

BONNEVILLE POWER ADMINISTRATION

**CTER Annual Legal Update
December 5-7, 2018**

BPA

- Nonprofit federal power marketing administration based in Pacific Northwest
- Part of U.S. Department of Energy
- Non appropriated – self funded



POWER MARKETING

- Markets wholesale electrical power from 31 federal dams, 1 nonfederal nuclear plant and several small nonfederal power plants
- BPA provides 1/3 electric power in northwest
- 142 utility customers



TRANSMISSION

- BPA operates $\frac{3}{4}$ of the high-voltage transmission system
- 15,238 circuit miles
- 260 substations



TRANSMISSION SYSTEM

Transmission System and Federal Dams



DOE/BP-4026 • May 2009

AREAS OF TRIBAL ENGAGEMENT

Transmission	Power	Fish & Wildlife	Cross-agency
<p>Transmission projects</p> <p>Operations & maintenance</p> <p>Vegetation management</p> <p>Right-of-ways</p>	<p>Energy efficiency</p> <p>Tribal utility formation</p> <p>FCRPS cultural resources program</p>	<p>Columbia River Basin Fish Accords, mitigation for Biological Opinions, NPCC EF&W program including:</p> <ul style="list-style-type: none"> • Land acquisitions • Habitat restoration • Research, monitoring and evaluation • Hatcheries 	<p>Columbia River Treaty</p> <p>CRSO</p> <p>Education grant program</p> <p>BPA internal tribal education & training</p>

FISH AND WILDLIFE PROGRAM

- Partners with states, tribal, federal and local governments, non profit entities and others to implement actions to restore habitat, protect land and water, improve passage at the dams and operate salmon and steelhead hatcheries.



FEDERAL COLUMBIA RIVER POWER SYSTEM

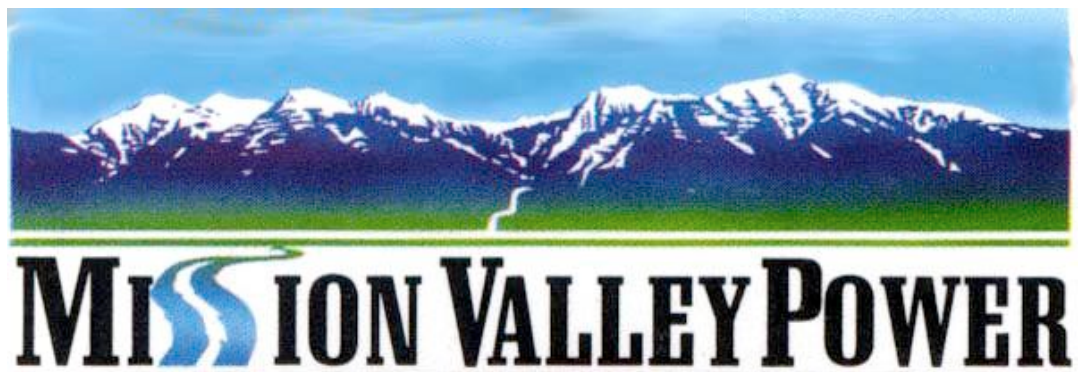
Columbia River Basin & BPA service area



BPA TRIBAL UTILITIES



KALISPEL TRIBAL UTILITIES



BPA TRIBAL AFFAIRS

Mission

To help BPA achieve its mission, while fulfilling the agency's trust responsibility to tribes as defined by federal laws, treaties, executive orders and policies, including BPA's Tribal Policy.

We accomplish this by working with the tribes and BPA to:

- Promote effective working relationships by identifying and resolving key issues
- Communicate in a collaborative manner
- Consult in a meaningful way

Vision

Tribal Affairs is a model program that achieves historic, innovative and mutually beneficial outcomes through collaborative relationships.

