



# Department of Commerce

STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE

## REQUEST FOR PROPOSALS (RFP)

RFP NO. CEF 4 - Dairy Digester Enhancement - 001

**NOTE:** *If you download this RFP from the Department of Commerce website, you are responsible for ensuring you are referencing the most current version of the document to meet programmatic requirements. Potential applicants are also responsible for signing up for email updates and checking the website regularly for program updates and application guidance/materials.*

<b>FUNDING PROGRAM:</b>	<b>CEF 4</b>
<b>PROJECT TITLE:</b>	<b>Dairy Digester Enhancement</b>
<b>APPLICATION PERIOD OPEN DATE:</b>	<b>December 6, 2019</b>
<b>APPLICANT'S CONFERENCE DATE:</b>	<b>December 6, 2019 @ 2:00 PM Pacific</b>
<b>APPLICATION DUE:</b>	<b>January 31, 2020 @ 5:00 PM Pacific</b>

**ESTIMATED PERFORMANCE PERIOD FOR CONTRACT: 4/2020 - 4/2023**

### APPLICANT ELIGIBILITY:

This competitive process is open to applicants that own, operate and/or service anaerobic digesters located at dairies. Eligible projects include those that address sourcing, handling, and pre-treatment of feedstocks; improved energy efficiency in digester operations; and separation, processing and marketing of biogas, nutrients, fiber and other co-products.

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# 1. INTRODUCTION

## ➤ **Background and Programmatic Goals**

The Washington State Department of Commerce hereafter called "COMMERCE," is initiating this Request for Proposals (RFP) to solicit Applications from eligible entities for the Dairy Digester Enhancement program.

The Dairy Digester Enhancement program is part of the Clean Energy Fund 4 funds provided in Subsection 6(d) of Section 1035 of Substitute House Bill 1102 (2019-21 biennial Capital Budget). The funds are provided solely for grants that enhance the viability of anaerobic digesters located at dairies. Eligible projects include those that address sourcing, handling, and pre-treatment of feedstocks, improved energy efficiency in digester operations, and separation, processing and marketing of biogas, nutrients, fiber and other co-products.

## ➤ **Minimum Qualifications and Program Priorities**

Minimum qualifications include:

- Applicants must be licensed to do business in the State of Washington or submit a statement of commitment that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Applicant.
- Projects should be replicable at other current and future dairy digesters.
- Ineligible projects include digester repair and basic scientific research.
- Awards shall include at least one project east of the Cascades, and one project west of the Cascades.

## ➤ **Funding**

There is currently \$970,000 in funding available from CEF 4, Dairy Digester Enhancement, as authorized in Subsection 6(d) of Section 1035 of Substitute House Bill 1102 (2019-21 biennial Capital Budget). This amount reflects the deduction of the 3% administrative costs as approved by the Office of Financial Management.

COMMERCE intends to award three to six projects ranging from \$30,000 to \$300,000.

There is a minimum 1:1 match requirement of non-state funds for this grant program.

Applications exceeding the maximum allowable project amount will be considered non-responsive and will not be evaluated.

Any contract awarded as a result of this competitive process is contingent upon no successful process protests.

## ➤ **Period of Performance**

The period of performance of any successful applicant project resulting from this RFP anticipates completion within 36 months of receipt of the contingent award letter. Amendments extending the period of performance, if any, shall be at the sole discretion of COMMERCE.

## ➤ **Contracting with Current or Former State Employees**

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. Proposers should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

## ➤ **Definitions**

Definitions for the purposes of this RFP include:

**Apparent Successful Applicant:** The Applicant selected as the entity to perform the anticipated services, subject to completion of contract negotiations and execution of a written contract.

**Application:** A formal proposed project submitted in response to this solicitation.

**Applicant:** Individual or company that submits a proposal in order to attain a contract with COMMERCE.

**COMMERCE or AGENCY:** The Department of Commerce is the agency of the state of Washington that is issuing this RFP.

**Grantee:** Individual or company whose proposal has been accepted by COMMERCE and is awarded a fully executed, written contract.

