

ANNOUNCEMENT SDP1
(Supersedes Announcement DSC1)

**Sale of Dairy Products
for Unrestricted Use
on a Competitive Offer Basis**



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SALE OF DAIRY PRODUCTS

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United States
Department of
Agriculture

Farm and Foreign
Agricultural Services

Farm Service Agency
Kansas City
Commodity Office
P.O. Box 419205
Kansas City, Missouri
64141-6205

ANNOUNCEMENT SDP1
SALE OF DAIRY PRODUCTS
FOR UNRESRTICTED USE ON A COMPETITIVE OFFER BASIS

1. GENERAL

A. Invitation for Offers

The Commodity Credit Corporation (CCC) will from time to time issue an invitation for competitive offers under this Announcement for CCC to sell dairy products for unrestricted use, such as butter, cheese and non fat dry milk. The dairy products will be sold in store at the point(s) of storage.

B. Terms and Conditions

The invitation will specify the dairy products quantities, location(s), container size, and the closing time for receipt of offers, and provisions applicable to the proposed sale. Offerors are cautioned to read all terms and conditions of this Announcement and the invitation.

C. Offer Form

Appendix 1 to this Announcement is the offer form.

2. ELIGIBILITY OF OFFERORS

- A. An offer shall set forth the complete business name and address of offeror. An offer mailed or hand delivered shall be signed by a person authorized to execute contracts on behalf of offeror. Offeror must furnish the names of personnel authorized to sign and submit offer(s) prior to award to Kansas City Commodity Office (KCCO), Commodity Management Division/Merchandising Branch (CMD/MB).
- B. CCC reserves the right to refuse to consider an offer if CCC does not have adequate information to determine the responsibility of offeror, financially or otherwise, to meet contract obligations contemplated in this Announcement. If a prospective offeror is in doubt as to whether CCC is acquainted with the offeror's financial responsibility, the offeror should either submit an audit or review level financial statement prepared by an independent certified public accountant or an independent public accountant according to generally accepted accounting principles (GAAP) to the KCCO before making an offer or communicate with that office to determine whether such a statement is desired.

3. SUBMISSION OF OFFERS

A. How to Submit Offers

- (1) Offers must be submitted by regular mail, express mail, facsimile, or hand delivered. **(The invitation will specify the office to which offers are to be submitted.)** Offers must include a signed original and one copy of the offer form contained in Appendix 1. Reproductions of the offer form are acceptable.
- (2) Envelopes containing the offers are to be sealed and marked with the name and address of the offeror in the upper left corner. Offers submitted by express mail must be sealed inside a second envelope. **“DO NOT OPEN UNTIL PRESCRIBED TIME UNDER ANNOUNCEMENT SPD1 DAIRY PRODUCTS INVITATION (Enter appropriate invitation number).”** If overnight/express service is utilized, this statement must be printed clearly on the outer express envelope, not the mailing label.
- (3) Modifications and withdrawals of offers may be submitted by letter, express mail, facsimile, or hand delivered.
- (4) Modifications and withdrawals of offers may be submitted via facsimile at the offeror’s risk. CCC will not be responsible for any failure attributed to the transmission or receipt of facsimile changes including, but not limited to the following:
 - (a) Receipt garbled or incomplete.
 - (b) Availability or condition of the receiving facsimile equipment.
 - (c) Incompatibility between the sending and receiving equipment.
 - (d) Delay in transmission or receipt of price changes.
 - (e) Failure of the bidder to properly identify the information.
 - (f) Illegibility of the information.
 - (g) Security of data.
- (5) Changes by facsimile must contain the required signatures.

B. Where and When to Submit Offers

- (1) Offers, modifications, or withdrawals of offers must be submitted to the KCCO and received by the date and local time specified in the invitation for receipt of offers. In the event such date falls on a business day when KCCO is officially closed, offers must be received by the specified time on the next succeeding business day.
- (2) If mailed, express mailed, or hand delivered, time of receipt will be the time recorded by the Kansas City Administrative Services Branch (KCASB), mailroom's time stamp.
- (3) If sent by facsimile, time of receipt will be the time recorded by the KCCO Communication Center's equipment.