TRIBAL AFFAIRS



Ken Johnston
Manager



Kathie Manchester
Administrative
Assistant



Marcy Foster
Tribal Account
Executive



Corrina Ikakoula
Tribal Account
Executive



Jason Hairston
Tribal Account
Executive

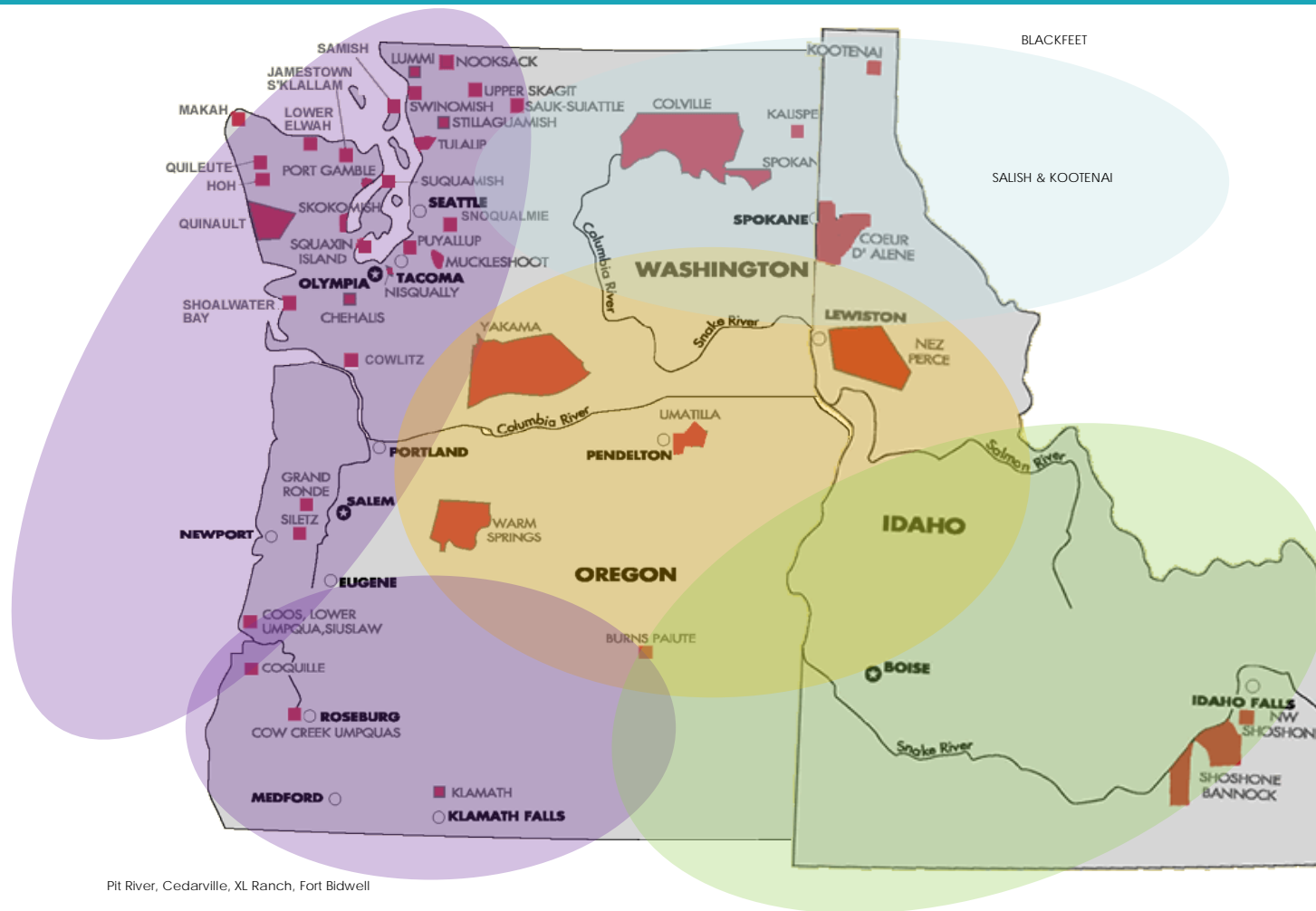


Kurt Lynam
Tribal Account
Executive



Joe Peone
Tribal Account
Executive

TRIBAL ACCOUNT EXECUTIVE REGIONS



Tribal Trust Responsibility

December 5, 2018

TRUST RESPONSIBILITY

The Federal Indian Trust responsibility is a legal obligation under which the United States “**has charged itself with moral obligations of the highest responsibility and trust**” toward Indian tribes.