**Request for Proposals (RFP):** Formal competitive process document in which a funded program is identified but no specific projects have been identified. The purpose of an RFP is to permit interested entities an opportunity to promote their organization and present the best possible projects meeting the intent of the program.

➤ **ADA**

COMMERCE complies with the Americans with Disabilities Act (ADA). Applicants may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

## 2. GENERAL INFORMATION FOR APPLICANTS

### ➤ **RFP Coordinator**

The RFP Coordinator is the sole point of contact in COMMERCE for this procurement. All communication between the Applicant and COMMERCE upon release of this RFP shall be with the RFP Coordinator, as follows:

Name	Kristin Ramos
Program E-Mail Address	<a href="mailto:cef@commerce.wa.gov">cef@commerce.wa.gov</a>
Program Website	<a href="https://www.commerce.wa.gov/growing-the-economy/energy/clean-energy-fund/dairy-digester-enhancement/">https://www.commerce.wa.gov/growing-the-economy/energy/clean-energy-fund/dairy-digester-enhancement/</a>
Phone Number	360-515-6504

Any other communication will be considered unofficial and non-binding on COMMERCE. Applicants are to rely on written statements issued by the RFP Coordinator. *Communication directed to parties other than the RFP Coordinator may result in disqualification of the Applicant.*

### ➤ **Estimated Schedule of Activities**

Issue Request for Proposals (RFPs)	12/06/2019
Question & answer period	12/06/2019 - 1/24/2020
Answers to Q&A posted Tuesdays and Thursdays	12/06/2019 - 1/24/2020
Applicants conference	12/06/2019
Applications due	1/31/2020
Application scoring	2/3/2020 <sup>1</sup> - 2/14/2020
Reviewers conduct follow-up questions of applicants thru coordinator	2/3/2020 - 2/12/2020
Announce "Apparent Successful Awardee(s)" and send notification via e-mail to contingent awardees and unsuccessful applicants	2/28/2020
Hold debriefing conferences (if requested)	3/3/2020 - 3/6/2020
Negotiate and execute contracts	3/16/2020 - 4/1/2020
Begin contract work	4/1/2020

COMMERCE reserves the right to revise the above schedule. Applicants are responsible for monitoring the [Dairy Digester program webpage](#) for updates or changes to this RFP and/or timeline.

➤ **Applicant's Conference**

A pre-proposal Applicant's conference webinar is scheduled to be held on **Friday, December 6, at 2:00PM Pacific**. The webinar will be recorded and posted on the [Dairy Digester funding webpage](#).

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[Join Skype Meeting](#)

Trouble Joining? [Try Skype Web App](#)

Join by phone

[\(360\) 407-3813](#)

[Find a local number](#)

Conference ID: 315128

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➤ **Questions and Answers**

COMMERCE will be bound only to COMMERCE written answers to questions. Applicants may only submit process related questions to [cef@commerce.wa.gov](mailto:cef@commerce.wa.gov). All questions and responses will be posted on the [Dairy Digester webpage](#) on Tuesdays and Thursdays during the posted response range until close of business January 24, 2020.

➤ **Submission of Application**

**ELECTRONIC APPLICATIONS:**

Only electronic Applications will be accepted. The proposal must be **received by the RFP Coordinator** ([cef@commerce.wa.gov](mailto:cef@commerce.wa.gov)) no later than 5:00 PM Pacific Time, on **January 31, 2020**.

Applications must be submitted electronically as an attachment to an e-mail to the RFP Coordinator ([cef@commerce.wa.gov](mailto:cef@commerce.wa.gov)). Attachments to e-mail shall be in Microsoft Word, Excel, or PDF format. Zipped files **cannot be received** by COMMERCE and cannot be used for submission of Applications. **Application materials attached as zip files will be disqualified.** The total maximum size of the application email may not exceed 10 MB. Applications exceeding 10 MB may be disqualified. Forms requiring signature must be signed by an individual within the organization authorized to bind the Applicant to the offer. Only scanned color original signed documents will be accepted. Commerce does not accept digital signatures as original signatures. COMMERCE does not assume responsibility for problems with Applicant's e-mail. If COMMERCE email is not working, appropriate allowances will be made.

