

## Chris Taggart

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**From:** Glenda Wiles on behalf of Ravalli County Commissioners Office  
**Sent:** Monday, December 4, 2017 3:30 PM  
**To:** Chris Taggart  
**Subject:** FW: Food & Ag Center - Ravalli County EDA Protest - Dept of Admin and Attorney General Response  
**Attachments:** 11.20.17-response.to.protest.pdf; inappropriate-conduct-9.2-17.pdf; Ravalli County Commissioner Support letter for RCEDA.pdf; MCA--11-901.pdf

**From:** Julie Foster [mailto:julie@rceda.org]  
**Sent:** Monday, December 4, 2017 2:31 PM  
**To:** Ravalli County Commissioners Office <commissioners@rc.mt.gov>; Howard Recht <hrecht@rc.mt.gov>; 'Nancy Ballance' <nbalance@aol.com>; 'Ron Ehli' <mtmutt@montana.com>; fthomas@paynewest.com; 'Patrick Connell' <pconnell1@yahoo.com>; 'Theresa Manzella' <theresa@willingservants.org>; Allen Bjergo <allen.bjergo@cybernet1.com>; bitterroot@byowner-mt.com; Bob Thomas <hemanfoundation@outlook.com>; Doug Davis <Doug@OwingsDavis.com>; Ed Greef <edgreef@hotmail.com>; Julie Foster <julie@rceda.org>; Kay G. Clevidence <kayc@farmersebank.com>; Owen Robbins <owen.robbins@fib.com>; Robert J. Whalen <rwhalen@fsbmsla.com>; 'Ryan Oster' <ryanoster@yahoo.com>; Ryan Oster <CHIEF@CITYOFHAMILTON.NET>  
**Subject:** Food & Ag Center - Ravalli County EDA Protest - Dept of Admin and Attorney General Response

Good Afternoon Ravalli County Commissioners, RCEDA Board and our Legislators,

In July of 2017 RCEDA applied for funds from the MT Department of Agriculture to assist us with the development of our Food & Agriculture Development Center. Lake County Community Development Corporation (LCCDC) was incensed that RCEDA had submitted an application. LCCDC had been the recipient of the Food & Ag funds since 2009 (about \$300,000). RCEDA has been doing a lot of work in the food and agriculture sector. There is a large and growing need in Ravalli County for readily available, **local based**, services. We were hoping to receive a hand up, for a few years to establish agriculture and food services herein Ravalli County and to assist others in the Hwy 93 corridor. We were not hoping for funding in perpetuity. As you all know Ravalli County is often the place that receives **nothing** when providers in Missoula and elsewhere agree to serve a "**multi-county**," area. It is our experience that this strategy favored by the state and federal government in their "regional" service plan does not work. There is never enough funding so the capacity/funding and desire to serve a "region" are missing.

Also, the Food & Agriculture Development program is one of several that fund redundant services. In RCEDA's opinion redundant service is not a good use of time and money. The Food & Agriculture Development Center funds the activities below, the highlighted, bolded items are funded by other program(s) and therefore, in our opinion, not necessary.

- Product development, testing and analysis
- Regulatory compliance training
- Food processing
- **Business planning and development**
- **Market research**
- **Business networking**
- **Access to financing**
- **Cooperative development**
- Education on industry dynamics and technologies

Because RCEDA has been on the losing end of promises from multi-county programs we wanted to provide a better way. The better way that RCEDA worked to establish was a network of local providers in the county's from Lincoln to Ravalli. **LCCDC threatened the provider we were working with in Sanders county; if the Sanders county technical provider stayed part of our network she would risk a loss of funding through Lake County (and that would be state funds that go through LCCDC).** This scenario is another problem that occurs when the state sets up one county as the funding dictator.

RCEDA submitted a protest against the bad behavior following the protocol provided to us. The provider in Sanders county had to consider self preservation when providing information on the protest. I spoke with the Attorney General's office and the result is that there is no legal action for the Attorney General's Office to pursue. However, it is my understanding that the MT Department of Agriculture and/or the MT Department of Administration could have done something to strongly discourage this type of anti-competitive, dishonest behavior. To our knowledge nothing occurred.