(Seminole Nation v. United States, 1942)

TRUST RESPONSIBILITY

DOE Definition of Trust Responsibility (DOE Order 144.1):

Promotion and protection of tribal treaty rights, federally recognized reserved rights, and other federally recognized interests of the beneficiary American Indian and Alaska Native nations; determining, documenting, notifying, and interacting with tribal governments with regard to the impact of Departmental programs, policies, and regulations to **protect** American Indian and Alaska Native **traditional and cultural ways of life, natural resources, treaty and other federally recognized and reserved rights.**

BPA TRIBAL POLICY



BPA TRIBAL POLICY

General Principles

The principles set forth below follow the Department of Energy's American Indian Policy (DOE Order 144.1—Jan. 16, 2009) and serves as guidelines to BPA and the tribes throughout the development of their government-to-government relationships.

- I. BPA recognizes that a trust responsibility derives from the historical relationship between the federal government and the tribes as expressed in Treaties, Statutes, Executive Orders, and Federal Indian case law. Using these legal underpinnings, BPA and the tribes will work cooperatively to arrive at an understanding of how the trust responsibility applies to a government-to-government relationship.
- II. BPA commits to a government-to-government relationship with the tribal governments and recognizes the unique character of each tribe. Tribal governments have the primary authority and responsibility for many reservation affairs, and may be co-managers of natural resources within their respective ceded, treaty, or usual and accustomed areas.
 - A. BPA fully respects tribal law and recognizes tribal governments as sovereigns.
 - B. In keeping with the principle of self-government, BPA recognizes, where appropriate, the legal authority of tribal governments for making tribal decisions which may affect Indian and non-Indian peoples and tribal cultural and natural resources both on and off reservation.
 - C. BPA will consult with the tribal governments to assure that tribal rights and concerns are considered prior to BPA taking actions, making decisions, or implementing programs that may affect tribal resources.
- III. The objectives outlined below define BPA's policy regarding the requirement for consultation with tribal governments and are intended to assure that tribal rights and interests are protected in all BPA decisions.

BPA TRIBAL POLICY

Tribal Policy section III B

BPA will **consult with tribal governments by deliberating, discussing or seeking the opinion of the tribes** when a proposed BPA action may affect the tribes or their resources. BPA will solicit tribal opinions and study them before taking action that may affect the tribes or their resources.

BPA TRIBAL POLICY

Tribal Policy section IV

BPA will **seek mutually beneficial business partnerships** with the tribal governments through its various programs, pursuant to its authorities.

BPA TRIBAL POLICY

Tribal Policy section IX C

Successful implementation of this policy requires commitment **throughout BPA's chain of command**. BPA managers and staff will be accountable for creating and maintaining a mutually beneficial government-to-government relationship with the tribes.

BPA SUPPLY CHAIN

Contracts & Strategic Sourcing (NSS)

- Services acquisition
- Materials acquisition
- Grants and agreements
- Construction acquisition

DOING BUSINESS WITH THE BONNEVILLE POWER ADMINISTRATION

Glenn A. Nishida

Program Manager, Supplier Diversity

BPA BASIC FACTS

- Federal Agency – uses Bonneville Purchasing Instructions (BPI), see www.bpa.gov
- Follows business practices in purchasing – “best buy” process
- Self financed – non-appropriated
- BPI designed to provide short, simple, less costly means of buying goods and services

