

UNITED STATES
GOVERNMENT

INTERGOVERNMENTAL CONTRACT

Mail Invoice To:

See Payment Clause 22-12

Contract : 00061363
Release :
Page : 1

Vendor:

KITTITAS COUNTY NOXIOUS WEED CONTROL BOA
507 NANUM ST #11
ELLENSBURG WA 98926

Please Direct Inquiries to:



KATHLEEN C. HINICK
Title: CONTRACT SPECIALIST
Phone: 360-619-6084
Fax : 360-619-6958

Attn: Marc Eylar

Contract Title: NOXIOUS WEED / KITTITAS COUNTY

Total Value : \$15,000.00
Pricing Method: FIRM FIXED PRICE
Performance Period: 04/15/13 - 09/30/15

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

 _____ Contractor Signature Todd Davis / KCNWCB Coordinator _____ Printed Name/Title 05/09/13 _____ Date Signed	 _____ BPA Contracting Officer 5/9/2013 _____ Date Signed
--	--

This award contains the following - TEXT ATTACHED

CONTRACT TERMS AND CONDITIONS

Scope of Work Attached

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Printed Name/Title

Date Signed

BPA Contracting Officer

Date Signed

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UNIT 1 — SCHEDULE

CONTRACT TYPE (7-1) (SEP 98)(BPI 7.10)

This is a firm fixed price type contract.

PERFORMANCE PERIOD (7-7M) (MAR 13)(BPI 7.2.7.1)

- (a) This is a three year contract for services provided for fiscal years 2013, 2014, 2015. The performance period is from April 15, 2013 through September 30, 2015.

SCHEDULE OF PRICES (22-51) (MAY 08)

The contractor shall provide Noxious Weed Management on BPA easements in Kittitas County in accordance with the statement of work herein.

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Not To Exceed</u>	<u>Total NTE Amount</u>
				<u>Unit Price</u>	
1.	Noxious Weed Management on BPA easements in Kittitas County for: FY 2013 (April 15, 2013 through September 30, 2013), FY 2014 (Oct. 1, 2013 through September 30, 2014), FY 2015 (Oct. 1, 2014 through September 30, 2015)	3	FY	\$ 5,000.00	\$ 15,000.00

UNIT 2 — CONTRACT CLAUSES

PAYMENT AND TAXES

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

- (a) Payment Method. Payments under this contract, including invoice and contract financing payments, will be made by electronic funds transfer (EFT). Contractors are required to provide its taxpayer identification number (TIN) and other necessary banking information as per paragraph (c) of this clause to receive EFT payment.
- (b) Contractor EFT arrangement with a financial institution or authorized payment agent. The Contractor shall designate to BPA, as per paragraph (c) of this clause, and maintain at its own expense, a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under all BPA contracts, unless the BPA Vendor File Maintenance Team is notified of a change as

per paragraph (d) of this clause. An initial designation should be submitted after award, but no later than three weeks before an invoice or contract financing request is submitted for payment.

- (c) Submission of EFT banking information to BPA. The Contractor shall submit EFT enrollment banking information directly to BPA Vendor File Maintenance Team, using Substitute IRS Form w9e, Request for Taxpayer Identification Number and Certification. This form is available either from the Contracting Officer(CO) or from the Vendor File Maintenance Team. Submit completed enrollment form to the Vendor Team. Contact and mailing information:

Bonneville Power Administration
PO Box 491
ATTN: NSTS - MODW Vendor Maint.
Vancouver, WA 98666-0491

E-mail Address: VendorMaintenance@BPA.gov
Phone: (360) 418-2800
Fax: (360) 418-8904

- (d) Change in EFT information. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall be responsible for providing the changed information to the BPA Vendor File Maintenance Team office. The Vendor Maintenance Team must be notified 30 days prior to the date such change is to become effective.
- (e) Suspension of Payment. BPA is not required to make any payment under this contract until receipt of the correct EFT payment information from the Contractor.
- (f) EFT and prompt payment. BPA shall pay no penalty on delay of payment resulting from defective EFT information. BPA will notify the Contractor within 7 days of its receipt of EFT information which it determines to be defective.
- (g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the assignee shall provide the assignee's EFT information required by paragraph (c) of this clause.