Applications may not be transmitted using facsimile transmission.

Applicants should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. **Late Applications will not be accepted and will be automatically disqualified from further consideration**, unless COMMERCE e-mail is found to be at fault at COMMERCE'S sole determination. All Applications and any accompanying documentation become the property of COMMERCE and will not be returned.

➤ **Proprietary Information and Public Disclosure**

Applications submitted in response to this competitive procurement shall become the property of COMMERCE. All Applications received shall remain confidential until the Apparent Successful Awardee is announced; thereafter, the applications shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

Any information in the proposal that the Applicant desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state or federal law that provides for the nondisclosure of your document, must be clearly designated. The information must be clearly identified and the particular exemption from disclosure upon which the Applicant is making the claim must be cited. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words "Proprietary Information" printed on the lower right hand corner of the page. Marking the entire proposal exempt from disclosure or as Proprietary Information will not be honored.

If a public records request is made for the information that the Applicant has marked as "Proprietary Information," COMMERCE will notify the Applicant of the request and of the date that the records will be released to the requester unless the Applicant obtains a court order enjoining that disclosure. If the Applicant fails to obtain the court order enjoining disclosure, COMMERCE will release the requested information on the date specified. If an Applicant obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, COMMERCE shall maintain the confidentiality of the Applicant's information per the court order.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

#### ➤ **Revisions to the RFP**

In the event it becomes necessary to revise any part of this RFP, the revised version and current date of publishing will be posted on the Commerce website under the applicable funding program web page. The applicant is responsible for checking the [Dairy Digester webpage](#) for updates and requirements.

COMMERCE also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

#### ➤ **Complaint Process**

Vendors may submit a complaint to COMMERCE based on any of following:

- The solicitation unnecessarily restricts competition;
- The solicitation evaluation or scoring process is unfair; or
- The solicitation requirements are inadequate or insufficient to prepare a response.

A complaint may be submitted to COMMERCE at any time prior to 5 days before the bid response deadline. The complaint must meet the following requirements:

- The complaint must be in writing;
- The complaint must be sent to the RFP coordinator ([cef@commerce.wa.gov](mailto:cef@commerce.wa.gov)) in a timely manner;
- The complaint should clearly articulate the basis for the complaint; and
- The complaint should include a proposed remedy.

The RFP coordinator will respond to the complaint in writing. The response to the complaint and any changes to the solicitation will be posted on the Commerce website on the [Dairy Digester program page](#). The complaint may not be raised again during the protest period. COMMERCE'S action or inaction in response to the complaint will be final. There will be no appeal process.

#### ➤ **Responsiveness**

All Applications will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Applicant is specifically



notified that failure to comply with any part of the RFP may result in rejection and disqualification of the application.

COMMERCE also reserves the right at its sole discretion to waive minor administrative irregularities.

➤ ***Most Favorable Terms***

COMMERCE reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Applicant can propose. There will be no best and final offer procedure. COMMERCE reserves the right to contact an Applicant for clarification of its proposal.

The Apparent Successful Grantee should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some, or all, of the Applicant's proposal. It is understood that the application will become a part of the official procurement file on this matter without obligation to COMMERCE.

Recipients of funding will be expected to report to Commerce no less than quarterly regarding progress of the funded project. A final Fact Sheet summarizing project successes, lessons learned, and other information requested by Commerce will be required prior to processing the final invoice. Information deemed proprietary may be viewed, but not downloaded, via Skype or Google docs to demonstrate milestone completion.

All Apparent Successful Grantees will be required to adhere to all state laws pertaining to capital funding, including but not limited to, compliance with [Executive Order 05-05](#).

➤ ***Contract Special and General Terms and Conditions***

The apparent successful Grantee will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions. In no event is an Applicant to submit its own standard contract terms and conditions in response to this competitive process.

➤ ***Costs to Propose***

COMMERCE will not be liable for any costs incurred by the Applicant in preparation of a proposal submitted in response to this RFP, travel to or conduct of a presentation, or any other activities related to responding to this RFP.

➤ ***No Obligation to Contract***

This RFP does not obligate the state of Washington or COMMERCE to contract for services specified herein.

