

BRISTOL BAY NATIVE ASSOCIATION

Memorandum of Agreement

Regarding Shared Supervisory Responsibility for BBNA-employed Administrators

INTRODUCTION

This Agreement sets forth the procedures and shared responsibilities between BBNA and the undersigned Tribal Government in regard to village Administrator position(s) employed by BBNA but stationed in the tribal offices under the day-to-day supervision of the Tribe.

These positions are funded through BBNA's Self-Governance Compact entered with the United States government for Bureau of Indian Affairs programs, pursuant to the Indian Self-Determination and Education Assistance Act, PL 93-638, as amended. This Agreement is therefore subject to PL 93-638 and other federal laws. To the extent any provision of the agreement may be inconsistent with federal law, the federal law controls. All positions provided by this Agreement are subject to the availability of funding, which is dependent upon annual appropriations by Congress.

These positions are funded from BBNA's "contract support" or administrative cost pool for its Self-Governance compact and therefore are provided exclusively as administrative support for compact activities at the village level, including the administration of compact pass-through funding. Position title: **Administrator**

The Native preference in hiring and training provisions of Section 7(b) of PL 93-638, 25 U.S.C. § 405e(b) shall apply. If the Tribe has locally adopted a "Preference in Hiring" rule in its ordinances or personnel policies, the Tribe's preference rule shall govern in regard to employees hired under this Agreement. Otherwise, the general Native preference in hiring policy that BBNA uses for federally-funded job positions applies.

Except as modified in this Agreement, BBNA's personnel policies and procedures apply. Accordingly, all employees hired under this Agreement are "at will" employees.

BBNA's supervisory responsibility for the employees covered by this Agreement is assigned to the BBNA Community Services Department.

PART I. BBNA responsibilities:

- A. **Employer:** BBNA is the employer of the Administrator(s) and is responsible for payroll functions. All BBNA's personnel policies, rules and procedures, including recruiting/hiring processes shall apply. A BBNA Personnel Policy Manual will be made available to all its employees at their designated work place, and will also be available as reference material to the on-site supervisor. This includes Tribal Clerk(s) where allowable.

However, in certain instances BBNA may defer to Tribal Personnel Policies on request and where those Tribal policies do not conflict with federal or Alaska labor laws, or provide less than BBNA's employee policies. A copy of the Tribe's Personnel Policy must be provided to BBNA. Any additional personnel costs incurred in this instance are the responsibility of the Tribe.

- B. Recruitment:** In the absence of specific Tribal policies, the recruitment procedures in BBNA's Personnel Policies and Procedures will be used in filling any vacant village administrator position. BBNA will provide to the Tribe the appropriate recruitment forms to assist the Tribal Council in the recruitment process. Recruitment will include all or at least two of the following options:

- 1) posting a job announcement around the village for at least two weeks,
- 2) posting on BBNA's job web page,
- 3) or listing in local newspapers,

Interested candidates will be given a detailed job description and asked to complete a BBNA application for employment form.

- C. Job Description/Work Assignments:** BBNA will provide to the employee and the on-site supervisor a copy of the Job Description that outlines the Administrator's responsibilities; a sample is provided as Attachment A.

(Attachment A will include other village-based job position descriptions where Administrator is delegated or authorized to supervise by the Tribal council.)

- D. Wage:** Wages for positions hired under this agreement are set at the base rate at point of hire within the established range in accordance with BBNA's Wage Scale. Rate of pay determination requires authorization/ acknowledgment by the appropriate Tribal Official using the *Recommendation for Hire* form, Attachment B, provided by BBNA.

- 1) Step Increases: Based on the number of hours in paid status - normally 1950 hours - a step increase will be prepared on a personnel Payroll Instruction form. When the employee reaches the top-end of the step increases, then the annual step increase will stop, Attachment C. Then the employee will be eligible to participate in an *Annual Pay Adjustment* (APA).
- 2) Annual Pay Adjustment: The calculation for the APA is equivalent to each hour in paid status during the previous fiscal year (October 1 through September 30) multiplied by 50 cents up to a maximum of \$1,000 for the year. BBNA's incorporates its Personnel Policies on established work hours for its employees. Payment shall be lump sum processed through BBNA's normal payroll functions and payable each December. Annual Pay Adjustments are contingent upon the availability of funding each year.

