



**STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE**

**REQUEST FOR APPLICATIONS (RFA)  
RFA NO. TEBP-25**

**NOTE:** Please read this entire document before submitting a response. Responses that do not meet one or more requirement stated herein may be disqualified and not scored.

**PROJECT TITLE:** Tribal Electric Boats Program

**RESPONSE DUE DATE:** October 23, 2025, 5:00 p.m. Pacific Time

**EXPECTED TIME PERIOD FOR CONTRACT:** December 16, 2025 - June 30, 2027

**CONTRACTOR ELIGIBILITY:** This procurement is open to federally recognized tribal governments and tribal enterprises which satisfy the minimum qualifications stated herein and are available for work in Washington.

**FUNDING SOURCE AND METHOD:** This is state funding. Payments will be made on a **reimbursement basis** for deliverables accepted and allowable expenses.

**CONTENTS OF THE REQUEST FOR APPLICATIONS:**

1. Introduction
2. General Information
3. Response Contents
4. Evaluation and Contract Award
5. RFA Exhibits

## Table of Contents

|  |           |
|--|-----------|
| <i>Section 1 – Introduction .....</i>                  | <i>3</i>  |
| <i>Section 2 – General Information .....</i>           | <i>10</i> |
| <i>Section 3 – Response Contents.....</i>              | <i>17</i> |
| <i>Section 4 – Evaluation and Contract Award.....</i>  | <i>19</i> |
| <i>Section 5 – RFA Exhibits .....</i>                  | <i>27</i> |
| <i>Exhibit A – Certifications and Assurances .....</i> | <i>28</i> |
| <i>Exhibit B – Application Questions.....</i>          | <i>29</i> |
| <i>Exhibit C – Budget Template .....</i>               | <i>37</i> |
| <i>Exhibit D – Scope of Work Template.....</i>         | <i>41</i> |
| <i>Exhibit E – Tribal Agreement Template .....</i>     | <i>46</i> |

# 1 INTRODUCTION

## 1.1 PURPOSE AND BACKGROUND

The Washington State Department of Commerce hereafter called "COMMERCE," is initiating this Request for Applications (RFA) to solicit applications from those qualified and interested in grant funding for a tribal electric boat program. Federally recognized tribes and tribal enterprises are eligible to apply for grant funds for the purchase of or conversion to electric motors and engines for fishing vessels. These grant funds are administered through the Energy Division's Clean Transportation Unit. COMMERCE intends to award multiple projects as a result of this RFA.

This program was co-created with tribes and nations through formal and informal consultation meetings with tribal government leadership and staff. This approach is designed to minimize barriers and maximize the benefits of the program for tribal communities.

COMMERCE will award up to \$4,750,000 total through this RFA to support fishing vessel decarbonization projects which sustain tribal sovereignty and contribute to tribal and state carbon emissions reduction and air quality improvement goals.

### **Statutory and budget authority**

The Tribal Electric Boats Program is funded by Washington's Climate Commitment Act (CCA). The CCA supports Washington's climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at [www.climate.wa.gov](http://www.climate.wa.gov).

The 2025-2027 omnibus transportation appropriation act (Engrossed Substitute Senate Bill 5161, Sec. 108, Proviso 1) includes the following budget language for this program:

"\$4,920,000 of the carbon emissions reduction account—state appropriation is reappropriated and provided solely for a tribal electric boat grant program. Federally recognized tribes, tribal enterprises, and tribal members are eligible to apply for grant funds for the purchase of or conversion to electric motors and engines for fishing vessels."

Based on information received from tribes, COMMERCE will implement the program with the following decisions regarding implementation of this language:

- **"Fishing vessels"** includes vessels for patrol, research, or other uses that ensure tribal fishing rights and activities.
- **Projects must *include* the "purchase of or conversion to electric motors and engines."** While program funds may be used for charging infrastructure needed to power electric vessel components, projects that *only* fund charging infrastructure (i.e. shore power) are not eligible. Funded charging infrastructure may be used to power non-funded vessels if it also powers funded vessels (i.e., shore power can be used for diesel-powered boat functions while docked if the infrastructure is also used to power electric-powered boat propulsion). Hybrid

propulsion systems must have the capability to plug into a charger at dock or on land.

- **“Charging pedestal”** indicates the power supply equipment necessary to charge the electric component of the propulsion system. This equipment may be installed on land or at the dock. For the purposes of this RFA, this definition includes shore power pedestals.
- **“Tribal members”** are eligible to apply for grant funds **through an eligible federally recognized tribe or associated tribal enterprises**. However, applications directly from tribal members are not eligible. Applications may include projects which replace, repower, or retrofit vessels owned by tribal citizens **only if** the primary eligible applicant meets the above criteria.
- **“Federally recognized tribes”** includes the 33 federally recognized tribes sharing geography with Washington or directly adjacent to Washington’s border.

More information can be found in **Section 1.7 Definitions**.

### **Instructions**

Applications will be accepted for a period of 108 days after this RFA is released until 5:00 p.m. Pacific Time on October 23, 2025. All applications will be reviewed and evaluated at the same time following the deadline. More information on the application period timeline can be found in **Section 2.2 Estimated Schedule of Procurement Activities**.

The primary method of submission is electronically through Smartsheet or email. Hard copy responses are also accepted, although not encouraged.

It is the intent of COMMERCE to accommodate applicants that may view completion of written grant applications as a barrier to applying for funding. COMMERCE will accept oral responses to most portions of the Application upon request through video or audio recordings. To allow extra time to process these applications, video or audio recordings must be submitted by August 20, 2025 at 5:00 p.m. Pacific Time. More information can be found in **Section 2.5 Submission of Responses**.

This RFA includes program guidelines and requirements and instructions for applying. Read the entire RFA carefully, and refer to these sections for information regarding the application and selection process, requirements, and evaluation criteria:

- **Section 1.3 Minimum Qualifications** provides further details on applicant and project eligibility.
- **Section 2.1 RFA Coordinator** provides contact information for questions about this RFA.
- **Section 2.2 Estimated Schedule of Procurement Activities** describes the timeline of Application submission and review.
- **Section 2.3 Pre-Application Conference** contains the Zoom link to register for the virtual conference about this RFA.
- **Section 2.4 Question and Answer Period** explains the process for asking questions.

- **Section 2.5 Submission of Responses** describes how Applications will be accepted.
- **Section 3 Response Contents** includes a list of required attachments for the Application.
- **Section 4.3 Evaluation and Scoring** describes how applications will be evaluated.

COMMERCE intends to award multiple grants to meet the requirements of this RFA.

## **1.2 OBJECTIVES**

### **Tribal sovereignty**

COMMERCE respects and honors tribal sovereignty by engaging in a meaningful relationship in policy, program development, and administration. COMMERCE's priority is to support tribes in achieving their transportation electrification objectives.

### **Statutory requirements and legislative intent**

The program is funded by the CCA's Carbon Emissions Reduction Account, which authorizes:

"Expenditures from the account are intended to affect reductions in transportation sector carbon emissions through a variety of carbon reducing investments. These can include, but are not limited to: Transportation alternatives to single occupancy passenger vehicles; reductions in single occupancy passenger vehicle miles traveled; reductions in per mile emissions in vehicles, including through the funding of alternative fuel infrastructure and incentive programs; and emission reduction programs for freight transportation, including motor vehicles and rail, as well as for ferries and other maritime and port activities" ([RCW 70A.65.240](#)).

The Legislature stated intent is that appropriations from the Carbon Emissions Reduction Account be "be made with the goal of achieving equity for communities that historically have been omitted or adversely impacted by past transportation policies and practices" ([RCW 70A.65.240](#)).

To achieve the intended carbon emission reductions with the goal of achieving equity for tribal communities, the contracts will further the state's policy goals as determined through statute, including the CCA, 2021 State Energy Strategy, 2024 Transportation Electrification Strategy and Healthy Environmental for All (HEAL) Act. COMMERCE is awarding funding exclusively to tribal governments and tribal enterprises for projects that improve air quality for tribal communities and lower greenhouse gas emissions through the reduction of carbon-emitting liquid fuels, including diesel and gasoline.

### **Additional objectives**

Future carbon emission reductions and improvements to air quality in tribal communities can be achieved by the demonstration projects funded in this program.

In addition to tribal objectives, carbon emissions reduction, and air quality improvement, COMMERCE also aims to:

- Reduce operating costs without compromising vessel operations; and

- Demonstrate success of vessel electrification for multiple fishing applications to facilitate the replication and scaling of strategies used successfully in funded projects.

### **Expected outcomes**

The primary purpose of grants funded under this solicitation must be to purchase or convert to electric or hybrid diesel/gas-electric propulsion systems in tribal fishing vessels, including boats for research and patrol activities on tribal lands and waters in Washington. Applicants should review **Exhibit D Scope of Work Template** to see expected grant requirements.

## **1.3 MINIMUM QUALIFICATIONS**

Minimum qualifications include:

- The primary eligible applicant, which may partner with other organizations, must be the government of any federally recognized Indian tribe whose traditional lands and territories included parts of Washington or were directly adjacent to Washington's border, designated subdivisions and agencies (such as a Tribal Housing Authority), or any other entities or authorities of a federally recognized tribal government in corporate form or otherwise.
- Applicants must be in good standing with all applicable federal, state, and local laws and requirements, including with the Department of Commerce.

Applications which do not **clearly** meet or exceed these minimum qualifications will be rejected as non-responsive and will not receive further consideration. Any Application that is rejected as non-responsive will not be evaluated or scored.

## **1.4 ADDITIONAL ELIGIBILITY INFORMATION AND REQUIREMENTS**

### **1.4.1 Additional eligibility information**

- Applications may include projects which replace, repower, or retrofit vessels owned by tribal citizens **only if** the primary eligible applicant meets the above criteria.
- Contracted service providers are not eligible applicants. Eligible tribes and tribal enterprises will determine sub-contractors, vendors and other project partners.

### **1.4.2 Additional applicant requirements**

Applicants should note other application requirements that must be met to be evaluated or scored:

- Applications must be submitted through the process determined by Commerce as stated in Section 2.5.
- Applications must be received by the review date(s) specified by Commerce as stated in Section 2.2.
- All application materials must be submitted in the format required by Commerce as stated in Section 2.5 and Section 3.
- Applications must include all required materials and information listed in the Application instructions as stated in Section 2.5 and Section 3.

### **1.4.3 Allowable costs**

Applicants must submit applications with proposed projects that will incur allowable costs as follows:

- New vessels
  - 100% electric propulsion
  - **Plug-in only** hybrid diesel-electric or gas-electric
- Vessel repower or engine retrofit
  - Equipment
  - Installation
  - Upgrades or replacements of transmission, onboard electronic controls, driveshaft, propeller, or other vessel components which are **absolutely necessary** for the conversion to electric propulsion.
- Charging pedestals necessary to power a funded new vessel or repower/retrofit
  - Equipment
    - On- or off-grid charging pedestals
    - Shore power pedestals
    - On dock or on land (e.g., parking lot)
  - Utility-side and customer-side make-ready electrical equipment installation
    - Upgrades to existing shore power pedestals
    - Utility-level transformer upgrades
- Project management, design, planning, engineering necessary to implement a funded new vessel or repower/retrofit.
- Ongoing maintenance and operations.
- Other costs necessary to implement a funded new vessel or repower/retrofit as determined by applicants and COMMERCE within state spending requirements.