➤ ***Rejection of Applications***

COMMERCE reserves the right at its sole discretion to reject any and all Applications received without penalty and not to issue a contract as a result of this RFP.

➤ ***Commitment of Funds***

The Director of COMMERCE or delegate is the only individual who may legally commit COMMERCE to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

➤ ***Electronic Payment***

The state of Washington prefers to utilize electronic payment in its transactions. The successful Grantee will be provided a form to complete with the contract to authorize such payment method.

➤ **Insurance Coverage**

The Grantee is to furnish COMMERCE with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth within the contract.

The Grantee shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Grantee shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to COMMERCE within fifteen (15) days of the contract effective date. Standard insurance requirements are included within the sample contract and its special terms and conditions attached as Exhibit C.

### **3. APPLICATION CONTENTS**

No hard copies will be accepted.

Applications must be written in English and submitted electronically to the RFP Coordinator at [cef@commerce.wa.gov](mailto:cef@commerce.wa.gov) with all attachments appropriately named and included. Any required documents (see Exhibits), in addition to the application, that is not included on the application submission email may result in application disqualification.

Items marked “mandatory” must be included as part of the proposal for the proposal to be considered responsive. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

The application must be submitted by the entity for which a contract would be negotiated should the project be contingently awarded. Applications submitted by a third party, or on behalf of the applicant, will **not** be accepted.

➤ **Program Specific Criteria**

Applications will be screened to ensure the following requirements are met. Applications not meeting these requirements will be disqualified.

- Projects must be located at or enhance the viability of anaerobic digesters at dairies.
- Eligible projects include those that address sourcing, handling, and pre-treatment of feedstocks; improved energy efficiency in digester operations; and separation, processing and marketing of biogas, nutrients, fiber and other co-products.
- Projects should be replicable at other current and future dairy digesters.
- Ineligible projects include digester repair and basic scientific research.
- Awards must include at least one project east of the Cascades, and one project west of the Cascades.

➤ **Administrative Review (Not Scored)**

All required exhibit attachments requiring a signature must be signed and dated by a person authorized to legally bind the Applicant to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. The application will have areas requiring the following information:

- Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
- Amount of funding being requested.
- Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)

- Legal status of the Applicant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
- Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Applicant does not have a UBI number, the Applicant must state that it will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Applicant.
- Location of the facility from which the Applicant would operate.
- Identify any state employees or former state employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Applicant's organization. If following a review of this information, it is determined by COMMERCE that a conflict of interest exists, the Applicant may be disqualified from further consideration for the award of a contract.

### ➤ **Technical Review (Scored)**

The Technical Proposal must contain a comprehensive description of services including the following elements:

- **Project Approach/Methodology:** Include a complete description of the Applicant's proposed approach and methodology for the project. This section should convey Applicant's comprehensive understanding of the proposed project.
- **Work Plan:** Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Applicant's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of COMMERCE staff. The Applicant may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- **Project Schedule:** Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.
- **Outcomes and Performance Measurement:** Describe the impacts/outcomes the Applicants propose to achieve as a result of the proposed project, including how these outcomes would be monitored, measured, and reported to the state agency.
- **Risks:** The Applicant must identify potential risks that are considered significant to the success of the project. Include how the Applicant would propose to effectively monitor and manage these risks, including reporting of risks to the COMMERCE contract manager.
- **Deliverables:** Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the programmatic requirements.

### ➤ **Project Management Team (Scored)**

#### **A. Project Management (SCORED)**

1. **Project Team Structure and Internal Controls:** Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any sub Grantees. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.
2. **Staff Qualifications and Experience:** Identify staff, including subgrantees, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such

personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Applicant must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must be communicated to COMMERCE.

**B. Experience of the Applicant (SCORED)**

1. Indicate relevant experience that indicates the qualifications of the Applicant, and any subgrantees, for the performance of the potential contract.
2. Include a list of contracts the Applicant has had during the last five years that relate to the Applicant's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

**C. Related Information (MANDATORY)**

1. If the Applicant or any subgrantee contracted with the state of Washington during the past 24 months, indicate the name of the agency, the contract number and project description and/or other information available to identify the contract.
2. If the Applicant's staff or subgrantee's staff was an employee of the state of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date.
3. If the Applicant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Applicant's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Applicant's position on the matter. COMMERCE will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Applicant in the past five years, so indicate.

