agreement.

Equipment Records. The Contractor shall acknowledge in writing to the CO, receipt of all BPA owned equipment listed. The list should be verified on location jointly by the Contractor and the CO or their Representative.

Marketing. The Contractor shall provide all merchandising and customer service programs to create interest and promote the services under this agreement.

Independent Contractor. The Contractor shall perform such services as an independent contractor on a profit and loss basis, with the Contractor receiving and retaining all income derived, and bear all costs incurred from operations and services under this agreement. Neither the Government nor the Contractor intends, and nothing contained in this Agreement shall be construed, to establish a partnership or joint venture between the parties.

Equipment Return Upon Termination of Contract Agreement. Promptly following end of term of contract or termination of this Agreement, the Contractor shall return all BPA provided equipment, in a similar condition, ordinary wear and tear excepted. Ordinary Wear and Tear shall have the meaning commonly attributed normal use that is not attributed to over-use, negligent or misuse.

Business Licenses, Taxes & Assessments. The Contractor shall pay, when due, all federal, state, local, and other governmental taxes or assessments in connection with the operation and performance of the Services. The Contractor shall pay, when due, all license and permit fees in connection with Services.

Compliance with Laws. The Contractor shall comply with all federal, state, and local laws applicable to their obligations. The Contractor shall keep in effect all necessary permits, licenses, and food handlers' cards and will post such permits where required.

Employees. The Contractor employees performing services or administrative work on premises shall be subject to all Federal rules and regulations.

Indemnification. The Contractor shall indemnify, defend, and hold harmless the Government from any and all losses, damages, or expenses, including reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, death, sickness, property damage, or other injury or damage if caused by any negligent or willful act or omission of the Contractor or Contractor's representatives.

Insurance. The Contractor shall obtain and maintain insurance for the following risks in such amounts under such policies as appropriate: general liability, and workers' compensation (including employers' liability coverage).

Government Provided. BPA shall administer the performance of services under this agreement. The Government shall furnish, at its expense, the existing food service premises for use in the performance of this agreement.

Offices. BPA shall provide office space in food service area, if available, for use by the Contractor. Contractor will supply all office furnishings and equipment necessary in the performance of this agreement.

Utilities. BPA shall provide all utilities as identified by the Contractor as reasonable and necessary for the use of the efficient performance of the Food Services, Sanitation Services and such other services conduction under this agreement will be provided by the Government at no charge to the Contractor.

Proprietary Marks. BPA acknowledges that the names, logos, service marks, trademarks, trade dress, trade names, and patents, whether or not registered, of Contractor are proprietary to the Contractor, and its affiliated and parent companies, and will not use the marks for any purpose except as expressly permitted in writing by the Contractor.

Trash Removal. Contractor will provide the removal of normal trash generated to an off site waste disposal. The Contractor will be required to deposit the daily trash generated by the food service operation at a location designated by the COR. All food waste shall be first placed in appropriate plastic bags and tied or sealed to prevent foul odors or rodent and insect problems.

Rodent Control. The Contractor shall provide services for the extermination of rodents and vermin in areas assigned to the Contractor.

BPA Performed Repairs. BPA shall continuously maintain in a satisfactory condition, all Government owned equipment and utensils used under this Agreement.

BPA Performed Maintenance. BPA will be required to pay for and perform a preventative maintenance program consistent with current industry standards, or manufacturers recommendation for the type of equipment, on all BPA owned food service equipment.

Public Space. The Government reserves the right to use dining areas and other public spaces at other than serving periods, for meetings of Government employees or other assemblies: Provided, that after each use the space will be cleaned and rearranged without expense to the operator. BPA also reserves the right for their employees or visitors that use public dining and other authorized areas for individuals that bring their own lunch.

Vending Machines. Vending machines will not be part of this Agreement.

Weekends and Federal Holidays. No work shall be performed weekends or Federal holidays without prior approval.

Permitted Termination. Notwithstanding the foregoing, this Agreement may be terminated effective upon 180 days' prior notice by either party to the other; or at any time after occurrence of a default that is material to the whole of this Agreement.