If RCEDA doesn't agree with the outcome of the findings on the protest we are able to request a "contested case hearing." RCEDA has 14 days from the decision date to request the hearing. The "decision date" isn't clear to me. I have traded voice messages with Meghan Holmlund from MT Dept of Admin and am still hoping to talk with her. Because I suspect that today, December 4, is the deadline I sent Meghan an email and asked for a contested case hearing.

Attached to this email are:

- The Ravalli County Commissioners email noting the problem in July of 2017. No one from the MT Department of Ag ever inquired about this letter.
- RCEDA's Protest
- 11.20.2017 Responses to protest
- MCA that funds the Food & Ag Centers

**My question:**

**Who, if any, would like RCEDA to pursue this matter via the contested hearing or otherwise? I don't know what a contested hearing entails.**

**In closing, whether any satisfaction is received via this process, Legislators will have an opportunity in 2019 to decide if this program is funded and to some degree how it is put forward. Funding some agencies, like LCCDC for 9 years at a time seems to defeat the purpose of building state-wide capacity.**

Thank you for your time to consider and send any thoughts my way.

Julie



RCEDA's web site is updated daily, a RSS feed is available - <http://www.rceda.org/>

Julie Foster  
Executive Director  
Ravalli County Economic Development Authority  
Ravalli Entrepreneurship Center  
MT Cooperative Development Specialist  
274 Old Corvallis Rd. Suite A  
Hamilton, MT 59840  
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MIKE COONEY, LIEUTENANT GOVERNOR

JOHN LEWIS  
DIRECTOR



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State Procurement Bureau  
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Helena, MT 59620  
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November 20, 2017

Ms. Julie Foster  
Ravalli County Economic Development Authority  
274 Old Corvallis Rd. Suite A  
Hamilton, MT 59840

Re: Protest Response Follow-Up


Dear Ms. Foster,

This is a follow-up to my September 13, 2017 letter, which addressed RCEDA's protest regarding Montana's Request for Proposal for the Food and Agriculture Development Center, AGR-RFP-2017-0004N (RFP). RCEDA's protest raised many issues, including that Lake County Community Development Corporation (LCCDC) had engaged in anticompetitive practices during the RFP process (Allegation No. 1). I denied the protest, leaving open the possibility that my decision could be modified based on the Montana Attorney General's Office decision on the anticompetitive allegation. I further notified RCEDA that it had 14 days from the date of my decision to request a contested case hearing. I did not receive such a request.

The Montana Attorney General's Office reviewed the anticompetitive complaint and recently sent the State Procurement Bureau the results of the investigation. In short, the Attorney General's Office has decided not to pursue legal action against LCCDC at this time and is closing its investigation. I have enclosed the response for your review and records.

Based on the Attorney General's decision, I find no violations of the Montana Procurement Act or the applicable rules, and my decision to deny the protest will not be modified. RCEDA has 14 days from the date of this decision to request a contested case hearing under the Montana Administrative Procedure Act regarding the anticompetitive allegation only. RCEDA did not request a contested case hearing on the other issues addressed in my September 13, 2017 response within the statutorily-imposed time limit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meghan Holmlund', with a stylized, cursive script.

Meghan Holmlund  
Chief Procurement Officer

enclosures

cc Mike Manion, Department of Administration  
Department of Agriculture

ATTORNEY GENERAL  
STATE OF MONTANA



Tim Fox  
Attorney General

Office of Consumer Protection  
555 Fuller Avenue  
P.O. Box 200151  
Helena, MT 59620-0151

November 6, 2017

*(Sent via email)*

Mr. Manion and Ms. Holmlund:

This letter is in response to Ravalli County Economic Development Authority's Letter of Protest related to Montana Department of Agriculture's (AGR) Request for Proposal<sup>1</sup> for the Food and Agriculture Development Center grant and AGR's decision related to that grant that I received from Department of Administration's Procurement Bureau.

After receiving the protest letter on September 22, 2017, my office initiated an investigation into the complaint made in the first paragraph of the letter alleging anticompetitive practices. Over the course of our investigation we interviewed involved parties, including two of the complainant's knowledgeable employees, the director of Sanders County Community Development Center, and AGR's involved staff. We also informed the director of Lake County Community Development Center (LCCDC) of this investigation and she retained counsel to respond. Counsel for LCCDC responded in a timely fashion and we reviewed LCCDC's response.