#### **1.4.4 Equipment requirements:**

- Any vessel or pedestal batteries included in project must be certified to a safety rating of IP67 or above.
- The vessel must meet a minimum range of 15 nautical miles.

### **1.5 FUNDING**

COMMERCE will award up to \$4,750,000 total through this RFA, with a maximum of \$1,187,500 available per application. A qualifying applicant for this award will have submitted a complete budget including all project estimates, along with a thorough project description, as determined by the evaluation panel. Total costs must not exceed \$1,187,500. Applications in excess of \$1,187,500 will be rejected as non-responsive and will not be evaluated.

Awards will be determined through a two-step process:

1. Applicants will be required to list proposed vessels in priority order and clearly indicate cost breakdown per vessel on the budget sheet. COMMERCE will first award funding to qualifying applicants for the cost of one (1) eligible vessel AND one (1) charging pedestal (single or dual-port) if needed to power the vessel, including allowable costs as described in Section 1.4.3, up to \$1,187,500. If the

- funding available is not enough to award all qualified applicants for one vessel and one charging pedestal, funding will be awarded in order of highest score.
2. If funding is available following awards in the first step, COMMERCE will then award remaining funds for a second vessel in order of highest score and repeat the same process for subsequent vessels as funding allows.

More information on scoring can be found in Section 4.3 Evaluation and Scoring.

If additional funding becomes available, any contract may be amended to add additional vessels as included in the application. COMMERCE will provide a ranked alternate list and regular updates on availability of funding. Additional funding is not guaranteed.

Any contract(s) awarded as a result of this RFA is contingent upon the availability of funding. The amount of funding available for awards is based on current appropriations and is subject to legislative authority and fund balances at the time of awards.

## **1.6 PERIOD OF PERFORMANCE**

The period of performance of any contract(s) resulting from this RFA is tentatively scheduled to begin on or about *Dec. 16, 2025*, and to end on *June 30, 2027*. In the project schedule submitted with applications, applicants should indicate whether proposed projects will go beyond the expected end date of June 30, 2027. COMMERCE reserves the option at its sole discretion to extend the contract. Extensions are subject to availability of appropriations by the Legislature.

## **1.7 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. Applicants should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

## **1.8 DEFINITIONS**

Definitions for the purposes of this RFA include:

**Apparent Successful Applicant/Bidder/Vendor/Grantee/Awardee:** The Applicant(s) selected to enter into negotiations leading to a fully executed contract for the work described in this procurement document.

**Applicant:** Individual, company, government, organization, or firm submitting an Application in order to attain a contract with COMMERCE.

**Application:** A complete, formal offer submitted in response to this RFA.

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

**Contract:** A written, legally binding agreement to perform the services proposed, also called a Grant or Interagency Agreement.

**Charging pedestal:** The power supply equipment necessary to charge the electric component of the propulsion system. This equipment may be installed on land or at the dock. For the purposes of this RFA, this definition includes shore power pedestals.

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

**Exhibit:** Document attached to this RFA, also referred to as Attachment.

**Fishing vessels:** Marine vessels for fishing, patrol, enforcement, research, or other uses that ensure tribal fishing rights and activities.

**Repower:** The replacement of an old propulsion engine or motor with a new propulsion engine or motor. A repower may or may not include other components of the powertrain such as the transmission, drive shaft, propeller, and onboard electronic controls.

**Request for Applications (RFA):** Formal procurement document in which needed services are identified and entities are invited to submit their Application to provide those services; this procurement document.

**Retrofit:** The modification of an old propulsion engine or motor to a low- or zero-emission propulsion engine or motor. A retrofit may or may not include other components of the powertrain such as the transmission, drive shaft, propeller, and onboard electronic controls.

**Tribal Citizen or Tribal Member:** A citizen of a tribe.

**Tribe or Tribal Government:** The governing body of a federally recognized tribe sharing geography with Washington or directly adjacent to Washington's border, including tribal nations.

**Vessel replacement:** Purchase of a new vessel to 1) eliminate use of an older vessel, or 2) substitute the purchase of a new vessel powered by an internal combustion engine (ICE) with a new vessel eligible for this grant program.

## **1.9 ADA**

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

## 2 GENERAL INFORMATION

### 2.1 RFA COORDINATOR

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

|                 |   |
|-----------------|---|
| Name            | Caitlin Roberts   |
| Mailing Address | 1011 Plum Street SE<br>P.O. Box 42525<br>Olympia, WA 98504-2525 |
| E-Mail Address  | caitlin.roberts@commerce.wa.gov                                 |

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

### 2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

|   |   |
|---|---|
| Issue Request for Applications  | July 7, 2025  |
| Pre-Application Conference  | July 16, 10:00 a.m. Pacific Time                                |
| Question & answer period  | July 7 – August 20  |
| Answers issued no later than  | August 27   |
| <b>Applications due</b>   | October 23, 5:00 p.m. Pacific Time                              |
| Evaluation  | October 27 – November 10  |
| Announce “Apparent Successful Applicants” and send notification via e-mail to unsuccessful Applicants | November 18   |
| Hold debriefing conferences (if requested)  | Up to 15 days following notification of unsuccessful applicants |
| Negotiate contract  | November – December   |
| Earliest date contract may be signed  | December 5  |

**COMMERCE reserves the right to revise the above schedule.**

### 2.3 PRE-APPLICATION CONFERENCE

A pre-application conference will be held on July 16<sup>th</sup> at 10:00 a.m., Pacific time. All prospective Applicants are encouraged attend; however, attendance is not mandatory. This conference is restricted exclusively to tribal participants. The conference will be virtual only on Zoom at the following link: <https://wastatecommerce.zoom.us/j/84768979184?pwd=2R5KkGom0nWybRTBKkYVDom8Hcx09b.1>

COMMERCE will be bound only to COMMERCE written answers to questions. Questions arising at the pre-application conference will be documented and answered in written form. A copy of the questions and answers will be sent to each prospective Applicant made the RFA Coordinator aware of its interest in this RFA.

## **2.4 QUESTION AND ANSWER PERIOD**

COMMERCE will accept questions about this RFA sent to the RFA Coordinator at the email address listed in Section 2.1 during this period. Questions should not identify the submitting person or organization. COMMERCE will answer all questions in a Q&A document posted no later than the date identified in Section 2.2.

## **2.5 SUBMISSION OF RESPONSES**

COMMERCE will accept application submissions electronically or through mail.

### **ELECTRONIC RESPONSES:**

Applications must be received by the RFA Coordinator no later than 5:00 p.m., Pacific Standard Time on October 23, 2025.

### **Primary method of submission:**

Application Form (Smartsheet):

<https://app.smartsheet.com/b/form/acdeab7809da44f3ab086550db567c68>

The primary method of submission is through the online Application Form via Smartsheet, linked above.

Applicant must download, complete, and submit Exhibits A through C, which are available in editable Word Document format and in PDF format through this Box link:

<https://deptofcommerce.box.com/s/focp07s9arj938msc74e44kanjwc4xax>

Application must be submitted in Word or PDF file format using one of the following methods:

- [Application Form \(Smartsheet\)](#)
- Email attachment sent to RFA Coordinator (see Section 2.1)
- Hard copy (accepted but not encouraged)
- Alternative method of submission

Application must contain all the following completed documents (mandatory):

- Exhibit A: Certifications and Assurances
- Exhibit B: Application Questions
- Exhibit C: Budget Template
- Copies of estimates from all selected subcontractors

*Optional:* Please attach specifications sheet for old engine and new propulsion system if available. If the project includes a new vessel purchase that does not replace an old

engine, please list equivalent information for a fossil fuel-powered vessel that would be purchased without this funding.

Application may be submitted as one document or separate documents for each component.

Attachments to e-mail shall be in Microsoft Word format or PDF. Zipped files cannot be received by COMMERCE and cannot be used for submission of Applications. The Certifications and Assurances form must have a signature of the individual within the tribe authorized to bind the tribe to the offer. COMMERCE does not assume responsibility for problems with non-COMMERCE e-mail. If COMMERCE email is not working, appropriate allowances will be made.

Applications may not be transmitted using facsimile transmission (fax).

**Alternative method of submission:** Requests for video and/or audio submission must be sent to the RFA coordinator by email prior to or on the “last day to submit questions” listed in section 2.2 which is August 20, 2025, by 5:00 p.m. Pacific Time. The RFA coordinator will provide you the guidelines for a video and/or audio submission, as well as what sections that are allowed to be submitted in that manner. Please note that all submissions need to provide applicant’s identifiable information through the Smartsheet link.

Applicants should allow sufficient time to ensure timely receipt of the Application by the RFA 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.** All Applications and any accompanying documentation become the property of COMMERCE and will not be returned. Any information received as a result of this RFA may be collected and considered for continuous improvement purposes.

#### **HARD COPY RESPONSES:**

Applicants are required to submit at least one (1) copy of their Application with an original signature. Applications, whether mailed or hand delivered, must arrive at COMMERCE no later than 5:00 p.m., Pacific Standard Time on October 23, 2025.

Applications must be sent to the RFA Coordinator at the address noted in Section 2.1. The envelope should be clearly marked to the attention of the RFA Coordinator.

Applicants mailing Applications should allow normal mail delivery time to ensure timely receipt of their Applications by the RFA Coordinator. Applicants assume the risk for the method of delivery chosen. COMMERCE assumes no responsibility for delays caused by any delivery service. Applications may not be transmitted using facsimile transmission.

Late Applications will not be accepted and will be automatically disqualified from further consideration. All Applications and any accompanying documentation become the property of COMMERCE and will not be returned.

## **2.6 PROPRIETARY INFORMATION/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 Bidder 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 Application that the Applicant desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state, federal, or tribal 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 Application 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 RFA Coordinator is required. All requests for information should be directed to the RFA Coordinator.

## **2.7 REVISIONS TO THE RFA**

In the event it becomes necessary to revise any part of this RFA, addenda will be provided via e-mail to all individuals who have made the RFA Coordinator aware of their interest. Addenda are also published on Washington's Electronic Business Solution (WEBS), located at <https://fortress.wa.gov/ga/webs/>. Such addenda will also be published anywhere the RFA is posted, including on COMMERCE'S public webpage, located at <https://www.commerce.wa.gov/contracting/>.

You may also send your name and e-mail address to the RFA Coordinator to request to receive any RFA addenda.

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

## **2.8 ACCEPTANCE PERIOD**

Applications must provide 60 days for acceptance by COMMERCE from the due date for receipt of Applications.

## **2.9 COMPLAINT PROCESS**

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

- a) The solicitation unnecessarily restricts competition;
- b) The solicitation evaluation or scoring process is unfair; or
- c) The solicitation requirements are inadequate or insufficient to prepare an Application.

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:

- a) The complaint must be in writing;
- b) The complaint must be sent to the RFA coordinator in a timely manner;
- c) The complaint should clearly articulate the basis for the complaint; and
- d) The complaint should include a proposed remedy.