- BPA awards contracts based on “best buy”, considering price/cost and technical factors
- BPA does not publicize procurements
- Contracting Officers “pre-qualify” suppliers
- Solicitations are issued to only those vendors who have the capability to perform or deliver in a manner which will provide the best buy for BPA as determined by the Contracting Officer
- Past Performance (with BPA and others) is always a consideration in source selection

BPA POLICY

8.1 Supplier Diversity Program (SDP)

8.1.1 Policy

- a. It is Bonneville's supplier diversity program policy to place a fair proportion of its purchases with small businesses, disadvantaged small businesses, woman-owned small businesses, veteran-owned small businesses, and disabled veteran-owned small businesses through its normal course of business. For the purposes of this Part, all the categories mentioned above are included in the term 'Supplier Diversity Program Categories'.
- b. The HCA is responsible for overseeing Bonneville's performance regarding these awards.
- c. CO's shall take into account Bonneville's supplier diversity policy, 8.1.1(a) above, when carrying out their responsibilities for purchasing strategy and making awards.

BPA POLICY

- d. The Bonneville supplier diversity program shall be managed as follows:
- e. The HCA shall assess the degree of participation of all supplier diversity program businesses. No specially focused programs shall be implemented so long as participation meets satisfactory norms,
- f. In the event Bonneville fails to meet acceptable standards Bonneville shall intensify its outreach efforts,
- g. If participation is still lagging, Bonneville shall activate narrowly tailored purchasing programs, as appropriate. Purchasing and technical personnel shall take all reasonable action to place a fair proportion of purchases with such businesses,
- h. The CO shall obtain and document the information required by Clause 8-1, Supplier Diversity Program Award Representation, prior to awarding any contract.

CURRENT CONTRACTS/PROGRAMS

BPA purchases high voltage equipment, transmission maintenance and operating materials and services, construction services, fish and wildlife/environmental services, Energy Efficiency products and services, IT equipment and services, Corporate Services (admin, clerical, etc.), Consulting services, professional (A&E and consultant) services, office equipment/furniture, analytical and legal services – plus others.

STEPS TO GETTING A CONTRACT

- Become familiar with what BPA buys
- Present qualifications
- Learn about Purchasing Processes
- Read Solicitations carefully to comply with all requirements
- Seek debrief if not selected

PROCESSES IN PURCHASING

- Project managers and program offices at BPA create *Statement of Work* to define their requirements
- Market Research – may include *Request for Information*
- Select potential suppliers and issue the Solicitation
- Evaluate offers using the solicitation evaluation criteria
- Award Contract
- Post Award Discussion

CONTRACT ADMINISTRATION

- Payment by EFT – banking information required to be submitted
- Bonds &/or Insurance required for many projects
- Adherence to BPA policies (safety, harassment-free workplace, etc.)
- Security Clearances required for on-site work
- Subcontracting Plans required (over \$700k for supplies & services or \$1.5M for construction) – for large business only

TERO ENFORCEMENT

- **TRIBAL EMPLOYMENT RIGHTS ORDINANCE REQUIREMENT (10-51)**
- **(AUG 2018) (BPI 10.1.4)**
- Either a portion, or all, of the work required under this contract (or task order) is located on land governed by a Tribal Employment Rights Ordinance (TERO).
- Below are additional requirements that may apply to work awarded under this contract (or task order):
 - The TERO office(s) covered by the ordinance may require an administrative fee [CO may insert the percentage fee(s) or omit] based upon the contract amount which is payable to the TERO office(s) upon award of the contract. If required, this fee shall be included as a separate line item on your price proposal;
 - The Contractor is required to meet with the TERO office(s) prior to commencement of the work under this contract and submit an acceptable plan for implementation of its obligations under TERO regulations;
 - The Contractor shall provide to the Contracting Officer evidence of any TERO fees paid as a result of these requirements; and
 - Clauses 10-1, Equal Opportunity, and 10-15 Pre-award On-Site Equal Opportunity Compliance Review, do not apply to this contract.
- This requirement shall be included in all subcontracts at any tier.

CONTACT INFORMATION

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For additional information: <http://www.bpa.gov>