As of the date of this letter, having reviewed the facts gathered over the course of this investigation, we have concluded the Department of Justice's Office of Consumer Protection will not be pursuing legal action at this time and will be closing this investigation.

If you have any questions or concerns, please contact me at 444-9637.

Sincerely,

MONTANA DEPARTMENT OF JUSTICE  
OFFICE OF CONSUMER PROTECTION

Chuck Munson  
Assistant Attorney General

CRM:ble

c: Zach Coccoli, Cort Jensen, AGR; Grant Snell, Crowley Fleck – Kalispell

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<sup>1</sup> RFP No. AGR-RFP-2017-0004N

MCA Contents / TITLE 80 / CHAPTER 11 / Part 9 / 80-11-901 Montana foo...

TITLE 80. AGRICULTURE  
CHAPTER 11. MARKETING

Part 9. Food and Agricultural Development Program

## Montana Food And Agricultural Development Program -- Definition

**80-11-901. Montana food and agricultural development program -- definition.** (1) There is a program administered by the department to promote Montana food and agricultural development. The program must fund four Montana food and agricultural development centers that were established before January 1, 2009, and that are charged with:

- (a) developing Montana's capacity to produce food and value-added agricultural products, including farm-derived renewable energy; and
- (b) providing technical assistance and other services to community-based food, agriculture, and farm-derived renewable energy entrepreneurs.

(2) Technical assistance includes but is not limited to business assistance, product development, marketing, nutritional analysis and labeling, education, assistance with food safety regulation compliance, training to educate business professionals and entrepreneurs on industry dynamics and technology of specific bioproduct industries, and evaluating existing and developing technologies.

(3) Each center must be a certified regional development corporation or a nonprofit organization that serves at least a four-county region.

(4) As used in this section, "farm-derived renewable energy" means renewable energy produced from products developed by farmers and ranchers, as well as entrepreneurs, using Montana farm and ranch products.

**History:** En. Sec. 1, Ch. 386, L. 2009.

DEPARTMENT OF ADMINISTRATION  
STATE FINANCIAL SERVICES DIVISION  
STATE PROCUREMENT BUREAU

sfsd.mt.gov



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HELENA, MONTANA 59620-0135

September 13, 2017

Ms. Julie Foster  
Ravalli County Economic Development Authority  
274 Old Corvallis Rd. Suite A  
Hamilton, MT 59840

Re: Response to Protest

Dear Ms. Foster,

On August 14, 2017, Ravalli County Economic Development Authority (RCEDA) filed a protest of Montana's Request for Proposal for Food and Agriculture Development Center, AGR-RFP-2017-0004N. The protest alleges anticompetitive practices, violation of the Montana Procurement Act, and the State of Montana not supporting its program purpose.

## I. INTRODUCTION

Under Montana law, the Department of Administration (Department) is responsible for responding in writing to RCEDA's protest within 30 days after receipt of the protest and explaining the reasons for the Department's actions. *§ 18-4-242(3), MCA*. Under *§ 18-4-242(6)(a), MCA*, if, after an award, the Department determines that a solicitation or proposed award of a contract is in violation of the law and the person awarded the contract has not acted fraudulently or in bad faith, the contract may be: (i) ratified and affirmed, provided it is determined that doing so is in the best interests of the State; or (ii) terminated, and the person awarded the contract must be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, before the termination. Under *§ 18-4-242(6)(b), MCA*, if after an award it is determined that a solicitation or award of a contract is in violation of law and the person awarded the contract has acted fraudulently or in bad faith, the contract may be: (i) declared void; or (ii) ratified and affirmed if that action is in the best interests of the State, without prejudice to the State's rights to appropriate damages. The State is not required to delay, halt, or modify the procurement process pending the result of a protest, contested case proceeding, or judicial review. *§ 18-4-242(8), MCA*.