**D. References (MANDATORY)**

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for the Applicant and three (3) business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current COMMERCE staff as references. By submitting a proposal in response to this Work Request, the vendor and team members grant permission to COMMERCE to contact these references and others, who from COMMERCE'S perspective, may have pertinent information. COMMERCE may or may not, at COMMERCE'S discretion, contact references. COMMERCE may evaluate references at COMMERCE'S discretion.

**E. OMWBE Certification (OPTIONAL AND NOT SCORED)**

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-, women-, or veteran-owned firm(s) will be participating on this project. For more information please visit: [www.omwbe.wa.gov](http://www.omwbe.wa.gov).

➤ **Project Budget (MANDATORY)**

The maximum budget for this contract must not exceed the amount specified under Application Contents.

Applicants must demonstrate maximizing state resources and identify all costs in U.S. dollars including expenses to be charged for performing the tasks necessary to accomplish the objectives of the contract. The Applicant is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Applicants are required to collect and pay Washington state sales and use taxes, as applicable.

Costs for subgrantees are to be broken out separately. Please note if any subgrantees are certified by the Office of Minority and Women's Business Enterprises.

## 4. EVALUATION AND CONTRACT AWARD

### ➤ ***Evaluation Procedure***

Responsive Applications will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of Applications shall be accomplished by an evaluation team(s), to be designated by COMMERCE, which will determine the ranking of the Applications.

The RFP Coordinator may contact the Applicant for clarification of any portion of the Applicant's proposal on behalf of the review team.

### ➤ ***Evaluation Breakdown***

Each section of the application will not be scored individually, but the application in its entirety will be evaluated as a whole. The following weighting will be assigned to the proposal for evaluation purposes:

- Work Plan (50%)
- Applicant Strength (40%)
- Replicability (10%)

**COMMERCE reserves the right to award the contract to the Applicant whose proposal is deemed to be in the best interest of COMMERCE and the state of Washington.**

### ➤ ***Follow-up Questions May be Required***

After evaluating the written Applications COMMERCE may elect to pose follow-up questions to top scoring applicants. Should clarification become necessary, COMMERCE will contact the top-scoring firm(s) from the written evaluation with any questions concerning the application.

### ➤ ***Grantee Notifications to Applicants***

COMMERCE will notify the Apparently Successful Applicant of their selection in writing (letter via email attachment) upon completion of the evaluation process. Individuals or firms whose Applications were not selected for further negotiation or award will be notified separately by e-mail.

### ➤ ***Debriefing of Unsuccessful Applicants***

Any Applicant who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator at <insert email address here> within three (3) business days after the Unsuccessful Applicant Notification is e-mailed to the Applicant. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington, on the third business day following the transmittal of the Unsuccessful Applicant Notification. The debriefing must be scheduled within three (3) business days of the request.

Discussion at the debriefing conference will be limited to the following:

- Evaluation and scoring of the firm's proposal;
- Critique of the proposal based on the evaluation;
- Review of applicant's final score in comparison with other final scores *without* identifying the other firms or reviewing their Applications.

Comparisons between Applications or evaluations of the other Applications will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

## ➤ **Protest Procedure**

Protests may be made only by Applicants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Applicant is allowed five (5) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM, local time, in Olympia, Washington on the fifth business day following the debriefing. Protests must be submitted by e-mail as a written request signed by an authorized application representative.

Applicants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Applicants under this procurement.

All protests must be in writing (a signed letter as an email attachment), addressed to the RFP Coordinator, and signed by the protesting party or an authorized Agent. The protest must state the RFP number, the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the score;
- Non-compliance with procedures described in the procurement document or COMMERCE policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) COMMERCE'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by COMMERCE. The COMMERCE Director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within ten (10) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Applicant that also submitted a proposal, such Applicant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold COMMERCE'S action; or
- Find only technical or harmless errors in COMMERCE'S acquisition process and determine COMMERCE to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide COMMERCE options which may include:
  - Correct the errors and re-evaluate all Applications, and/or
  - Reissue the solicitation document and begin a new process, or
  - Make other findings and determine other courses of action as appropriate.