PAYMENT (22-12)
(AUG 11)(BPI 22.2.5)

- (a) Payment Due Date. Payment (including partial payments or progress payments, if authorized, shall be due not later than thirty (30) calendar days after the later of the date on which BPA actually receives a proper invoice in the designated billing office or the date when the items delivered or completed services are accepted by BPA. According to the Prompt Payment Act, a proper invoice to a Federal Agency is to include bank account information requisite to enable Electronic Funds Transfer (EFT) as method of payment. For purposes of payment only, items will be deemed accepted not later than seven (7) calendar days after proper delivery. If delivered items or completed services are found defective, the provisions of this paragraph will be reapplied upon receipt of a corrected item or service.
- (b) Billing Instructions.
- (1) Invoices must include the contractor's name and address, invoice date, contract number, task order number (if applicable), contract line item number, description of products delivered or work performed, price and quantity of item(s) actually delivered or rendered (amounts billed for work performed under a task order must be separately identified by task order number), and the name and address of the person to whom payment will be made, and name (where practicable), title, phone number, mailing address of person to be notified in event of a defective invoice and bank account information required to enable Electronic Funds Transfer (EFT) as method of payment (Invoices will not require banking information if the contractor has that information on file at BPA). Failure to submit a proper invoice may result in a delay in payment including a rejection of invoice pending receipt of a properly amended invoice.

- (2) Contractors may bill monthly, or at more frequent intervals as may be agreed to by the CO. The contractor may submit invoices electronically (e-mail, fax, etc.).
- (3) Send Invoices to Bonneville Power Administration, Attention: Jacob Grinolds by email at jdgrinolds@bpa.gov
- (c) Payment Method. Payments under this contract will be made by electronic funds transfer whenever possible, or by check in very limited circumstances, at the option of BPA.
- (d) Prompt Payment Act. This contract is subject to the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), and regulations at 5 CFR Part 1315.
- (e) Interest Penalty Payments. If interest penalty payments are determined due under the provisions of the Prompt Payment Act, payment shall be made at the rates determined by the U.S. Treasury Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

GENERAL CONTRACT ADMINISTRATION

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

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

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

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

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

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

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

REPORTING REQUIREMENTS (25-1M)
(MAR 13)(BPI 25.2.1)

(a) Annual Reports:

- (1) FY Annual Report shall be prepared and issued by September 15 of each year.
- (2) An electronic copy and one hard copy of the BPA approved annual report shall be submitted to:

Name: Jacob Grinolds, TFBV-Snohomish, Z0841 Floor-1
Bonneville Power Administration
Email: jdgrinolds@bpa.gov
P.O. Box 3621
Portland, Oregon 97208

CHANGES (25-4)
(SEP 98)(BPI 25.4.1)

Any changes in the project objectives, scope, or key personnel, including any proposed transfer of expenditures between all approved budget line items above 5% of the contract total must be approved by the Contracting Officer. All such changes must be submitted in writing through the Contracting Officer's Technical Representative prior to initiating the change.

AUDIT -- INTERGOVERNMENTAL CONTRACT (25-5)
(NOV 08)(BPI 25.1.1)

- (a) The contractor-agency shall maintain accounting procedures and practices sufficient to reflect properly all costs claimed to have been incurred in performing this agreement. The Contracting Officer, or representatives of the Contracting Officer, shall have the right to examine books, records, documents and other evidence supporting such claimed costs at all reasonable times at the agency's facilities used in performing this agreement and other locations where records pertaining to this agreement are maintained. Such records shall be retained and made available for examination until 3 years after the budget year in which they were created.
- (b) The contractor-agency shall comply with the provisions of OMB Circular A-133. The contractor-agency shall apply provisions of those circulars concerning program levels requiring audits, audit scope, and determinations of this agreement as if it was a Federal assistance program. If an audit is required, a copy of the audit report shall be sent to the BPA Internal Audit Staff, Mail Stop DN-7, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208, and other distribution of the report as required by the circular.