The RFA coordinator will respond to the complaint in writing. The response to the complaint and any changes to the solicitation will be posted on WEBS. The Director of COMMERCE will be notified of all complaints and will be provided a copy of COMMERCE'S response. 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 is no appeal process.

## **2.10 RESPONSIVENESS**

All Applications will be reviewed by the RFA Coordinator to determine compliance with administrative requirements and instructions specified in this RFA. The Applicant is specifically notified that failure to comply with any part of this RFA may result in rejection of the Application as non-responsive.

Disqualified Applicants will be notified at or about the time of disqualification.

Disqualified Applicants will be informed of the reason for disqualification; this shall constitute a debriefing conference for the purposes of Section 4.6, Protest Procedure.

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

## **2.11 MOST FAVORABLE TERMS**

COMMERCE reserves the right to make an award without further discussion of the Application submitted. Therefore, the Application should be submitted initially on the most favorable terms which the Applicant can propose. COMMERCE reserves the right to contact an Applicant for clarification of its Application.

The Applicant should be prepared to accept this RFA for incorporation into a contract resulting from this RFA. Contract negotiations may incorporate some, or all, of the

Applicant's Application. It is understood that the Application will become a part of the official procurement file on this matter without obligation to COMMERCE.

## **2.12 CONTRACT AND GENERAL TERMS & CONDITIONS**

The Apparent Successful Applicant will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit E, with the exception of Tribes or Nations with a Memorandum of Understanding (MOU) with COMMERCE, with which COMMERCE will negotiate a Funding Agreement based on the terms and conditions of that Tribe or Nation's Memorandum of Understanding with COMMERCE. In no event is an Applicant to submit its own standard contract terms and conditions in response to this solicitation. The Applicant may submit proposed edits as allowed in the Certifications and Assurances section, Exhibit A to this RFA. COMMERCE will review requested edits and accept or reject the same at its sole discretion.

## **2.13 COSTS TO PROPOSE**

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

## **2.14 NO OBLIGATION TO CONTRACT**

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

## **2.15 REJECTION OF RESPONSES**

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 RFA.

## **2.16 COMMITMENT OF FUNDS**

The Director of COMMERCE or the Director's delegate are the only individuals who may legally commit COMMERCE to the expenditures of funds for a contract resulting from this RFA. **No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.**

## **2.17 ELECTRONIC PAYMENT**

The state of Washington prefers to utilize electronic payment in its transactions. The successful Applicant must have or obtain a Statewide Vendor Number (SWV) from the Office of Financial Management (OFM) to be paid by COMMERCE. For more information visit OFM at [www.ofm.wa.gov](http://www.ofm.wa.gov).

## **2.18 INSURANCE COVERAGE**

The Applicant is to furnish COMMERCE with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below **if requested**.

The Applicant shall, at Applicant's 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 Applicant shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and, if requested, 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 E.

### 3 RESPONSE CONTENTS

#### 3.1 APPLICATION INSTRUCTIONS

##### ELECTRONIC RESPONSES:

Applications must be written in English and submitted electronically to the RFA Coordinator through the online application form, email, or an alternative method of submission as described in Section 2.5 Submission of Responses in the order noted below:

1. Certifications and Assurances (Exhibit A)
2. Application Questions (Exhibit B)
3. Budget Template (Exhibit C)
4. Copies of estimates from all selected subcontractors

##### HARD COPY:

Applications must be written in English and submitted on eight and one-half by eleven inch (8 ½" x 11") paper with tabs separating the major sections of the Application. Applicants are required to submit at least one (1) copy of their Application with an original signature. Applications, whether mailed or hand delivered, must arrive at COMMERCE no later than 5:00 p.m., Pacific Standard Time on October 23, 2025.

The major sections of the Application are to be submitted in the order noted below:

1. Certifications and Assurances (Exhibit A)
2. Application Questions (Exhibit B)
3. Budget Template (Exhibit C)
4. Copies of estimates from all selected subcontractors

Applications must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the Application but should also assist the Applicant in preparing a thorough response.

**Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team. All application questions will be identified as follows:**

- **Mandatory, Scored** – Responses are required and will be used to calculate the score.
- **Mandatory, Not Scored** – Responses are required but will not be used to calculate the score.
- **Optional** – Responses are not required and will not be used to calculate the score.

#### 3.2 CERTIFICATIONS AND ASSURANCES (MANDATORY, NOT SCORED)

**The Certifications and Assurances form (Exhibit A) must be signed and dated** by a person authorized to legally bind the Applicant to a contractual relationship, e.g., the Tribal Council Chairman or Tribal Senate Chairman if a tribal government, the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Those wishing to submit any proposed contract edits must indicate so on this form (see Section 2.12).

### **3.3 APPLICATION QUESTIONS (MANDATORY, SCORED)**

The Application Questions form (Exhibit B) must be completed in its entirety. If any question or section does not apply, please enter "N/A" or "None". Exhibit B notes whether questions are scored or not scored.

### **3.4 BUDGET TEMPLATE (MANDATORY, SCORED)**

The Budget Template must be completed.

### **3.5 ESTIMATES FROM SUBCONTRACTORS (MANDATORY, NOT SCORED)**

Copies of estimates from all selected subcontractors must be included in the Application as backup documentation to the Budget Template.

### **3.6 SPECIFICATION SHEETS (OPTIONAL, NOT SCORED)**

Specification sheets for old and new engines may be included in the Application as backup documentation to Question 10 of the Application Questions.

## 4 EVALUATION AND CONTRACT AWARD

### 4.1 EVALUATION PROCEDURE

Complete and responsive Applications will be evaluated strictly in accordance with the requirements stated in this RFA and any addenda issued. The evaluation of Applications will be accomplished by an evaluation team to be designated by COMMERCE, which will determine the ranking of the Applications.

#### Awards will be determined through a two-step process:

1. Applicants will be required to list proposed vessels and clearly indicate cost breakdown per vessel on the budget template (Exhibit C). COMMERCE will first award funding to qualifying applicants for the cost of one (1) eligible vessel AND one (1) charging pedestal or (single or dual-port) if needed to power the vessel, including allowable costs as described in Section 1.3 Minimum Requirements up to \$1,187,500. If the funding available is not enough to award all qualified applicants for one vessel and one charging pedestal, funding will be awarded in order of highest score.
2. If funding is available following awards in the first step, COMMERCE will then award remaining funds for a second vessel in order of highest score and repeat the same process for subsequent vessels as funding allows.

The following table shows an **illustrated example** of how applications would be scored according to the process:

| Applicant      | Vessel | Proposed vessels | Scores | Award Step 1       | Award Step 2     | Not awarded |
|----------------|--------|------------------|--------|--------------------|------------------|-------------|
| A              | 1      | \$100,000        | 80     |                    | \$100,000        |             |
|                | 2      | \$50,000         | 60     |                    |                  | x           |
|                | 3      | \$200,000        | 90     | \$200,000          |                  |             |
| B              | 1      | \$1,187,000      | 70     | \$1,187,000        |                  |             |
| C              | 1      | \$300,000        | 55     | \$300,000          |                  |             |
|                | 2      | \$200,000        | 50     |                    |                  | x           |
|                | 3      | \$200,000        | 50     |                    |                  | x           |
|                | 4      | \$200,000        | 50     |                    |                  | x           |
|                | 5      | \$200,000        | 50     |                    |                  | x           |
| D              | 1      | \$400,000        | 75     |                    |                  | x           |
|                | 2      | \$500,000        | 85     | \$500,000          |                  |             |
| E              | 1      | \$50,000         | 30     | \$50,000           |                  |             |
| F              | 1      | \$1,000,000      | 100    | \$1,000,000        |                  |             |
|                | 2      | \$187,000        | 95     |                    | \$187,000        |             |
| G              | 1      | \$1,187,000      | 65     | \$1,187,000        |                  |             |
| <b>Awarded</b> |        |                  |        | <b>\$4,424,000</b> | <b>\$287,000</b> |             |

**Scoring and awards on a per vessel basis**

- To facilitate the above process, COMMERCE will determine a total score and make awards on a per vessel (and charging needed) basis, not for each application.
- This will be determined by scoring each vessel's community benefits combined with assessing the Applicant's management and technical proposal as described in the table in **4.3 EVALUATION AND SCORING**.
- This means an Applicant with multiple proposed vessels could receive different scores for the community benefits criteria for each vessel but will receive the same score on the management and technical proposal criteria for each vessel.
- As described in the process above, if one Applicant has more than one vessel that could be awarded in an awarding step, they will be awarded the higher scoring vessel, and the other vessel(s) will be considered in the next awarding step if funding allows, with another Applicant's vessel awarded even though it has a lower score.

## 4.2 CLARIFICATION OF RESPONSE

The RFA Coordinator may contact Applicants for clarification of any portion of the Applicant's Application. Submission or alteration of any materials after the due date is prohibited.

## 4.3 EVALUATION AND SCORING

The following weighting and points will be assigned for evaluation purposes. All criteria categories will be scored by the evaluation panel based on a rubric that assesses the extent to which responses meet the standard listed in the table except as noted below.

| Criteria  | Total Points | Question # in Exhibit B |
|---|--------------|-------------------------|
| <b>COMMUNITY BENEFITS (SCORED PER VESSEL)</b>   |              |                         |
| <ul style="list-style-type: none"> <li>• <b>Economic development:</b> Strengthens economic development and/or government activities, with the proposed project either expanding or maintaining current levels of opportunity or services.</li> </ul>  | 15 pts       | 4, 8A-B                 |
| <ul style="list-style-type: none"> <li>• <b>Project replicability:</b> There is a clear description of how this project will help the tribe or other tribes electrify more transportation vehicles and vessels. This is a likely outcome based on similar use cases and needed equipment, broader electrification plans, and willingness to share learnings.</li> </ul> | 10 pts       | 9A-D                    |
| <ul style="list-style-type: none"> <li>• <b>Fuel consumption:</b> See fuel consumption methodology on pg. 22</li> </ul>   | 25 pts       | 10                      |
| <ul style="list-style-type: none"> <li>• <b>Diesel emissions:</b> See diesel emissions methodology on pg. 23</li> </ul>   | 5 pts        | 10                      |
| <ul style="list-style-type: none"> <li>• <b>Air quality:</b> Improves air quality on tribal lands and waters by reducing diesel emissions.</li> </ul>   | 5 pts        | 11                      |

| <b>MANAGEMENT AND TECHNICAL PROPOSALS (SCORED PER APPLICATION)</b>  |       |                             |
|---|-------|-----------------------------|
| <ul style="list-style-type: none"> <li>• <b>Project approach, methodology, and work plan:</b> The applicant has presented a thorough description of the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project. Objectives are clearly defined. Project plan is detailed, clear, and likely to achieve the objectives.</li> </ul>    | 8 pts | 4                           |
| <ul style="list-style-type: none"> <li>• <b>Project readiness:</b> Design work is completed and clear, and the project will quickly proceed to implementation.</li> </ul>   | 8 pts | 5                           |
| <ul style="list-style-type: none"> <li>• <b>Schedule:</b> Project schedule is thorough and feasible. Project end date is within period of performance.</li> </ul>   | 8 pts | 6                           |
| <ul style="list-style-type: none"> <li>• <b>Structure and qualifications of project team:</b> Applicant has a qualified team to implement the project and adequate plans to select contractors. Appropriate partners are engaged and support the project.</li> </ul>  | 8 pts | 7A-B                        |
| <ul style="list-style-type: none"> <li>• <b>Budget:</b> Application includes estimates for all components of project execution including work completed by subcontractors, if applicable. All applicable fields in budget tab are filled out. Budget aligns with estimates and project description. Stated costs are reasonable and total is within award cap.</li> </ul> | 8 pts | Budget Questions, Exhibit C |
| <b>Total Available Points: 100</b>  |       |                             |

#### 4.3.1 Tiebreakers

- COMMERCE will prioritize applicants that have not previously received a grant under Commerce's Energy Division (new grantees). This is asked on Question 1 in Exhibit B.
- In the event that two or more Applicants have the same score and both or neither are new grantees, COMMERCE will use the estimated annual decrease in fuel consumption (gallons/yr) to determine ranking.