If COMMERCE determines that the protest is without merit, COMMERCE will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

## 5. RFP EXHIBITS

<a href="#">Exhibit A</a>	Certifications and Assurances
<a href="#">Exhibit B</a>	Ethics in Public Service Compliance
<a href="#">Exhibit C</a>	Department of Revenue status screenshot
<a href="#">Exhibit D</a>	Contractual Special and General Terms and Conditions
<a href="#">Exhibit E</a>	Assurances or Documentation of Required Match
<a href="#">Exhibit F</a>	Debarment Certification Form
<a href="#">Exhibit G</a>	Risk Assessment Survey




## A - Certifications

 <b>Department of Commerce</b>	<b>CEF 4</b> <b>Dairy Digester Enhancement</b> <b>Certifications and Assurances</b>
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<b>Organization</b>	
<b>Project Title</b>	
<b>Project Budget</b>	\$
<p>ORGANIZATION OFFICIAL CERTIFICATION</p> <p>I certify, on behalf of (Organization name) that (Organization name) will adhere to all Federal, State and local laws and regulations that are applicable to the CEF 4 Dairy Enhancement Program, the operations of (Organization name), and the scope of the proposed project.</p> <p>(Organization Name) has all necessary, current business licenses and regulatory approvals required in the state of Washington, including but not limited to current registration status with the Secretary of State and Department of Revenue.</p> <p>The project proposed in this application could not go forward at the scale or on the schedule proposed without the requested funding. (Organization name) will use any funds received under this request, to supplement, not to supplant, other funds.</p> <p>Documentation is on file for the required match amount as designated in the application and will be provided to Commerce within 30 days of any contingent award.</p> <p>(Organization Name) certifies it is not using any other state grants as part of this project.</p>	
<b>Signature</b>	<b>Date</b>
<b>Print Name</b>	<b>Title</b>

## B - Ethics in Public Service Compliance

 <b>Department of Commerce</b>	<b>Energy Division</b> <b>42.52 RCW Compliance Certification</b>
---	---

**Applicant Name:**

**Project Name:**

### 42.52 RCW Compliance Certification

Pursuant to Chapter 42.52 RCW, the Ethics in Public Service Act, any current (or within the past 24 months) employees or governing board members who are, who have been employed by the State of Washington, must be indicated below. Include the name, job title, and separation date, if any.

☐ Currently, or within the past 24 months, there are/have been no employees or governing board members who were employed by the State of Washington.

☐ Currently, or within the past 24 months, there are/have been the following employees or governing board members who were employed by the State of Washington.

☐ Currently, or within the past 24 months, there are/have been no conflict or bias with an existing program employee.

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Separation Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Separation Date: \_\_\_\_\_

If a determination is made that a conflict of interest exists, or that requested information was withheld, I understand my organization may be disqualified for further consideration for award of funding.

On behalf of <<**Organization Name**>>, I certify that this organization complies with 42.52 RCW, the Ethics in Public Service Act.

Signature

Date

Print Name

Title

## C - Department of Revenue Status Screenshot

Washington State Department of Revenue

[Services](#) > [Business Lookup](#) > JZ ROSE

License Information:

[New search](#)
[Back to results](#)

Entity name:

JZK, INC.

Business name:

JZ ROSE

Entity type:

[Profit Corporation](#)

UBI #:

601-524-947

Business ID:

001

Location ID:

0002

Location:

Active

Location address:

207 1ST ST S  
YELM WA 98597-5230

Mailing address:

PO BOX 5230  
YELM WA 98597-5230

Excise tax and reseller permit status:

[Click here](#)

Secretary of State status:

[Click here](#)

Endorsements

Endorsements held at this location	License #	Count	Details	Status	Expiration date	First issuance
Yelm General Business	10622			Active	Mar-31-2020	Sep-19-2018

Governing People

May include governing people not registered with Secretary of State

Governing people	Title
KNIGHT, JUDITH	

## ***D - Contractual Special and General Terms and Conditions***

### **Special Terms and Conditions**

#### **1. CONTRACT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Contract.

#### **2. COMPENSATION**

COMMERCE shall pay an amount not to exceed \$        for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

##### **EXPENSES**

Grantee shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Grantee for authorized expenses shall not exceed \$       , which amount is included in the Contract total above.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Grantee shall receive compensation for travel expenses at current state travel reimbursement rates.