CLASSIFIED INFORMATION (25-7)
(SEP 98)(BPI 25.1.1)

The work or services to be performed under this contract does not use or generate classified information.

PUBLICATION/PRESENTATIONS (25-8)
(SEP 04)(BPI 25.4.1)

All news releases, presentations, publications, or signage and related materials shall acknowledge BPA support for project activities. BPA strongly endorses the publication of project results in scientific journals to facilitate public access and to preserve project data. Copies of news articles, publications, etc. shall be provided to the COTR. When appropriate, Project Managers shall prepare manuscripts for submission to journal editors, giving due credit for BPA's financial support. BPA reserves the right to publish all or part of the reports submitted pursuant to the terms of this contract.

ENDANGERED SPECIES ACT REQUIREMENTS (25-9)
(SEP 98)(BPI 25.1.1)

- (a) To the extent requested by BPA, the contractor-agency shall:
 - (1) Participate in consultations and conferences conducted under Section 7 of the Endangered Species Act (ESA);
 - (2) Obtain, or assist BPA in obtaining permits under Section 10 of the ESA, and
 - (3) Provide to BPA all information, materials, documents, records and other assistance requested by BPA for such consultations, conferences, or the acquisition of permits.

- (b) The contractor-agency shall not proceed with action/activities in this agreement until completion of requisite consultations and conferences and the acquisition of necessary permits. To the extent requested by BPA, the contractor-agency shall comply with conditions identified during consultations and conferences and with the provisions of any requisite permit.

STANDARDS OF CONDUCT AND BUSINESS PRACTICES

CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (3-4) (MAY 11) (BPI 3.7.1.1)

- (a) Definitions. As used in this clause--

“Driving”—(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. (2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

“Text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

- (b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while driving, dated October 1, 2009.
- (c) The Contractor should adopt and enforce policies that ban text messaging while driving —(1) Company-owned or -rented vehicles or Government-owned vehicles; or (2) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
- (d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$10,000.

SOCIO-ECONOMIC ISSUES

RESTRICTION ON CERTAIN FOREIGN PURCHASES (9-8) (MAY 11) (BPI 9.3.2)

- (a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC’s implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.
- (b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC’s List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC’s regulations at 31 CFR Chapter V and/or on OFAC’s website at <http://www.treas.gov/offices/enforcement/ofac>.
- (c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

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

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

EMPLOYMENT PRACTICES (10-2)
(MAR 10)(BPI 10.4.4)

The Contractor agrees to comply with all applicable Federal, State, local laws, and regulations concerning Equal Employment Opportunity, the payment of minimum wages (including, but not limited to, the Fair Labor Standards Act) and the use of safe practices (including, but not limited to, the Occupational Safety and Health Act).

ENVIRONMENT & SAFETY

SAFETY AND HEALTH – NON-ELECTRICAL CONTRACTOR(S) (15-55M)
(MAR 13)(BPI 15.2.1)

(a) General

- (1) The Contractor shall assure that no person employed on this contract works in surroundings or under conditions that are unsanitary, hazardous, or dangerous to their health or safety. In fulfilling these requirements, the Contractor shall comply with:
 - (A) Department of Labor Safety and Health Standards for Construction under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.).
 - (B) Occupational Safety and Health Act of 1970, (Public Law 91-598) and applicable rules and regulations as may have been delegated to the States.

(C) All Federal and state safety and health rules and regulations applicable to the contract work, as supplemented by BPA safety and health requirements stated below or elsewhere in the contract.