- 3) Tribe's Option to Supplement Wage: BBNA recognizes the Tribe's ability to provide additional compensation as outlined under the Tribe's Responsibilities section of this Agreement, at Part II. E.
- E. Work Environment:** The obligation is to ensure employees have a safe and adequate work environment, free of sexual harassment.
- F. Regional Office Supervision/Oversight:** The Community Services Department staff provides oversight that includes:
- 1) Personnel forms are complete and in order.
 - 2) Time Cards: Review of work hours and leave balances to ensure compliance with BBNA employment policies and work hours.
 - 3) Experience/Training Needs: Where the job requires either documented experience or mandatory training to successfully meet the intent of "Self-Determination:" BBNA/CSD Village-Based Position Job title: **Administrator**
 - An *Experience/Training Needs* tracking sheet to acknowledge appropriate village-based personnel job experience and ensures minimum job requirements; or demonstrates areas of mandatory training need to the Tribal Council and BBNA, a sample is included as Attachment D
 - Where necessary and/or if available, monitor education/training opportunities and progress through either: a) Annual Mandatory Workshops ensures all minimum requirements are met; or, b) Take advantage of funding opportunities to provide specialized training when possible.
 - 4) Performance Evaluations: Conduct at least one annual performance evaluation in partnership with the Tribe. A Partnering Agency Evaluation form will be given to the Tribal Council to allow the Tribe to provide input for the performance evaluation.
- G. Technical Support:** For Administrator positions through CSD, for day-to-day Tribal Office Operations as necessary, including:
1. Monitoring the expenditures related to the annual budget proposed/approved by the Tribal Council to ensure the Tribal Officials remain informed of overall Tribal program activities and make appropriate adjustments as or if necessary.
 2. Monitoring required compliance with appropriate OMB Circular(s), for Office Reimbursement and Compact Flow-Through.
- H. Notifications:** BBNA will promptly notify the Council of supervisory changes.
- I. Discipline and Firing.** BBNA shall have final disciplinary and firing authority for employees hired under this Agreement. The Tribe may recommend discipline or

termination of such employees, and BBNA will follow the Tribe's recommendation except when doing so would violate applicable federal or state law or BBNA's personnel policies.

- J. Nepotism Policy.** BBNA's Personnel Policies prohibit nepotism, which is defined as an employee being supervised by another employee who is an immediate family member. The general prohibition of an employee being supervised by an immediate family members applies to employees hired under this Agreement; however, recognizing the small potential labor pool in some villages this policy may be waived or relaxed by the BBNA Chief Executive Officer if requested by the Tribe and a reasonable justification for the request is provided.

PART II. The Tribe's Responsibilities:

The Tribe prioritizes services that best meet the needs of the community. The Tribal Council provides appropriate on-site guidance that fosters capacity building and encourages long-range plan formation.

- A. Recruitment/hiring process.** The Tribe will use BBNA forms for employees under this Agreement, and will work closely with CSD and Personnel Dept. in the employment processes. The Tribe will assist with recruitment for any position vacancy, informing BBNA of the Tribal Council's intents and advertising effort. And will assist BBNA as follows:

- Rate applicants against the appropriate standards for the position
- Applicants will be interviewed by a 3 member team that includes the Tribe's designated representative, the CSD designee and Personnel Dept staff.
- Tribe or its designee will use the "Tribal Council Recommendation for Hire" form as provided by BBNA; or provide in writing a recommendation for hire of an applicant to fill the village-based position to BBNA's Personnel/ Training Officer assuring that all requirements on the *Recommendation for Hire* form are met. A sample is included as Attachment B
- Understand the final authority in hiring is the BBNA's CEO.

- B. Scheduling Work:** The Tribe may prioritize and recommend structure of the Administrator to most effectively meet the needs of the community so long as the changes comply with federal funding requirements. This will include scheduling regular work hours and designating the duty station.

For the Administrator position:

Work Schedule or Office Hours: 9:00am to 4:30pm

The duty station is:

1251 Copper Ck Dr.
Wasilla, Ak 99687

Where the Tribe's expectation is that the Administrator supervises other BBNA village-based positions; please refer to Page 7 for the specific positions located at Tribal offices.