## II. STANDARD OF REVIEW

The Department's role in reviewing a protest is to determine if the requirements of the Montana Procurement Act (Act) and the Act's applicable rules have been followed. Regarding Request for Proposals (RFPs), an award must be made to the responsible and responsive offeror whose proposal best meets the evaluation criteria set forth in the RFP. Other criteria may not be used in the evaluation. *§ 18-4-304(5), MCA; ARM 2.5.602(12)* An evaluation "shall be based on the evaluation criteria set forth in the request for proposals." A responsible offeror is one "... who has the capability in all respects to fully perform the

contract requirements and the integrity and reliability that will ensure good faith performance." *ARM 2.5.201(33)*. A responsive offeror is one who has submitted an offer conforming in all material respects to the request for proposals. *Id.* at (34).

### **III. ANALYSIS**

RCEDA's allegations are addressed below followed by the State's response.

**Allegation #1:** *Lake County Community Development Center (LCCDC) violated MCA 18-4-314. RCEDA is reporting anti-competitive practices. RCEDA had been in contact with Jenn Kreiner of Sanders County Community Development Corporation and had she agreed to be a subcontractor for coordination of technical assistance services for RCEDA's service area for the proposed Food and Agriculture Development Center. She later withdrew support for the proposal and told John Schneeberger, RCEDA's Economic Development Specialist, that she was pressured by Gypsy Ray and Jan Tusick from LCCDC to withdraw or they would not continue to extend services to Sanders County as part of their Certified Regional Development Corporation.*

**Response to Allegation #1:** The allegation has been referred to the Montana Attorney General's office for review and response.

**Allegation #2:** *RCEDA asserts that Mission Food Enterprise Center (MMFEC) had an unfair advantage in the RFP because it benefited from work done by the Montana Food and Agriculture Center Program. This wasn't in the evaluation criteria. The rules for competitive sealed proposals states: "If an award is made, it must be made to the responsible and responsive offeror whose proposal best meets the evaluation criteria. Other criteria may not be used in the evaluation" (MCA 18-4-304). MMFEC used outreach plans developed by the MFAC program and by another MFAC Center, Headwaters RC&D. This constitutes other criterial (sic) because incumbency and access to State funded resources was (sic) not listed as an evaluation criteria.*

**Response to Allegation #2:** RCEDA fails to identify any evidence in the Evaluation Committee spreadsheet or in any other documents supporting its claim that other criteria--such as incumbency and MMFEC benefiting from work or funding of other parties--were used in the evaluation in violation of 18-4-304, MCA. Based on the spreadsheet, it appears the Evaluation Committee reviewed each offeror's response against the RFP criteria to determine the current capacity of that offeror to provide the services described in 80-11-901, MCA. I cannot overturn an RFP decision based on an allegation lacking evidentiary support.

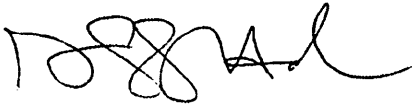
**Allegation #3:** *The State of Montana is not supporting its program purpose. In the Scope of Services Section of the RFP (AGR-RFP-2017-0004N) it states the Program Purpose is to "support development of the infrastructure needed to increase the capacity of Montana's farmers..." Providing incumbent Centers evaluation points based on capacity previously paid for by the State, is not encouraging the development of technical assistance infrastructure outside of the limited service areas of the existing incumbent MFA Centers.*

**Response to Allegation #3:** Again, RCEDA fails to support its allegation that MMEFC received evaluation points based on capacity previously paid for by the State. Further, there is nothing in the evaluation spreadsheet indicating that the committee added points for such capacity. Based on the spreadsheet, each organization that applied was evaluated based on its current capacity to provide the services described in the scope of services.

**IV. CONCLUSION**

For the foregoing reasons, I find no violations of the Montana Procurement Act or the applicable rules. The RCEDA's protest is therefore respectfully denied at this time. I will await the Attorney General's response to determine if my decision should be modified. RCEDA has 14 days from the date of this decision to request a contested case hearing under the Montana Administrative Procedure Act.