#### 4.3.2 Fuel consumption methodology

The RFA Coordinator will estimate annual fuel consumption for the old engine by reviewing the information provided by the applicant with the following methodology. A Volvo Penta D4-300 inboard diesel engine with 1000 average annual hours of use is used to demonstrate an example calculation to be performed by the RFA Coordinator.

1. For engines manufactured in the year 2000 or later, verify engine data by referring to EPA certification data spreadsheet ["Marine Compression-Ignition \(CI\) Engine Certification Data \(Model Years: 2000-Present\)."](#)
2. For engines manufactured in the year 1999 or earlier, verify engine data by contacting manufacturer.
3. Acquire specification sheet with fuel consumption chart (RPM x gallon per hour) for specific model of engine (example shown below, Figure 1).
4. Complete the following steps in sequence to determine average annual fuel consumption in gallons for gasoline engines (g) or gasoline gallon equivalent (GGE) for diesel engines:

| Formula description   | Example calculation   |
|---|---|
| Subtract lowest RPM from highest RPM  | $3400 - 1600 = 1800$  |
| Divide this value by 3 to determine interval between 4 values on x-axis (RPM)   | $1800 / 3 = 600$  |
| Determine 4 values on x-axis with interval calculated above (RPM)   | A. 1600<br>B. $1600 + 600 = 2200$<br>C. $2200 + 600 = 2800$<br>D. $2800 + 600 = 3400$ |
| Use chart to determine corresponding fuel consumption rates (gal/h)   | A. 1600: 8<br>B. 2200: 17.5<br>C. 2800: 31<br>D. 3400: 52.5                           |
| Average these 4 fuel consumption rates to get the average fuel consumption rate of the engine (gal/h)   | $8 + 17.5 + 31 + 52.5 = 109$<br>$109 / 4 = 27.25$                                     |
| Multiply the average fuel consumption rate (gal/h) by the average annual hours of use (h) to calculate average annual fuel consumption (g)                                  | $27.25 \times 1000 = 27,250 \text{ (g)}$  |
| For diesel engines, use the conversion factor of 1 gallon gasoline to 1.14 gallons diesel fuel to determine average annual fuel consumption in gasoline gallon equivalents. | $27,250 / 1.14 = 23,903.51 \text{ (gasoline gallon equivalent, GGE)}$                 |

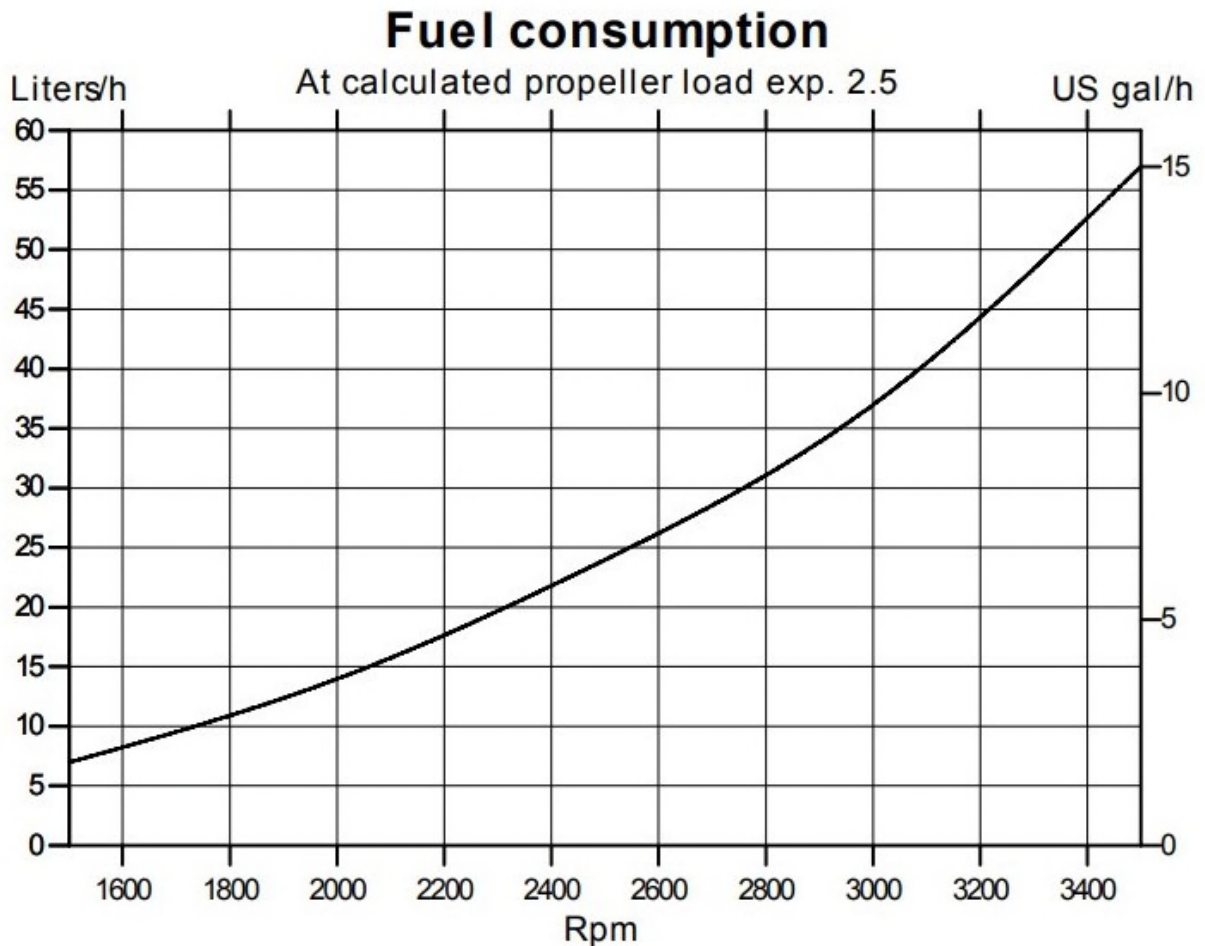


Figure 1: Example fuel consumption chart: Volvo Penta D4-300 inboard diesel engine.

Source: AB Volvo Penta. 2021. "D4 Product leaflet – D4 270 300 330."

<https://pubs.volvopenta.com/publications/47711815>

#### 4.3.3 Diesel emissions methodology

Proposals will be scored on a per-vessel basis. This value is determined based on old and new engine Tier as described by Applicant and/or verified by RFA Coordinator. RFA Coordinator does not determine score, but shares Tier information with evaluation panel members who determine score.

5 pts: Project will result in strong diesel emissions reduction by switching from a Tier 0 diesel vessel to Tier 3-4 hybrid diesel-electric or 100% electric.

4 pts: Project will result in diesel emissions reduction. Tier 1 to Tier 3-4 hybrid diesel-electric or 100% electric.

3 points: Below Average (2 pts): Project will result in diesel emissions reduction. Tier 2 to Tier 3-4 hybrid diesel electric or 100% electric.

None or minimal (0 pt): The project will not result in removal of one or more diesel engine.

#### 4.4 NOTIFICATION TO APPLICANTS

Applicants that are not selected for further negotiation or award will be notified by e-mail.

#### 4.5 DEBRIEFING OF UNSUCCESSFUL APPLICANTS

Upon request, a debriefing conference will be scheduled with an Applicant not awarded funding. The request for a debriefing conference must be received by the RFA Coordinator within five (5) business days after the Notification of Unsuccessful Applicant notice is emailed to the Applicant. 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 that tribe's Application;
- Any written comments from evaluators related to that Applicant;
- Review of their final score in comparison with the other final scores **without** identifying the other participants or reviewing their Applications.

Comparisons between Applications or evaluations of the other Applications is not allowed. Debriefing conferences may be conducted on the telephone or by other electronic means and will be scheduled for a maximum of thirty (30) minutes.

#### 4.6 PROTEST PROCEDURE

This procedure is available to Applicants who submitted an Application in response to this RFA 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 RFA process with the RFA Coordinator. Protests must be received by the RFA Coordinator no later than 5:00pm Pacific time on the fifth business day following the debriefing. Protests must be submitted by email. Applicants may choose to copy COMMERCE'S Central Contracts Office at [centralcontracts@commerce.wa.gov](mailto:centralcontracts@commerce.wa.gov). Do not copy any other COMMERCE staff.

Anyone protesting this procurement must 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 under this RFA.

All protests must be in writing and signed by the protesting party or an authorized agent. The protest must state 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. All protests shall be addressed to the RFA Coordinator.

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 the evaluator
- Errors in computing the score

- Non-compliance with procedures described in this procurement document or current 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 or assessment of the quality of an Application, or 2) COMMERCE'S assessment of its own and/or other agencies' needs or requirements.

Scores received are not a valid basis of protest and will be dismissed as without merit unless included with facts supporting bias, discrimination, or conflict of interest on the part of an evaluator.

Upon receipt of a protest, a protest review will be held by COMMERCE. COMMERCE'S Chief Contracts Officer, or other employee delegated by the Director who was not involved in the award process, 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 directly impact the actual interest of another Applicant, such Applicant may be given an opportunity to submit its views and any relevant information on the protest.

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 error(s) and re-evaluate all Applications
  - Reissue the solicitation document and begin a new process
  - Make other findings and determine other courses of action as appropriate

If COMMERCE determines that the protest is without merit, COMMERCE may enter into a contract with the Apparent Successful Applicant(s). If the protest is determined to have merit, one of the options above will be taken.

## **4.7 SUCCESSFUL APPLICATIONS**

The following requirements will apply to successful Applicants who are awarded funds. In all cases, the most restrictive requirements apply.

### **REQUIREMENTS OF SUCCESSFUL APPLICANTS:**

- Will maintain responsibility for the project for the duration of the contract and performance period.
- Is responsible for compliance with the contract for the duration of the performance period.