#### **3. BILLING PROCEDURES AND PAYMENT**

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE [*not more often than monthly.*]

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number       . If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

##### **Duplication of Billed Costs**

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

##### **Disallowed Costs**

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

#### **4. SUBGRANTEE DATA COLLECTION**

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subgrantees and the portion of Grant funds expended for work performed by subgrantees, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subgrantees. "Subgrantees" shall mean subgrantees of any tier.

#### **5. HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Contract, Grantee shall complete the requirements of Governor's Executive Order 05-05, where applicable, or Grantee shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Grantee agrees that the Grantee is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources s discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, Grantee shall, in accordance with Governor's Executive Order 05-05, coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. Grantee agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Grantee agrees that, unless the Grantee is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the Grantee shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the Grantee shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Grantee shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, Grantee agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 05-05.

In the event that the Grantee finds it necessary to amend the Scope of Work the Grantee may be required to re-comply with Governor's Executive Order 05-05 or Section 106 of the National Historic Preservation Act.

#### **6. INSURANCE**

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Contractor or Subgrantee, or agents of either, while performing under the terms of this contract.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Contract start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subcontracts.

**Automobile Liability.** In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the Grantee or its Subgrantee, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

**Professional Liability, Errors and Omissions Insurance.** The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under contract to the Grantee. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

**Fidelity Insurance.** Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Contract shall be \$100,000 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subgrantees that receive \$10,000 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the Grantee as beneficiary.
- C. The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

## **7. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Declarations Page
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

## **General Terms and Conditions**

### **1. DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Contract" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail scan of a signed copy of this contract shall be the same as delivery of an original.
- D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Grantee.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subgrantee" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Contract under a separate contract with the Grantee. The terms "subgrantee" and "subgrantees" mean subgrantee(s) in any tier.

### **2. ALLOWABLE COSTS**

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

### **3. ALL WRITINGS CONTAINED HEREIN**

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

### **4. AMENDMENTS**

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

### **6. APPROVAL**

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

### **7. ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

## **8. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys fees and costs.

## **9. CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

## **10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

## **11. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## **12. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMERCE may, in its sole discretion, by written notice to the GRANTEE terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the GRANTEE in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The GRANTEE and their subgrantee(s) must identify any



person employed in any capacity by the state of Washington that worked on the (YOUR PROGRAM NAME) including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the GRANTEE may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the GRANTEE as it could pursue in the event of a breach of the contract by the GRANTEE. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

### **13. COPYRIGHT**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

### **14. DISALLOWED COSTS**

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subgrantees.

### **15. DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Contract number; and

- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

#### **16. DUPLICATE PAYMENT**

The Grantee certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

#### **17. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### **18. INDEMNIFICATION**

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, for, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee or its employees.

The Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to the Grantee's or any subgrantee's performance or failure to perform the contract. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

#### **19. INDEPENDENT CAPACITY OF THE GRANTEE**

The parties intend that an independent Grantee relationship will be created by this Contract. The Grantee and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

## **20. INDUSTRIAL INSURANCE COVERAGE**

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

## **21. LAWS**

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

## **22. LICENSING, ACCREDITATION AND REGISTRATION**

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

## **23. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

## **24. LOCAL PUBLIC TRANSPORTATION COORDINATION**

Where applicable, Grantee shall participate in local public transportation forums and implement strategies designed to ensure access to services.

## **25. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further contracts with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

## **26. PAY EQUITY**

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- a. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- b. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - (ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be consistent with business necessity, not based on or derived from a gender-based differential, and account for the entire differential.

This Contract may be terminated by the Department if the Department or the Department of Enterprise Services determines that the Grantee is not in compliance with this provision.