C. Basis of offer

Prices shown in offers must be for the entire quantity of commodity delivered to the Contractor by CCC, in-store, at the point(s) of delivery named in the contract. Items with prepaid loadout handling charges will be identified in the invitation. All other costs shall be borne by the Contractor.

4. INDEPENDENT PRICE CERTIFICATION

A. In submitting an offer, offeror certifies, and in the case of a joint offer each party thereto certifies as to its own organization, that:

- (1) The prices stated in the offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices, with any other offeror or with any competitor;
- (2) Unless otherwise required by law, the prices quoted in the offer have not been knowingly disclosed by offeror and will not knowingly be disclosed by offeror prior to opening of offers by CCC, directly or indirectly, to any other offeror or to any competitor; and
- (3) No attempt has been made or will be made by offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

B. Each person signing the offer thereby certifies that:

The offeror is the person in their organization responsible within that organization for the decision as to the prices being offered and has not

participated, and will not participate, in any action contrary to subparagraphs A. (1) through A. (3) of this section, or:

- (1) The offeror is not the person in their organization responsible within that organization for the decision as to prices being offered but has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to subparagraphs A. (1) through A. (3) of this section, and as their agent does hereby so certify; and
 - (2) The offeror has not participated, and will not participate, in any action contrary to subparagraphs A. (1) through A. (3) of this section.
- C. An offer will not be considered for acceptance where subparagraphs A. (1), A. (3) or B. of this section have been deleted or modified. Where subparagraph A. (2) of this section has been deleted or modified, the offer will not be considered for acceptance unless offeror furnishes with the offer a signed statement which sets forth in detail the circumstances of the disclosure and the Contracting Officer determines that such disclosure was not made for the purpose of restricting competition.

5. ACCEPTANCE OF OFFERS

- A. CCC will notify successful offerors on the date specified in the invitation. The date of acceptance by CCC will be the contract date.
- B. In addition to the price, factors considered in accepting offers will include the total cost to the Government and the responsibility of the offeror.
- C. CCC may accept or reject any or all offers, or portions thereof.

6. PROVISIONS OF CONTRACT

A. The contract consists of:

- (1) Contractor's offer.
- (2) CCC's acceptance.
- (3) The applicable invitation.
- (4) This Announcement, including Appendix 1.

- B. If the provisions of this Announcement and the invitation are not consistent, those of the invitation will prevail.
- C. No interpretation or amendment of this Announcement is valid or enforceable unless such interpretation or amendment is in writing and executed by the Contracting Officer. No other determination or opinion shall be a contract interpretation even if it came from another USDA official.

7. GRADE

- A. The grade of the product delivered by CCC shall be evidenced by the most recent grading certificate issued by the Agricultural Marketing Service (AMS). A copy of the certificate will be furnished to the Contractor if requested in the offer. Products delivered will be conclusively presumed to be of the grade stated in such certificate.
- B. The Contractor may, before payment and transfer of title as provided in paragraphs 9. and 10., request reinspection of any of the product by the Dairy Grading Branch, Dairy Programs of USDA's AMS or an independent private inspection service, agreeable to both the Contractor and CCC, whose findings as to the grade of the product shall be final and conclusive. Such reinspection shall be for the account of the Contractor unless the reinspected product fails to meet the grade represented by CCC, in which case the cost of the reinspection shall be for the account of CCC.
- C. If the reinspection, as provided in paragraph B. of this section, shows any part of the product to be below the contract grade stated by CCC, the Contractor may:
 - (1) cancel the contract without liability to either party, or
 - (2) accept the product at the grade determined by the reinspection, at a mutually agreed upon adjusted price, or
 - (3) subject to paragraph D. of this section, accept other product of a grade equal to the contract grade and in a quantity and at a location as near as practicable to the contract quantity and location offered by CCC, if CCC determines that such other product is available.
- D. If the Contractor elects to accept other product, the price and amount of payment shall be subject to adjustment only for difference in location, quantity and moisture content in case of cheese, as determined by CCC. In the event the contract is terminated or other product is accepted, title and risk of loss will revert to CCC. Storage charges for product not accepted by the Contractor shall be for the account of CCC. In the event other

product is accepted, delivery, transfer of title and risk of loss and liability for storage, handling and other warehouse charges with respect to such accepted product shall pass to the Contractor pursuant to a new Notice to Deliver/Forwarding Notice as provided in section 10.