Sincerely,

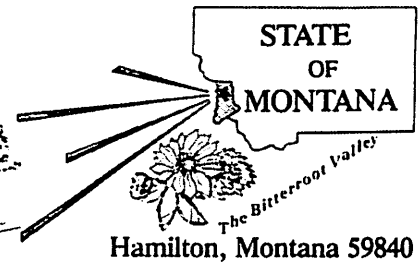
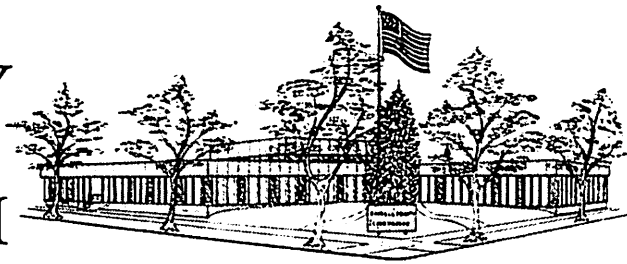


Meghan Holmlund  
Chief Procurement Officer

enclosures

cc Mike Manion, Department of Administration  
Department of Agriculture

# COUNTY OF RAVALLI



**Ravalli County Commissioners**  
**215 South 4<sup>th</sup> Street, Suite A**  
**Hamilton, MT 59840**  
406-375-6500 • 406-375-6507 fax  
commissioners@ravallicounty.mt.gov

July 6, 2017

Nicole Orta  
Montana Department of Agriculture  
Food and Agriculture Development Center

Re: AGR-RFP-2017-0004N

Dear Nicole,

The Ravalli County Board of Commissioners (BCC) encourage the Montana Department of Agriculture to fund the application from the Ravalli County Economic Development Authority (RCEDA) for the Food & Agriculture Development Center. The BCC and our community would like to see the RCEDA have an opportunity to develop Food & Ag Center services in Ravalli County and in the western counties of Montana.

Ravalli County is often included in the service area of those who receive funding from state or federal sources. Although regional services are intended for smaller surrounding counties, many times, Ravalli County citizens do not receive those promised services. RCEDA is providing the Department of Agriculture with an application and work plan that enables local technical assistance providers in Western Montana Counties to engage face to face with their local producers. We have learned that there is no substitute for readily available, locally provided capacity in business development, including food and agriculture. RCEDA is highly capable of coordinating and providing local technical assistance needed to the counties and partners in their application.

As shown in the table below, there is significant poverty in the cities and counties of Western Montana. One way to mitigate this issue is to provide local capacity for economic development. Ravalli County Commissioners have seen firsthand the difference that a hard working local economic development organization can make. RCEDA does not receive any Federal or State capacity building funds. The Commissioners are requesting that an opportunity be given to RCEDA to build capacity,

not only in Ravalli County but in the other western counties. This can be accomplished by using a model of sharing funds and resources through partnerships.

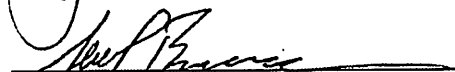
The BCC understand that Lake County Economic Development and Mission Mountain Cooperative have enjoyed these funds since 2009 and have been able to build their capacity to assist neighbor counties as well. We also understand that the four centers were not designed to be permanently funded thereby precluding the opportunity of others. We were disappointed to learn that one of RCEDA's partners in this application was pressured by one of the existing Food and Ag Centers to withdraw from the partnership. We hope this behavior will not be tolerated or rewarded by the Montana Department of Agriculture.


The USDA and Ravalli County Commissioners funded a 2016 feasibility study for a Food Processing Center. The results demonstrated the need for a processing center in Ravalli County. RCEDA has informed the BCC that it has the land and 50% of the funding in place to begin construction. The food processing center is included in the Comprehensive Development Plan for the County's Targeted Economic Development District. We are committed to supporting the local development of food and agriculture and to sharing our resources, and lessons learned with our Western Montana neighbors and with others in the state.

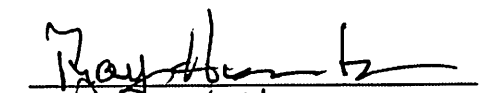
Area	Poverty in City	Poverty in County
Missoula	16 %	19.5 %
Ravalli (Hamilton)	24.3 %	18 %
Lincoln (Eureka)	37.7 % (Libby - 24.2%)	18.6 %
Mineral (Superior)	17.2 %	25.5 %
Sanders (Thompson Falls)	20.6%	22.4 %
Lake (Polson)	21.2 %	22.6 %


Sincerely,  
RAVALLI COUNTY BOARD OF COMMISSIONERS

  
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