- Must follow all state and/or local procurement requirements that apply.
- The Applicant bears the responsibility to ensure they and any subcontractors understand and comply with all utility, local, state and federal requirements.
- Comply with contract, audit, and monitoring requirements, including scheduled site visits.
- Utilize the online invoicing process for reimbursement.
- Are responsible for all costs incurred prior to the execution of a contract and not have the expectation for reimbursement of those costs.
- Must comply with and ensure that all Grantees, Consultants and Partners comply with:
  - All applicable federal, state, tribal, local, and utility laws and requirements, including the requirements of this contract.
  - The applicable requirements of this Program and any resulting contract.
- Must ensure that all Grantees, Consultants and Partners:
  - Are responsible and qualified Applicants.
  - Are eligible to bid on public works projects (not debarred).
  - Are in and maintain good standing with all applicable federal, state, tribal, local, and utility laws and requirements, including COMMERCE.
- Must accurately and honestly represent the project within the Application. COMMERCE reserves the right to revoke awards or terminate contracts inclusive of recuperating funding for projects that were misrepresented or fail to implement the project proposed during Application.

#### **PROJECT REQUIREMENTS:**

- Project construction and operation must comply with applicable federal, state, tribal, local and utility laws and requirements.
- Project construction and operation must comply with State Cultural and Historic Resource requirements and tribal consultation as required by Governor's Executive Order 21-02, if applicable.
- Must serve the intended purpose of the contract for the duration of the performance period.
- All entities involved must comply with Washington State Prevailing Wage.
- Comply with Washington State Environmental Policy Act (SEPA) if applicable.

#### **REPORTING REQUIREMENTS:**

- Minimum data required to be provided quarterly as applicable are:
  - Updates on project outcomes and/or end-use data, as appropriate and negotiated between the grantee and COMMERCE.
  - Shared with COMMERCE on recurring basis in a format agreed upon during contract negotiation.
- Recipients of funding must report to COMMERCE no less than quarterly regarding progress of the funded project, project outcomes upon completion of the project, budget projections and other information upon request by COMMERCE. Upon project completion, a final summary of the project is required.

#### **OTHER REQUIREMENTS:**

- Any other requirements included in **Exhibit E Scope of Work Template** but not specifically detailed as minimum qualifications, allowable costs, or program requirements in the RFA are subject to negotiation following awards.

## **5 RFA EXHIBITS**

Exhibit A Certifications and Assurances  
Exhibit B Application Questions  
Exhibit C Budget Template  
Exhibit D Scope of Work Template  
Exhibit E Tribal Agreement Template

## CERTIFICATIONS AND ASSURANCES

**I/we make the following certifications and assurances as a required element of my/our Application, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):**

1. I/we declare that all answers and statements made in the Application are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single Application.
3. The attached Application is a firm offer for a period of 60 days following receipt, and it may be accepted by COMMERCE without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this Application, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this Application or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that COMMERCE will not reimburse me/us for any costs incurred in the preparation of this Application. All Applications become the property of COMMERCE, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this Application.
6. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Applicant and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Applicant or to any competitor.
7. I/we agree that submission of the attached Application constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Applicant to induce any other person or organization to submit or not to submit an Application for the purpose of restricting competition.
9. I/we grant COMMERCE the right to contact references and others, who may have pertinent information regarding the Applicant's prior experience and ability to perform the services contemplated in this procurement.
10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

**I/We have reviewed the Contract and General Terms and Conditions and I/we:** (check one and sign)

- ☐ **are** submitting proposed Contract edits. If proposed Contract edits are being submitted, I/we have attached them to this form. (See Section 2.12)
- ☐ **are not** submitting proposed Contract edits. (*Default if neither are checked*)

On behalf of the organization submitting this Application, my signature below attests to the accuracy of the above statements as well as my authority to bind this organization.

---

Signature

---

Printed Name and Title

---

Date

**APPLICATION QUESTIONS****1. APPLICANT INFORMATION**

|                                       |  |                                    |   |        |           |
|---------------------------------------|--|------------------------------------|---|--------|-----------|
| <b>Full Legal Name of Tribe</b>       |  |                                    | <b>Applicant Type</b>   |        |           |
|                                       |  |                                    | <input type="checkbox"/> Federally recognized tribal government<br><input type="checkbox"/> Tribal enterprise |        |           |
|                                       |  |                                    | <b>Does This Tribe Have an Active MOU With Commerce?</b>  |        |           |
|                                       |  |                                    | <input type="checkbox"/> Yes<br><input type="checkbox"/> No   |        |           |
| <b>Mailing Address</b>                |  |                                    | <b>Physical Address (if different than mailing address)</b>   |        |           |
| Street:                               |  |                                    | Street:   |        |           |
| City:                                 | State:                                     | Zip Code:                          | City:   | State: | Zip Code: |
| <b>Statewide Vendor Number (SWV):</b> | <b>Uniform Business Identifier (UBI)*:</b> | <b>Federal Employer ID (FEIN):</b> |   |        |           |
|                                       |  |                                    |   |        |           |

\*Tribes are only required to have a UBI if work will be conducted on non-tribal land.

**Key Staff**

|  |  |   |  |
|--|--|---|--|
| <b>Primary contact person for this Application</b>         |  | <b>Other Application contact</b>                            |  |
| Name and Title:  |  | Name and Title:   |  |
| Phone:   |  | Phone:  |  |
| Email:   |  | Email:  |  |
| <b>Executive (Person with authority to sign contracts)</b> |  | <b>Grant Manager (Primary contact for grant activities)</b> |  |
| Name/Title:  |  | Name/Title:   |  |
| Phone:   |  | Phone:  |  |
| Email:   |  | Email:  |  |
| <b>Finance (Primary contact for invoices and payment)</b>  |  | <b>Data Manager (Primary contact for data security)</b>     |  |
| Name/Title:  |  | Name/Title:   |  |
| Phone:   |  | Phone:  |  |
| Email:   |  | Email:  |  |

**List of Partners (if known at the time of application)**

|                             |                     |                     |                       |
|-----------------------------|---------------------|---------------------|-----------------------|
| <b>Partner Organization</b> | <b>Project Role</b> | <b>Contact Name</b> | <b>Contact Number</b> |
|                             |                     |                     |                       |
|                             |                     |                     |                       |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Current or Former State Employees**

Identify any state employees or former state employees employed by the Applicant or on the Applicant’s governing board as of the date of submission. 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 may exist, the Applicant may be disqualified from further consideration for the award of a contract.

| Name | Title | Responsibilities | State Agency | Last Worked | Year |
|------|-------|------------------|--------------|-------------|------|
|      |       |                  |              |             |      |
|      |       |                  |              |             |      |
|      |       |                  |              |             |      |

☐ I/we certify no current or former state employees are employed by this organization nor serve on the governing board.

**Past Contracts**

If the Applicant has had any contract terminated for default in the last five years, describe below. Termination for default, also called termination for cause, is defined as notice to stop contract work for reasons related to contract performance and/or compliance and the termination was either (a) not litigated due to inaction on the part of the Applicant, or (b) litigated and such litigation determined that the Applicant was in default. Submit full details of the terms for default, adding additional pages if needed and include: the other party's and contact information, as well as your position on the matter. Commerce will evaluate the facts and may, in its sole discretion, reject the Application on these grounds.

| Other Party | Contract Purpose | Date of Termination | Details |
|-------------|------------------|---------------------|---------|
|             |                  |                     |         |
|             |                  |                     |         |

☐ I/we certify the Applicant has had no contracts of any kind terminated for default in the last five years.

If the Applicant has held any contract (including grants, work orders, purchase requests, MOUs, etc.) with the state of Washington, whether an Agency, Department, Board, Office, Council, Institution of Higher Education, or other entity of the state, within the past 36 months, describe each contract below:

| State Agency and Contract Manager Name | Contract Number | Total Amount | Start Date | End Date |
|--|-----------------|--------------|------------|----------|
|  |                 |              |            |          |
|  |                 |              |            |          |

☐ I/we certify the Applicant has not held any contract with the state of Washington in the past 36 months.

## 2. NARRATIVE QUESTIONS AND PROJECT INFORMATION

Please answer each question in enough detail to convey to the evaluation team the Applicant's understanding of the services, the needs of the communities to be served, and the Applicant's organizational priorities and practices. If a question is not applicable provide a brief explanation why it does not apply. **These questions will be scored as described in the evaluation criteria table in Section 4.3.**

1. Has the applicant previously received a grant under the Energy Division at the Washington State Department of Commerce? If yes, please list the grant program. (Mandatory, Scored)

2. Project Location(s): Please provide an address, parcel ID (if available), and a description of the area served. (Mandatory, Not Scored)

3. Project Description: Provide a description of the project, including the purpose of the project, the needs that will be addressed by the project, the benefits the project will provide, and how the project addresses the state and/or tribe's decarbonization, emissions reduction, and/or climate change mitigation goals. (Mandatory, Not Scored)

4. Project Approach, Methodology, and Work Plan: For each vessel, provide a description of the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project. This section 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. Identify any work to be completed by subcontractors. Clearly delineate the above information for each vessel. (Mandatory, Scored)

**5. Project Readiness:** For each vessel, describe the project's status, including steps that have already been completed and any work that will need to be completed before the project can begin. Identify any potential risks that are considered significant to the success of the project. Clearly describe project readiness for each vessel. (Mandatory, Scored)

**6. Project Schedule:** List a project schedule indicating when the elements of the work will be completed, including any distinctions between vessel projects. (Mandatory, Scored)

**7. Project Team (Mandatory, Scored)**

A) Provide a description of the proposed project team. Describe lines of authority for personnel involved in performance of this potential contract. Include who will have primary responsibility and final authority for the work.

- B) If the team will include subcontractor(s), describe the qualifications of the subcontractor(s) or the method that will be used to secure the qualified subcontractor(s). If subcontractor team will differ per vessel project, include that information. The evaluation panel will not assess individual subcontractors specifically but will assess whether they are described as qualified or experienced. Commerce understands the importance of tribal sovereignty in the subcontractor selection process.

**8. Economic Development (Mandatory, Scored)**

- A) Workforce: Describe how this project will strengthen economic and/or government activities in your community. Describe any jobs or apprenticeship opportunities this project will create. Outline whether these are temporary or permanent positions, construction jobs, etc. Clearly distinguish differences in workforce benefits between vessel projects.
- B) Vessel Use: How will the proposed project affect current commercial and/or subsistence fishing activities or related services? Will vessel electrification have a net positive or negative effect to boat usage at present (length of trips, number of trips, etc.)? Clearly distinguish differences in vessel use impacts between vessel projects.

**9. Project Replicability:** Describe the ability of the tribe to use this project as a model for electrifying additional vessels in the future. Clearly distinguish differences in project replicability between vessel projects. (Mandatory, Scored)

A) How many other boats are there with similar use cases? Please select from the following ranges: 0-5, 6-10, 11-15, 16-20, 21-30, 31+.

B) Will the equipment need to be custom-built or is it modular?

C) Is this project part of a broader effort in the future to electrify more boats or other transportation vehicles?

D) Will the project team permit Commerce to share project learnings with other entities interested in planning and implementing similar projects?