8. QUANTITY

The weight of each warehouse lot shall be evidenced by the weight shown on the shipping instructions issued by CCC or by the most recent certificates issued by AMS. If the quantity delivered differs from the quantity contracted for, because the number of containers delivered differs from the number shown on the above documents, payment will be adjusted on the basis of the contract price per pound, and reimbursement to the Contractor in the case of shortage, or payment to CCC in the case of over-delivery, shall be made promptly. Claims for shortages must be supported by document(s) acceptable to CCC.

9. FINANCIAL ARRANGEMENTS

- A. Within 5 business days after the date of the contract, payment for the commodity must be received in KCCO by one of the following methods:

(1) Wire transfer of funds from contractor's bank:

Federal Reserve Bank (NYC, NY)
ABA#0210-3000-4
BNF=/AC-4992
OBI=CCC/KCCO-(CONTRACT NO.)
Company Name

(2) Certified check or cashier's check made payable to CCC.

Express Delivery Service:

FSA/FSC
RMO/COSG - Mail Stop 8212
6501 Beacon Drive
Kansas City, MO 64133-4676 (HOURS 7:00 AM – 5:00 PM)

Regular mail:

FSA/FSC
RMO/COSG – Mail Stop 8212
P.O. Box 419205
Kansas City, MO 64141-6205

- B. If payment has not been made within 5 business days after the date of contract, interest at the rate per annum specified by CCC in effect at the time the offer is accepted by CCC shall be paid by the contractor to CCC from the day after the date of the contract to the date payment is received by CCC.
- C. Notwithstanding paragraph 9. B., at the election of CCC, if the Contractor fails to make arrangements for payment in accordance with this section, all of the Contractor's rights under the contract may be terminated by CCC, and CCC may proceed against the Contractor to recover any damages CCC may have sustained.

10. DELIVERY, TRANSFER OF TITLE, AND STORAGE COSTS

- A. CCC will deliver the commodity to the Contractor in-store at the named point(s) of storage in the contract as soon as possible after payment is received by CCC. CCC will issue to the warehouse operator a Notice to Deliver to transfer the commodity to the Contractor once payment is received. An electronic copy of the Notice to Deliver will be e-mailed to the warehouse operator and to the contractor. The date of an electronic copy of the Notice to Deliver will be the date of release.
- B. CCC shall be responsible for any storage charges accruing up to and including the fifth business day following the date of issuance of the Notice to Deliver or until the commodity is loaded out, whichever is earlier. Any storage, handling, or other warehouse charges accruing thereafter shall be for the account of the Contractor. Notwithstanding the foregoing, any prepaid warehouse charges, including loading-out charges, on any lot of the commodity delivered to the Contractor shall accrue to the benefit of the Contractor. Title and risk of loss shall pass to the Contractor on the date of load-out by the warehouseman or five business days following the date of issuance of the Notice to Deliver, whichever date is earlier.

11. OFFICIALS NOT TO BENEFIT

No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom; but this provision shall not be construed to extend to the contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a member of, or a Delegate to Congress, or a Resident Commissioner in their capacity as a farmer.

12. CONTINGENT FEES

Offeror warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except a bona fide employee or bona fide established commercial agencies maintained by the offeror for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to annul the contract without liability or, in

its discretion, to require the offeror to pay in addition to the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

13. DISPUTES

- A. Any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy to the Contractor. The decision of the Contracting Officer shall be final and conclusive. However, the Contractor may appeal to the Civilian Board of Contract Appeals within 30 days from the date of receipt of the Contracting Officer's decision. Appeals should be filed with the Clerk of the Civilian Board of Contract Appeals, 1800 F Street, N.W., Washington, D.C. 20405. Other methods of filing and further information on appeals can be obtained from the Board at <http://www.cbca.gsa.gov/>. The Contractor shall mail or otherwise furnish to the Contracting Office a copy of the appeal filed. The decision of the Civilian Board of Contract Appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this paragraph, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision hereunder of a dispute, if performance under the contract has not been completed by the Contractor or terminated by CCC, Contractor shall proceed diligently with performance of the contract and in accordance with the Contracting Officer's decision.
- B. This "Disputes" section does not preclude consideration of any questions of law in connection with decisions provided for in paragraph 13.A. above. Provided, that nothing in the contract shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.
- C. If an appeal is filed by Contractor from a final decision of the Contracting Officer under this Disputes section denying a claim arising under the contract, simple interest in the amount of the claim finally determined owed by CCC shall be payable to Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date Contractor furnishes to the Contracting Officer his written appeal under this Disputes paragraph, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a Board of Contract Appeals.
- D. Notwithstanding 13.C. above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of an appeal, and (2)