Any other Tribally directed, or additional assignments: (Please attach an additional page outlining the additional assignments if necessary; or, if none needed write in N/A through 4 lines)

N/A

N/A

N/A

N/A

C. Designate/appoint on-site supervisor for supervisory responsibilities at local level.
The designee will perform all supervisory functions including but not limited to:

1. Set the employee's work schedule, and verify time sheets and leave requests.
2. Follow BBNA's leave policies and procedures when authorizing annual, sick or personal leave; or, where mutually agreed upon the appropriate Tribal Personnel Policies. The supervisor will ensure a copy of the Tribal policy is made available for BBNA's use.
3. Compile the Tribal Official's evaluations and provide to BBNA no more than one completed Partnering Agency Annual performance evaluation, Attachment E, to the appropriate BBNA supervisor.
4. Collaborate with the designated BBNA supervisor, to monitor and recommend any Training Needs
5. Ensure Administrator participation at BBNA workshops/training opportunities that ensure mutual success under the "Self-determination" concepts
6. Authorize overtime with the understanding that compensation for overtime will be a Tribal Council expense.
7. Inform appropriate BBNA supervisory staff or the Personnel Department if emergencies arise and village-based employee is incapacitated in any manner.
8. Ensure requirements are followed in BBNA's Nepotism Policy section of this agreement, at Part I.J.

The Council hereby appoints Tess McGowan (Executive Director) to be the on-site supervisor. Dated: 8-15-2011

D. Notifications: The Tribe will promptly notify BBNA of any on-site supervisory changes in writing.

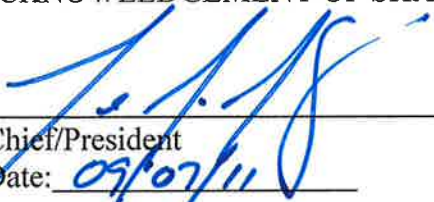
E. Safe Work Environment: The Tribe has an obligation to ensure employees have a safe and adequate work environment, free of sexual harassment

F. Wages: The Tribe may provide merit increase or supplement an Administrator's wage outside BBNA's wage scale; the additional costs are the responsibility of the Tribe. The Tribe will include the additional compensation in the appropriate program budget at the Tribe and provide to BBNA a copy of the tribally approved budget that assures BBNA reimbursement for the additional compensation. CSD prepares an invoice for wages in excess of BBNA's wage scale for payment by the Tribe on a quarterly basis.

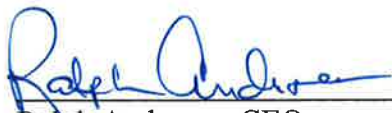
G. Assurances: As a condition of the placement of an Administrator position at the tribal offices, the Tribe assures BBNA as follows:

- 1) The Tribe will maintain internal management systems that, at a minimum, are sufficient to meet the standards for administering Bureau of Indian Affairs funding, as provided at 25 CFR Subpart F (§§ 900.35-900.68).
- 2) The Tribe will maintain sufficient internal financial controls including the requirement of two (2) check signers on bank accounts, the separation of accounting functions so that only non-check signers perform bank reconciliations, and the timely examination of financial records.
- 3) The Tribe will be solely responsible for any losses to the Tribe, its members, or other entities caused by the Tribe's failure to maintain adequate management and financial systems as provided herein, and will hold BBNA harmless from any claims arising from the Tribe's failure to maintain such systems. Additionally, to the extent the Tribe assigns the Administrator to do work in addition to those activities and functions required by BBNA (such as managing funds from non-BBNA sources), the Tribe will be responsible for the supervision of such additional duties and will hold BBNA harmless from all claims arising from the performance of such duties.

ACKNOWLEDGEMENT OF SHARED SUPERVISORY RESPONSIBILITIES:



Chief/President
Date: 09/07/11



Ralph Andersen, CEO
Date: 9-19-11

**2011
NEW**

**TRIBALLY AUTHORIZED SUPERVISION
FOR BBNA VILLAGE-BASED POSITIONS**

BBNA Administrator – Assigned to Supervise Other Village-based Positions

Please check positions to be supervised

Community Services Dept/Tribal Government Services

- 1) Tribal Clerk/Assistant.....
Job description attached.

Social Services Department

- 2) Tribal Children Services Worker.....
Job description attached.

Tribal Programs: _____

- 3) _____ (Job Title)...
Job description attached.

ACKNOWLEDGEMENT of on-site supervisory duties for BBNA village-based positions.

President

Administrator

09/07/11

Date

9/7/2011

Date