**10. Fuel Consumption:** How will your project result in fossil fuel consumption reduction? (Mandatory, Scored)

Include as much of the following information as possible **for each vessel project:**

**Old Engine\***

|  |  |
|--|--|
| Average annual hours of use of the engine that will be replaced                        |  |
| Rough estimate of annual fuel consumption (in gallons) of engine that will be replaced |  |
| Fuel grade or power source (gas, diesel, electric, etc.)                               |  |
| Tier level of engine (if known)**  |  |
| Make   |  |
| Model  |  |
| Year of manufacture  |  |
| Horsepower (HP)  |  |
| Displacement (L)   |  |

**New Propulsion System\*\*\***

|  |  |
|--|--|
| Average annual hours of use of the new propulsion system                       |  |
| Rough estimate of annual fuel consumption (in gallons)                         |  |
| Fuel grade or power source (electric, hybrid diesel-electric, fuel cell, etc.) |  |
| Tier level of engine (if known)**  |  |
| Make   |  |
| Model  |  |
| Horsepower (HP or eHP)   |  |
| Displacement (L)   |  |

**Please attach specifications sheet for old engine\* and new propulsion system if available. (Optional, Not Scored)**

\*If the project includes a new vessel purchase that does not replace an old engine, please list equivalent information for a fossil fuel-powered vessel that would be purchased without this funding.

\*\*Tier level is a diesel emissions standard designated by the US Environmental Protection Agency (EPA) starting in 1996. Engines manufactured before 1996 are often referred to as "Tier 0," "non-Tier," or "uncontrolled." If Tier level is unknown, please write "unknown."

\*\*\*Please write "N/A" for any fields that are not applicable to the new propulsion system.

**11. Air Quality:** What are some current concerns with air quality or air pollution on your tribe's lands and waters? Please describe how this project will improve air quality and public health, if applicable. Clearly distinguish differences in air quality benefits between vessel projects. (Mandatory, Scored)

### 3. BUDGET QUESTIONS

Please include a detailed budget not to exceed \$1,187,000 for the total of all projects (see Section 1.4) using Exhibit C Budget Template. Include costs of all things necessary to carry out the services of this RFA. Costs for work to be done by subcontractors or subgrantees are to be broken out separately.

Please fill out the Application Budget Summary and project tables provided in Exhibit C Budget Template. The total budget may not exceed \$1,187,000 or the application may be disqualified.

The evaluation process is designed to award funding not necessarily to the Applicants of least cost, but rather to Applicants that best meet the requirements of this RFA. Applicants are encouraged, however, to submit budgets which are consistent with efforts to conserve state resources.

|   |
|---|
| 1. Will this award be supplemented by any other funding source to achieve project completion? If so, what costs will other funding sources cover? |
|---|

|  |
|--|
| 2. Please provide additional information on the funding sources for your project, including specific grant programs or tax credits. For unsecured funding sources, identify a timeline for securing and receiving the funds. If loans or other financing will be used, provide the amount financed, lender (if known) and whether the loans have been secured. |
|--|

**BUDGET TEMPLATE**

**Submit all applicable hard copies of estimates from vendors for all projects (required).**

List projects in order of priority. Projects will be scored independently and will be awarded based on score as described in Section 4 Evaluation and Contract Award, not on priority.

Modify or duplicate template as needed.

**Application Budget Summary**

| <b>Category</b> | <b>TEBP Funding Requested</b> | <b>Other Funding</b> | <b>Total Estimated Cost</b> |
|-----------------|-------------------------------|----------------------|-----------------------------|
| Project #1      |                               |                      |                             |
| Project #2      |                               |                      |                             |
| Project #3      |                               |                      |                             |
| <b>TOTAL</b>    |                               |                      |                             |

## **BUDGET TEMPLATE**

Describe any dependencies of **Project #1** on other projects for project feasibility, if any:

| Project #1 [Project Title]    |                |
|-------------------------------|----------------|
| Vessel #1                     |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Vessel #1 Subtotal            |                |
|                               |                |
| Charging Pedestal #1          |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Charging Pedestal #1 Subtotal |                |
| PROJECT #1 TOTAL              |                |

## **BUDGET TEMPLATE**

Describe any dependencies of **Project #2** on other projects for project feasibility, if any:

| Project #2 [Project Title]    |                |
|-------------------------------|----------------|
| Vessel #2                     |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Vessel #2 Subtotal            |                |
|                               |                |
| Charging Pedestal #2          |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Charging Pedestal #2 Subtotal |                |
| PROJECT #2 TOTAL              |                |

## **BUDGET TEMPLATE**

Describe any dependencies of **Project #3** on other projects for project feasibility, if any:

| Project #3 [Project Title]    |                |
|-------------------------------|----------------|
| Vessel #3                     |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Vessel #3 Subtotal            |                |
|                               |                |
| Charging Pedestal #3          |                |
| Category                      | Estimated Cost |
| Equipment                     |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
|                               |                |
| Labor                         |                |
|                               |                |
|                               |                |
|                               |                |
| Ongoing Services              |                |
|                               |                |
|                               |                |
| Charging Pedestal #3 Subtotal |                |
| PROJECT #3 TOTAL              |                |

## EXHIBIT D

The following exhibit is the Scope of Work template that will serve as a starting point for contract negotiations with awardees. It is provided for informational purposes to ensure applicants are aware of COMMERCE's expected project requirements. Applicants may, but are not required to, provide requested edits to the template as part of an application.

“Attachment A”, “Attachment B”, and “Attachment C” are references to expected attachments to the grant contracts but are not attachments to the RFA or required responses.

### **Attachment A: Scope of Work**

Terms used in Attachment A: Scope of Work (Scope of Work) shall have the same meaning as in Section 1 **DEFINITIONS** in the **GENERAL TERMS AND CONDITIONS**.

#### **1. Project overview**

##### **1.1 Purpose**

The purpose of this contract is as described on the Face Sheet of this contract.

##### **1.2 Partners**

The Tribe or Nation shall include an updated list of project partners in the project management report and all subsequent quarterly report updates.

##### **1.3 Project information**

The Tribe or Nation shall complete projects as detailed in **Attachment C: Project Information**. The Tribe or Nation may request changes to sites and equipment consistent with the change order process as detailed in subsection 2.3 of the Scope of Work.

#### **2. Project management**

##### **2.1 Project kickoff**

The Tribe or Nation shall identify a primary point of contact to COMMERCE, including name, email address, and phone number, and attend a “kickoff” webinar or meeting with COMMERCE within 30 days of contract execution to discuss contract requirements and grantee expectations.

##### **2.2 Project management report**

The Tribe or Nation shall submit a project management report to COMMERCE within 90 days of contract execution, using a template provided by COMMERCE, to describe planned project activities and milestones. The report shall align with **Attachment B: Budget** and describe any changes to expected costs and funds

following contract execution. The report will also describe plans to comply with funding requirements and state, federal, and tribal laws and regulations.

The Tribe or Nation shall issue updates to the project management report on a quarterly basis to COMMERCE, starting no later than four months following contract execution and until all projects are fully completed a final report has been submitted and approved. The quarterly report shall be submitted no later than 15 days after the end of each quarter, using the reporting template provided by COMMERCE.

### **2.2.1 Project activities and milestones**

The Tribe or Nation shall include activities and milestones achieved to-date and anticipated in the next quarter, and any changes to the project management report, project partner list, risks and issues mitigated, and lessons learned. Activities and milestones must include:

- Information received from the electric utility serving each project site on expected electrical make-ready and interconnection activities, costs, and timing.
- Expected equipment and service activities, costs, and timing.
- Expected permitting activities, costs, and timing.

### **2.2.2 Project expenditures**

The Tribe or Nation shall include an updated milestone/invoicing schedule with milestones/invoices completed to-date and anticipated milestone/invoice completion dates for the duration of the grant. While Commerce does not anticipate requiring more detailed expenditure information as part of quarterly reporting, Tribe or Nation shall maintain project fiscal records in alignment with Generally Accepted Accounting Principles (GAAP) and in sufficient detail to show that a) grant funding has been spent only on eligible costs, and b) grant funds have not been comingled with any non-grant (match) funds.

## **2.3 Change orders**

Changes to **Attachment A: Scope of Work** and/or **Attachment C: Project Information** may be requested by the Tribe or Nation using the change order request template provided by COMMERCE. Within the limits defined in Subsections 2.3.1-2.3.4 of **Attachment A: Scope of Work**, Commerce may consider and accept such changes. For change order forms affecting only information contained in **Attachment A: Scope of Work** and/or **Attachment C: Project Information**, a change order will be considered for acceptance by COMMERCE once the applicable COMMERCE representative has signed the form. Change orders affecting contract information outside of **Attachment A: Scope of Work** and/or **Attachment C: Project Information** (including but not limited to: grant amount, start date, or end date) require a formal contract amendment.

### **2.3.1 Grant amounts**

Change orders may be accepted by COMMERCE if such orders change the scope of work in a way that requires a lower or same COMMERCE grant amount as the current contract. Commerce will not consider change order requests if the scope of work changes such that project components can only be successfully completed with a higher grant amount than the original contract.

### **2.3.2 Project component changes**

The Tribe or Nation may request changes to one or more project components following contract execution for consideration by COMMERCE, including but not limited to:

- Vessel selected for replacement, repower, or retrofit.
- Site location for charging pedestal installation.
- Type of propulsion technology to be installed (only if change will result in an updated vessel score that would still be awarded in the program's scoring evaluation).
- Type of charging pedestal, vessel, or any other equipment to be purchased or installed.

COMMERCE may choose to accept or reject requests for any reason. COMMERCE will only consider project component change requests if they meet one or more of the following conditions:

- The Tribe or Nation has exhausted all reasonable options to make the original project components work and COMMERCE has determined that project success is either impossible or unlikely to occur;
- Ownership of the original vessel or site location changes, or vessel or site owner no longer agrees to project component completion;
- Conditions of the original work change such that the work to be completed can no longer satisfy all requirements of the contract;
- Subcontractor circumstances or estimates change drastically such that the work to be completed can no longer satisfy all requirements of the contract or be completed within project budget; or
- Previously anticipated non-program funding is no longer available to support the site.

The Tribe or Nation may request project component changes in any combination as long as the new plan can be completed with costs eligible for reimbursement within the current grant amount.

### **2.3.3 Scope of Work requirement exemptions**

The Tribe or Nation may request exemptions to equipment, installation, and operations and maintenance requirements in **Attachment A: Scope of Work** following contract execution for consideration by COMMERCE. COMMERCE may choose to accept or reject requests for any reason.

## **2.4 Progress meetings**

The Tribe or Nation shall participate in any progress calls requested by COMMERCE, to be scheduled within a month of the request.

## **2.5 Project final report**

The Tribe or Nation shall submit a final report to COMMERCE that:

- Describes the project's purpose, approach, activities performed, results; and
- Includes the project's maintenance and operations service contract or plan.

## **3. Equipment requirements**

### **3.1 Chargers**

All chargers installed at covered project sites shall:

- Meet the operational needs of the vessel(s); and
- Comply with all relevant state laws and rules in effect.