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

(b) Personal Protective Equipment

- (1) The Contractor shall furnish non-conductive hard hats and all other required safety and personal protective equipment, except that which has been specified to be furnished by BPA. All persons on all construction projects shall wear non- conductive hard hats meeting the requirements of OSHA/ANSI. Contract employees shall not wear yellow non- conductive hard hats. (A yellow hat signifies a qualified BPA electrical worker.) Only a BPA approved safety watcher may wear orange non-conductive hard hats.
- (2) Appropriate footwear that provides adequate support and protection to the foot, toes and ankles for the work being performed shall be worn. Lace-up, over the ankle boots with rigid sole and heel meeting ASTM F 2413-05, Class 75 with EH rating shall be worn in all work areas where hard hats are required and other areas as determined by a supervisor. Supervisors have the responsibility for assuring that appropriate footwear is worn. Employees have the responsibility to wear appropriate footwear for the job.
- (3) While BPA's minimum qualifications for protective footwear are identified above, specialized footwear, in accordance with standard industry practice and appropriate for the work being performed, shall be worn at all times while executing the work tasks requiring specialized Personal Protective Equipment (PPE). Supervisors and employees have the responsibility of ensuring appropriate footwear is worn.

(c) Flammable Liquids

- (1) Flammable liquids within 21.5 meters (70 feet) of conductors energized at voltages of 345kv and higher shall not be transferred from one metal container to another unless the two have been electrically bonded together to eliminate arcing. Plastic or any other non-conducting portable containers shall not be used, except those with a capacity of one gallon or less that are UL or FM approved.
- (2) Fuel storage shall not take place under or adjacent to energized lines or equipment.

(d) HAZCOM

- (1) The Contractor shall supply employees with effective information and training regarding any hazardous chemicals used at the work site.
- (2) The Contractor shall maintain any required Material Safety Data Sheets (MSDS) at the work location and available to employees.

(e) Grounding Equipment. Manlifts, cranes, booms, and any other overhead lift equipment working in proximity to energized lines or equipment shall be grounded with 2/0 AWG copper ground cables. Multiple (parallel) ground leads may be required at some locations on the BPA power system when the anticipated fault current exceeds the capacity of a single 2/0 copper ground. These locations (if applicable) will be provided by BPA in the contract technical specifications.

(f) Environmental Hazards

On contracts where BPA has identified that environmental hazards exist (i.e. asbestos, lead, mercury, silica, etc.) the Contractor shall have a COMPETENT PERSON on site that has the appropriate level of training to identify the hazards and select the appropriate control strategy in accordance with all federal and state regulations.

TABLE 1

Minimum Approach Distances (MAD) For Non-Electrical Workers and Equipment	
Nominal Voltage Phase to Phase	<u>MAD (in feet)</u> <u>(Phase to ground)</u>
Up to 345 kV	15 ft.
500 kV*	20 ft.
400 kV DC + 500 kV DC +*	20ft.
Fiber Optics (OPGW)	10 ft.
Insulated Overhead Ground Wires	10 ft.

* Note-Lines nominally designated as 500 kV lines may be operated up to 550 kV operating voltage, which is therefore used to calculate the MAD for 500KV nominal voltage.

INSPECTION AND WARRANTY

INSPECTION AND ACCEPTANCE - COMMERCIAL SUPPLIES/SERVICES (18-1) (MAY 11)(BPI 18.3.1)

- (a) The Contractor shall only tender for acceptance those items or services that conform to the requirements of this contract. BPA reserves the right to inspect or test any supplies or services that have been tendered for acceptance. BPA may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, BPA may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. BPA must exercise its post-acceptance rights --
- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
 - (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

TERMINATION

TERMINATION BY MUTUAL CONSENT (25-13)
(SEP 09)(BPI 25.1.1)

Termination by mutual consent may be initiated by either party, by oral or written means. A termination for mutual consent is effective upon the execution of an agreement, documented on the Asset Suite Modification of Contract form, by the CO and Contractor which identifies the following:

- (1) Whether the termination is partial or total.
- (2) A description of the terminated portion of the contract, including the item numbers, descriptions, quantity terminated unit and total price of terminated items, and any other explanation to avoid uncertainty or understanding.
- (3) The Contractor unconditionally waives any claim against BPA arising under the terminated portion of the contract or by reason of its termination, including, without limitation, all obligations of BPA to make further payments or to carry out any further undertakings under the terminated portion of the contract.
- (4) BPA acknowledges that the Contractor has no obligation to perform further work or services or to make further deliveries under the terminated portion of the contract.
- (5) Under the terminated portion of the contract, the rights and liabilities of the parties that are reserved.

DISPUTES

APPLICABLE LAW (21-5)
(DEC 12)(BPI 21.1.2.1 : 25.4.1)

United States law will apply to resolve any claim of breach of this contract.

DISPUTES (21-2)
(JUN 12)(BPI 21.3.15.1 ; 25.4.1)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 USC 701-713).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within six years after accrual of the claim to the Contracting Officer for a written decision. A claim by BPA against the Contractor shall be subject to a written decision by the Contracting Officer.
 - (2)
 - (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows:

“I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes BPA is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.”

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer’s decision shall be final unless the Contractor appeals or files suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by BPA is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor’s specific reasons for rejecting the offer.

(h) BPA shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if the date is later, until the date of payment. With regard to claims having defective certifications, as defined in BPI 21.3.1, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Secretary of the Treasury during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

UNIT 3 — STATEMENT OF WORK AND BUDGET

STATEMENT OF WORK
NOXIOUS WEED MANAGEMENT
Kittitas County, Washington
FY 2013 thru FY 2015

The Contractor will provide all labor, materials, herbicides, fuel, transportation, and bio-agents to implement noxious weed management activities under their jurisdiction.

Activities will be carried out in an "Integrated Pest Management" approach as outlined by the Section 15, Noxious Weed Act Amendment, of the 1990 Farm Bill.

1. The amount of funding will not exceed **\$5000.00 per fiscal year**. The Weed Board will determine control methods and sites to be controlled on Bonneville Power Administration (BPA) easements.
2. The Control Measures approved for BPA rights-of-way can be a combination of the following measures:
 - A. Educational Methods which create an awareness of undesirable plant species in BPA rights-of-way.
 - B. Prevention Measures, such as inventory, and measures which prevent the spread of weeds.
 - C. Competitive Plantings to replace and/or prevent the establishment of undesirable plants. Plantings must be compatible with the transmission line Right of way
 - D. Cultural Control Methods such as barriers and cultivation.
 - E. Chemical use of herbicides.
 - F. Biological release of agents which feed on or destroy undesirable plants.
 - G. Physical control such as hand pulling or cutting of individual plants.
3. All herbicide applications will be according to state and local laws. All applicators must be licensed in the state where applications are performed. The Bonneville Power Administration has completed a Vegetation Management Program Environmental Impact Statement. The Contractor will follow the enclosed mitigations when completing vegetation management projects.
4. Records of all control measures must be completed the day the control measures are performed. Records must be according to state law, and location must be identified by BPA line names and structure numbers. All records of control measures will be due by September 15th of each fiscal year.

5. BPA will not fund control measures in areas which do not have active noxious weed control programs being performed by landowners, except when required by easement acquisition documents.
6. Monitoring will be completed by the Contractor. Monitoring will consist of a field review of areas where BPA has financed control measures, preferably within one month of control actions. Documentation of monitoring will be a short written summary consisting of the identification of the location, species controlled, methods of control used, and a judgment of the effectiveness of control. The Monitoring area will be based on practical management units which have similar habitats, noxious weeds, control methods and/or management.
7. Partial payments will be allowed during the contract period, with 20% being retained until all requested records, monitoring data, landowner herbicide transaction forms, and final summaries are turned into the COTR (Contracting Officer's Technical Representative).