## **27. POLITICAL ACTIVITIES**

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

## **28. PREVAILING WAGE LAW**

The Grantee certifies that all Grantees and subgrantees performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Grantee shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

## **29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical Applicant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

## **30. PUBLICITY**

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

## **31. RECAPTURE**

In the event that the Grantee fails to perform this contract in accordance with state laws, federal laws, and/or the provisions of this contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this contract.

## **32. RECORDS MAINTENANCE**

The Grantee shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by

COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

### **33. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

### **34. RIGHT OF INSPECTION**

At no additional cost all records relating to the Grantee's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Grantee shall provide access to its facilities for this purpose.

### **35. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

### **36. SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

### **37. SUBCONTRACTING**

The Grantee may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subgrantee to follow all applicable terms of this Contract. The Grantee is responsible to COMMERCE if the Subgrantee fails to comply with any applicable term or condition of this Contract. The Grantee shall appropriately monitor the activities of the Subgrantee to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subgrantee's performance of the subcontract.

### **38. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

### **39. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

### **40. TERMINATION FOR CAUSE**

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

### **41. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

### **42. TERMINATION PROCEDURES**

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

3. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

#### **43. TREATMENT OF ASSETS**

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.
- B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subgrantees.

#### **44. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

## E - Assurances or Documentation of Required Match

*Submit letters on letterhead of business and/or organization with the non-state funding you are seeking to match.*

*Text can be modified but needs to address the following basic information.*

*Failure to provide documentation of secured match as designated in the application within 30 days of contingent award may result in loss of contingent award.*

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### Non-state Funding Letter of Intent to Commit

*(date)*

*(applicant name, title and address)*

Dear *(applicant chief executive officer)*,

I am pleased to confirm our commitment of *(\$xxxxx)* towards *(project title)*.

Please note (Additional instructions for items to address in the match funding commitment letter):

1. Please notify us once the match is fulfilled. You may subsequently draw upon our committed funds in whole or in part (revise per standard practice of funding organization).
2. (Add any unique conditions and/or expectations of non-state funding source here such as subject to completion of due diligence.)
3. Please sign and return a copy of this intent to commit letter to verify your acceptance of this offer and the conditions herein.

Sincerely,

*(name and title of person authorized to make offer)*

Accepted by: \_\_\_\_\_ on \_\_\_\_\_  
*(name) (date)*

Authorized Signature: \_\_\_\_\_



## **F - Debarment Certification Form**

NAME	Doing business as (DBA)	
ADDRESS	(UBI)	TIN #:

**READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require Grantees and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

**G - Risk Assessment Survey**



# Department of Commerce

Entity Name:			
Contract Number:	NA	Amount Requested:	
Funding Source:	CEF 4	Sub Funding Source:	Dairy Digester Enhancement
Point of Contact:		Email:	

## **Instructions:**

Please respond and return to your Contracts Manager within seven days of receipt.

**1) What is the age of your company or agency?**

- Click or tap here to enter text.

**2) Entity Type**

- Governmental ☐
- Non Governmental ☐
- Other (Please specify) ☐

**3) Has there been any restructuring of your company or agency within the past 12 months?**

- Yes ☐
- No ☐

**4) Have there been any investigations or lawsuits against the company or agency within the past 12 months?**

- Yes ☐
- No ☐

**5) Has the company or agency filed for bankruptcy within the last five years?**

- Yes ☐
- No ☐

**6) Have there been any State Auditor's Office or internal audit findings within the last five years?**

- Yes ☐
- No ☐

7) Are internal financial reports completed annually?

- Yes ☐
- No ☐

8) Has your company or agency received state funds in the past?

- Yes ☐
- No ☐

9) Has your company or agency received federal funds in the past?

- Yes ☐
- No ☐

10) Has your company or agency had any contracts terminated in the past?

- Yes ☐
- No ☐

11) Has your company or agency had any Commerce contract compliance issues in the past?

- Yes ☐
- No ☐

12) Has your company or agency secured match, if required?

- Yes ☐
- No ☐
- NA ☐

<b><i>End of Request for Proposal</i></b>
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