### **3.2 Emergency disconnects**

If installing direct current fast chargers (more than 50 kW), each site must contain disconnecting means of emergency shutoff (also known as "e-stop" equipment) for power to each charger. Emergency shutoff devices or electrical disconnects must be installed no fewer than 20 feet or more than 100 feet from chargers. The emergency shutoff must be installed in a readily accessible location in sight from the chargers and labeled.

### **3.3 Batteries**

All batteries installed in vessels and in association with charging pedestal equipment shall:

- Be certified to a safety rating of Ingress Protection 67 (IP67) or above; and
- Achieve a minimum battery range of 15 nautical miles for electric boat propulsion systems.

## **4. Installation requirements**

### **4.1 Project completion**

- All Work must be completed prior to June 30, 2027, with extensions to be considered as needed and feasible, provided funds are available in the next biennium (2027-2029).
- The Tribe or Nation may request extensions, and COMMERCE may grant extensions consistent with Section 2.3 of **Attachment A: Scope of Work**.

## **5. Operations and maintenance requirements**

### **5.1 Operations requirements**

#### **5.1.1 Operations duration**

The Tribe or Nation shall maintain reliable operations of all vessels and charging pedestals during all typical operational hours for at least five years following their first day of operations.

### **5.1.2 Vessel usage**

The Tribe or Nation shall ensure vessel operators use the boat for at least 90% of expected annual hours of use as indicated in the application.

### **5.2 Maintenance requirements**

The Tribe or Nation shall:

- Perform regular preventive maintenance, including visual inspection, performance testing, functional validation, and reporting; and
- Dispatch maintenance technicians in a timely manner and address malfunctions and repairs within 48 hours of initial notice.

### **5.3 Utilization and reliability reporting requirements**

Following submission of the final report, the Tribe or Nation shall submit an operations report with data on each charger once every six months for five years. The Tribe or Nation shall submit the report no later than 30 days after the end of each six-month period with the following data for the six-month period and cumulatively over total operations:

- Number of hours each vessel is in use per reporting period;
- Total fuel consumption of each vessel included in program;
- All instances of preventative maintenance to vessels or chargers; and
- Time log with information on reported malfunctions and corresponding repairs.

## **6. Scope of work violations**

Nothing in subsections 6.1-6.2 shall be interpreted to limit, alter, or supersede Commerce's rights under the **GENERAL TERMS AND CONDITIONS, SPECIAL TERMS AND CONDITIONS**, and the **PROGRAM SPECIFIC TERMS AND CONDITIONS** of this agreement.

### **6.1 Failure to submit reports or attend meetings**

Failure to submit required reports or attend required meetings will be treated as a default, which left uncured, may result in COMMERCE's right to recapture disbursed funds and terminate any obligation to disburse additional funds.

### **6.2 Violation of equipment and installation requirements**

Costs incurred on any activity subject to this contract that result in a violation of requirements, including variances from project information in the scope of work, shall be considered disallowed costs and treated as a default, which left uncured, may result in COMMERCE's right to recoup disbursed funds and terminate any obligation to disburse additional funds for the site(s) for which the violation occurred.

## EXHIBIT E

The following exhibit is the Tribal Agreement template that will serve as a starting point for contract negotiations with awardees. It is provided for informational purposes to ensure applicants are aware of COMMERCE's contract terms and conditions. Applicants may, but are not required to, provide requested edits to the template as part of an application.

“Attachment A”, “Attachment B”, and “Attachment C” are references to expected attachments to the grant contracts but are not attachments to the RFA or required responses.

**Tribal Agreement with**

enter Tribal entity name here

through

Tribal Electric Boats Program (TEBP)

**For**

List project title, if applicable, and/or describe the primary purpose for the funding or the intended outcome/deliverables in approx. 25 words or less

**Start date:**    Month/Day/Year

# Tribal Agreement

## Table of Contents

Face Sheet ..... 48

Program Specific Terms and Conditions ..... 49

Special Terms and Conditions ..... 51

General Terms and Conditions ..... 55

**Agreement Number: <Insert number>**  
**Face Sheet**  
**Washington State Department of Commerce**  
**Energy Division, Clean Transportation Unit**  
**Tribal Electric Boats Program (TEBP)**

|   |  |  |                                     |
|---|--|--|-------------------------------------|
| <b>1. Tribe or Nation</b><br><Insert legal name><br><Insert mailing address><br><Insert physical address><br><Insert location>  |  | <b>2. Tribe or Nation Doing Business As (optional)</b><br><Insert DBA name><br><Insert DBA mailing address><br><Insert DBA physical address><br><Insert DBA location>  |                                     |
| <b>3. Tribe or Nation Representative</b><br><Insert name><br><Insert title><br><Insert phone><br><Insert e-mail>  |  | <b>4. COMMERCE Representative</b><br><div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           &lt;Insert name&gt;<br/>           &lt;Insert title&gt;<br/>           &lt;Insert phone&gt;<br/>           &lt;Insert e-mail&gt;         </div> <div style="width: 45%;">           &lt;Insert mailing address&gt;<br/>           &lt;Insert physical address&gt;<br/>           &lt;Insert location&gt;         </div> </div> |                                     |
| <b>5. Agreement Amount</b><br><Insert \$ amount>  | <b>6. Funding Source</b><br>Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/> | <b>7. Start Date</b><br><Insert date>  | <b>8. End Date</b><br><Insert date> |
| <b>9. Federal Funds (as applicable) Federal Agency:</b><br>N/A N/A <b>ALN:</b> N/A  |  |  |                                     |
| <b>10. Tax ID #</b><br><Insert number>  | <b>11. SWV #</b><br><Insert number>  | <b>12. UBI #</b><br><Insert number>  | <b>13. UEI #</b><br><Insert number> |
| <b>14. Award Method</b> <b>NOFO/RFX #</b> <b>Proviso #</b><br>Direct: <input type="checkbox"/> Competitive: <input checked="" type="checkbox"/> TEBP-25      Section 108, Proviso 1   |  |  |                                     |
| <b>15. Agreement Purpose</b><br><Briefly describe Agreement purpose>  |  |  |                                     |
| COMMERCE, defined as the Department of Commerce, and the Tribe or Nation, as defined above, acknowledge and accept the terms of this Agreement and attachments and have executed this Agreement on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Agreement are governed by this Agreement and the following other documents incorporated by reference: Contract Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget, Attachment "C" – Project Information, <etc.> |  |  |                                     |
| <b>FOR TRIBE OR NATION</b><br><br>_____<br><insert name>, <insert title><br><br>_____<br>Date   |  | <b>FOR COMMERCE</b><br><br>_____<br>Jennifer Grove, Assistant Director<br><br>_____<br>Date<br><br><b>APPROVED AS TO FORM ONLY</b><br>Signature on file.   |                                     |

**PROGRAM SPECIFIC TERMS AND CONDITIONS  
TRIBAL AGREEMENT  
STATE FUNDS**

**1. SUBGRANTING (REPLACES GENERAL TERMS AND CONDITIONS #19)**

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

**2. HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Agreement, the Tribe or Nation shall complete the requirements of Governor's Executive Order 21-02, where applicable, or the Tribe or Nation shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. The Tribe or Nation agrees that the Tribe or Nation 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 discovered, disturbed, or damaged as a result of the project funded by this Agreement.

**3. TREATMENT OF ASSETS**

The parties do not anticipate that COMMERCE will furnish property (other than the state funds granted herein) to Tribe or Nation for use in Tribe or Nation's performance under this Agreement; provided, however, that title to any other property that may be so furnished by COMMERCE shall remain in COMMERCE. COMMERCE claims no ownership for the materials, goods, or services purchased by the Tribe or Nation for the completion of this Agreement, regardless of reimbursement status under this agreement.

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

All reference to the Tribe or Nation under this clause shall also include Tribe or Nation's employees, agents or subcontractors.

**SPECIAL TERMS AND CONDITIONS  
TRIBAL AGREEMENT  
STATE FUNDS**

**1. AGREEMENT 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 Agreement.

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

The Representative for the Tribe or Nation and their contact information are identified on the Face Sheet of this Agreement.

**2. ACKNOWLEDGEMENT OF CLIMATE COMMITMENT ACT FUNDING**

If this Agreement is funded in whole or in part by the Climate Commitment Act, Tribe or Nation agrees that any website, announcement, press release, and/or publication (written, visual, or sound) used for media-related activities, publicity, and public outreach issued by or on behalf of Tribe or Nation which reference programs or projects funded in whole or in part with Washington's Climate Commitment Act (CCA) funds under this Grant, shall contain the following statement:

"The Tribal Electric Boats Program is supported with funding from Washington's Climate Commitment Act. The CCA supports Washington's climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at [www.climate.wa.gov](http://www.climate.wa.gov)."

The Tribe or Nation agrees to ensure coordinated Climate Commitment Act branding on work completed by or on behalf of the Grantee. The CCA logo must be used in the following circumstances, consistent with the branding guidelines posted at [CCA brand toolkit](#), including:

- A. Any project related website or webpage that includes logos from other funding partners;
- B. Any publication materials that include logos from other funding partners;
- C. Any on-site signage including pre-during Construction signage and permanent signage at completed project sites; and
- D. Any equipment purchased with CAA funding through a generally visible decal.

**3. 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. Tribe or Nation's compensation for services rendered shall be in accordance with the terms of Attachment A - Scope of Work, Attachment B - Budget, and Attachment C - Project Information.

**4. BILLING PROCEDURES AND PAYMENT**

COMMERCE will pay Tribe or Nation upon acceptance of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.

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 Agreement reference number [REDACTED]. If expenses are invoiced, provide a detailed breakdown of each type. Except for approved indirect costs, if any, a receipt must accompany any single expense 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 Contractor.

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

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

#### Disallowed Costs

The Tribe or Nation is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report, deliverable, or completion of the project.

### **5. SUBCONTRACTOR DATA COLLECTION**

The Tribe or Nation 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 Agreement performed by Subcontractors and the portion of the Agreement funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

### **6. CULTURALLY RELEVANT SERVICES**

In performing work pursuant to any Agreement, the Tribe or Nation may develop and operate programs and deliver goods, services, and/or benefits in a manner that is culturally relevant and particularly suited to and/or particularly located for access by members of the Contractor's Nation or other tribes, in accordance with Tribal Laws and policies.

### **7. HIRING AND EMPLOYMENT PRACTICES**

The Tribe or Nation may give preference in its hiring and employment practices to members of the Tribe or Nation, or other Tribes or Nations, who have met all requirements for that position, including state requirements, and as may be provided by Tribal Laws and policies.

## **8. INSURANCE**

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

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 Tribe or Nation shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Tribe or Nation shall submit a certificate of insurance to COMMERCE which outlines the coverage and limits defined in this insurance section within fifteen (15) calendar days of a written request by COMMERCE. The 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. During the term of this Contract, if requested, the Contractor shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

DO NOT send insurance certificates to COMMERCE unless requested by COMMERCE. Any certificates received by mail will be returned to sender unless the certificate identifies the contract number, contract manager name, and/or program name to which it applies.

The Tribe or Nation shall provide insurance coverage that shall be maintained in full force and effect during the term of this Agreement, 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 Agreement activity but no less than \$1,000,000 per occurrence. Additionally, the Tribe or Nation is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

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

**Automobile Liability.** In the event that performance pursuant to this Agreement involves the use of vehicles, owned or operated by the Tribe or Nation or its Subcontractor, 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 Tribe or Nation shall maintain Professional Liability or Errors and Omissions Insurance. The Tribe or Nation shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Tribe or Nation and licensed staff employed or under contract to the Contractor. 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 Tribe or Nation 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 Agreement shall be \$100,000 or the highest of planned reimbursement for the Agreement period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subcontractors that receive \$10,000 or more per year in funding through this Agreement shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Tribe or Nation as beneficiary.

## **9. FRAUD AND OTHER LOSS REPORTING**

The Tribe or Nation shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

## **10. ORDER OF PRECEDENCE**

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

- 1. Applicable federal and state of Washington statutes and regulations
- 2. Special Terms and Conditions
- 3. General Terms and Conditions
- 4. Attachment A – Scope of Work
- 5. Attachment B – Budget
- 6. Attachment C – Project Information
- 7. Memorandum of Understanding, if applicable

## **11. SOVEREIGN IMMUNITY**

Nothing whatsoever in this Agreement constitutes or shall be construed as a waiver of the Tribe or Nation's sovereign immunity.

**GENERAL TERMS AND CONDITIONS  
TRIBAL AGREEMENT  
STATE FUNDS**

**1. DEFINITIONS**

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

- A.** “Agreement” or “Grant” or “Contract” means the entire written Agreement between COMMERCE and the Tribe or Nation, including any Attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this Agreement shall be the same as delivery of an original.
- B.** “Authorized Representative” shall mean the Director and/or the designee authorized in writing to act on the Director’s behalf.
- C.** “Charging pedestal” shall mean the power supply equipment necessary to charge the electric component of the propulsion system which may be installed on land or at the dock, including shore power pedestals.
- D.** “COMMERCE” shall mean the Washington Department of Commerce.
- E.** “Fishing vessels” shall mean marine vessels for fishing, patrol, enforcement, research, or other uses that ensure tribal fishing rights and activities.
- F.** “Materials” shall mean 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.
- G.** “Parties” shall mean the Tribe or Nation and COMMERCE, who are the Parties to this Agreement.
- H.** “Project component” shall mean any of the following parts of the Tribe or Nation’s awarded project: the installation of a charging pedestal (1.C), vessel replacement (1.Q), repower (1.J), or retrofit (1.K).
- I.** “Repower” shall mean the replacement of an old propulsion engine or motor with a new propulsion engine or motor. A repower may or may not include other components of the powertrain such as the transmission, drive shaft, propeller, and onboard electronic controls.
- J.** “Retrofit” shall mean the modification of an old propulsion engine or motor to a low- or zero-emission propulsion engine or motor. A retrofit may or may not include other components of the powertrain such as the transmission, drive shaft, propeller, and onboard electronic controls.
- K.** “State” shall mean the state of Washington.

- L. "Subgrantee" or "Subcontractor" shall mean one not an employee of the Tribe or Nation, who is performing all or part of those services under this Agreement under a separate agreement with the Tribe or Nation. The terms "Subgrantee" and "Subgrantees" means Subgrantee(s) in any tier.
- M. "Tribal Citizen or Tribal Member" shall mean a citizen of a tribe.
- N. "Tribal Law" means the resolutions, law, codes, and/or ordinances enacted by the Tribe or Nation executing this Agreement, and any of the Tribe or Nation's tribal court decisions interpreting the same. All references in this Agreement to Tribal Law shall include any successor, amended, or replacement law, as of the effective date of such successor, amended, or replacement law.
- O. "Tribe or Nation" or "Contractor" or "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Agreement and shall include all employees and agents of the Tribe or Nation.
- P. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the Agreement only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.
- Q. "Vessel replacement" shall mean the purchase of a new vessel to 1) eliminate use of an older vessel, or 2) substitute the purchase of a new vessel powered by an internal combustion engine (ICE) with a new vessel eligible for this grant program.

## **2. ALL WRITINGS CONTAINED HEREIN**

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

## **3. AMENDMENTS**

This Agreement 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.

## **4. ASSIGNMENT**

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

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

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

- i. all material provided to the Tribe or Nation by COMMERCE that is designated as "confidential" by COMMERCE;

- ii. all material produced by the Tribe or Nation that is designated as “confidential” by COMMERCE; and
  - iii. all Personal Information in the possession of the Tribe or Nation 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 numbers, driver’s license numbers and other identifying numbers, and “Protected Health Information” under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The Tribe or Nation shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Tribe or Nation shall use Confidential Information solely for the purposes of this Agreement 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 Tribe or Nation 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 Tribe or Nation shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Agreement whenever the Grantor reasonably determines that changes are necessary to prevent unauthorized disclosures. The Tribe or Nation shall make the changes within the time period specified by COMMERCE. Upon request, the Tribe or Nation shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Tribe or Nation against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Tribe or Nation shall notify COMMERCE within twenty-four (24) hours 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.

## **6. CONFLICT OF INTEREST**

In performing under this Agreement, the Tribe or Nation shall comply with applicable state or federal laws related to ethics or conflicts of interest as well as its own ethics policies.

## **7. COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Grantor. 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 Tribe or Nation 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 Agreement, but that incorporate pre-existing materials not produced under the Agreement, the Tribe or Nation 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 Tribe or Nation warrants and represents that the Tribe or Nation has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Tribe or Nation shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Agreement, 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 Agreement. The Tribe or Nation shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Tribe or Nation with respect to any Materials delivered under this Agreement. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Tribe or Nation.

## **8. DISPUTES**

Except as otherwise provided in this Agreement, when a dispute arises between the Parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with COMMERCE’s Director, 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 Tribe or Nation's name, address, and Agreement number; and
- be mailed to the Director and the other party’s (respondent’s) Agreement 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 Agreement 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.

## **9. GOVERNING LAW AND VENUE**

This Agreement 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.

## **10. INDEMNIFICATION**

Each party shall be responsible for the acts or omissions of itself and its own officers, employees, and agents acting within the scope of their authority. No party to this Agreement shall be responsible for the acts or omissions of entities or individuals not a party to this Agreement.

## **11. INDEPENDENT CAPACITY OF THE TRIBE OR NATION**

The Parties intend that an independent contractor relationship will be created by this Agreement. The Tribe or Nation and its employees or agents performing under this Agreement are not employees or agents of the state of Washington or COMMERCE. The Tribe or Nation 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 Tribe or Nation 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 Tribe or Nation.

## **12. LAWS**

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

## **13. NONDISCRIMINATION**

**A. Nondiscrimination Requirement.** During the performance of this Agreement, the Tribe or Nation, including any Subcontractor, shall comply with all applicable tribal, federal, state, and local nondiscrimination laws, regulations and policies, this shall include but not be limited to the following: Tribe or Nation, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Tribe or Nation, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with

which Tribe or Nation, or subcontractor, has a collective bargaining or other agreement.

The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this Agreement.

**B. Obligation to Cooperate.** Tribe or Nation, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Tribe or Nation, including any subcontractor, has engaged in discrimination prohibited by this Agreement pursuant to RCW 49.60.530(3).

**C. Default.** Notwithstanding any provision to the contrary, COMMERCE may suspend Tribe or Nation, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until COMMERCE receives notification that Tribe or Nation, including any subcontractor, is cooperating with the investigating state agency. In the event Tribe or Nation, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), COMMERCE may terminate this Agreement in whole or in part, and Tribe or Nation, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Tribe or Nation or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

**D. Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Agreement termination or suspension for engaging in discrimination, Tribe or Nation, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Tribe or Nation may also be required to repay grant funds pursuant to Section 15 (Recapture) of the General Terms & Conditions if the Agreement is terminated based on a violation of the nondiscrimination requirement. COMMERCE shall have the right to deduct from any monies due to Tribe or Nation or subcontractor, or that thereafter become due, an amount for damages Tribe or Nation or subcontractor will owe COMMERCE for default under this provision.

#### **14. POLITICAL ACTIVITIES**

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

## **15. RECAPTURE**

In the event that the Tribe or Nation fails to perform this Agreement in accordance with state laws, federal laws, and/or the provisions of this Agreement, 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 Tribe or Nation 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 Agreement.

## **16. RECORDS MAINTENANCE**

The Tribe or Nation shall maintain all books, records, documents, data and other evidence relating to this Agreement 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 Agreement.

The Tribe or Nation 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 Agreement, 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.

## **17. 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 Agreement and prior to normal completion, COMMERCE may terminate the Agreement under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Agreement may be amended to reflect the new funding limitations and conditions.

## **18. SEVERABILITY**

The provisions of this Agreement 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 Agreement.

## **19. SUBGRANTING**

~~The Tribe or Nation may only Subgrant work contemplated under this Agreement if it obtains the prior written approval of COMMERCE.~~

~~If COMMERCE approves Subgranting, the Tribe or Nation shall maintain written procedures related to Subgranting, as well as copies of all Subgrants and records related to Subgrants. For cause, COMMERCE in writing may: (a) require the Tribe~~

~~or Nation to amend its Subgranting procedures as they relate to this Agreement;~~  
~~(b) prohibit the Tribe or Nation from Subgranting with a particular person or entity;~~  
~~or (c) require the Tribe or Nation to rescind or amend a Subgrant.~~

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

~~Every Subgrant 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 Subgrant.~~

## **20. SURVIVAL**

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

## **21. TERMINATION FOR CAUSE/SUSPENSION**

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

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

COMMERCE reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Tribe or Nation from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Tribe or Nation or a decision by COMMERCE to terminate the Agreement. A termination shall be deemed a "Termination for Convenience" if it is determined that the Tribe or Nation: (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 Agreement are not exclusive and are, in addition to any other rights and remedies, provided by law.

## **22. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Agreement COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing,

terminate this Agreement, in whole or in part. If this Agreement is so terminated, COMMERCE shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

## **23. TERMINATION PROCEDURES**

Upon termination of this Agreement, COMMERCE, in addition to any other rights provided in this Agreement, may require the Tribe or Nation to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

COMMERCE shall pay to the Tribe or Nation the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Tribe or Nation 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 Agreement. COMMERCE may withhold from any amounts due the Tribe or Nation 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 Agreement.

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

- A.** Stop work under the Agreement on the date, and to the extent specified, in the notice;
- B.** Place no further orders or Subgrants for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement that is not terminated;
- C.** Assign to COMMERCE, in the manner, at the times, and to the extent directed the Authorized Representative, all of the rights, title, and interest of the Tribe or Nation under the orders and Subgrants 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 Subgrants;
- D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and Subgrants, with the approval or ratification of the Authorized Representative to the extent directed by the Authorized Representative, which approval or ratification shall be final for all the purposes of this clause;
- E.** 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

Agreement had been completed, would have been required to be furnished to COMMERCE;

- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. 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 Agreement, which is in the possession of the Tribe or Nation and in which COMMERCE has or may acquire an interest.

#### **24. 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 Agreement unless stated to be such in writing and signed by Authorized Representative of COMMERCE.