interest shall not be paid for any period of time that the Contracting Officer determined Contractor has unduly delayed in pursuing remedies before the Board of Contract Appeals or a court of competent jurisdiction.

14. ASSIGNMENTS

This contract, any interest therein, or any rights or claims arising thereunder, shall not be assigned in whole or in part by the Contractor without prior written approval of CCC. Any assignment made without prior written approval of CCC shall be void.

15. INQUIRIES

Inquiries pertaining to this announcement should be directed to:

Kansas City Commodity Office
Commodity Management Division
P.O. Box 419205
Stop 8748
Kansas City, MO 64141-6205
816-926-3816

/s/

Steven L. Sanders
Director, Kansas City Commodity Office

UNITED STATES
AGRICULTURE
KANSAS CITY
COMMODITY OFFICE
P.O. BOX 419205
KANSAS CITY, MO. 64141-6205

EFFECTIVE: May 15, 2009

APPENDIX 1

Sales Offer Form

ANNOUNCEMENT SDP1

Sale of Dairy Products

for Unrestricted Use on a Competitive Offer

Basis



(05-13-09)	KC-327-SDP	ANNOUNCEMENT NO.	INVITATION NO.	VENDOR NAME	PAGE
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Subject to the terms and conditions of this invitation and Announcement SDP1, the undersigned offers to purchase the cumulative item quantity of CCC-owned Dairy Products at the prices quoted below.

1. ENTER PRICE IN U.S. DOLLARS PER POUND (EXAMPLE: 1.9730). DO NOT GO BEYOND FOUR PLACES PAST THE DECIMAL POINT.

ITEM	BID PRICE	ITEM	BID PRICE	ITEM	BID PRICE	ITEM	BID PRICE
001		026		051		076	
002		027		052		077	
003		028		053		078	
004		029		054		079	
005		030		055		080	
006		031		056		081	
007		032		057		082	
008		033		058		083	
009		034		059		084	
010		035		060		085	
011		036		061		086	
012		037		062		087	
013		038		063		088	
014		039		064		089	
015		040		065		090	
016		041		066		091	
017		042		067		092	
018		043		068		093	
019		044		069		094	
020		045		070		095	
021		046		071		096	
022		047		072		097	
023		048		073		098	

024		049		074		099	
025		050		075		100	

See page 4 for Privacy Act, Public Burden and Nondiscrimination Statements. Collection involves 10 or less individuals; therefore, OMB clearance not required.

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Subject to the terms and conditions of this invitation and Announcement SDP1, the undersigned offers to purchase the cumulative item quantity of CCC-owned Dairy Products at the prices quoted below.

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ITEM	BID PRICE	ITEM	BID PRICE	ITEM	BID PRICE	ITEM	BID PRICE
101		126		151		176	
102		127		152		177	
103		128		153		178	
104		129		154		179	
105		130		155		180	
106		131		156		181	
107		132		157		182	
108		133		158		183	
109		134		159		184	
110		135		160		185	
111		136		161		186	
112		137		162		187	
113		138		163		188	
114		139		164		189	
115		140		165		190	
116		141		166		191	
117		142		167		192	
118		143		168		193	
119		144		169		194	
120		145		170		195	
121		146		171		196	

122		147		172		197	
123		148		173		198	
124		149		174		199	
125		150		175		200	

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3. INDEPENDENT PRICE CERTIFICATION

Check appropriate certification for either subparagraph 4. B. **OR** 4. B. (1) and (2) of Announcement SDP1.

- ☐ B. The offeror is the person in their organization responsible within that organization for the decision as to the prices being offered and has not participated, and will not participate, in any action contrary to subparagraphs A. (1) through A. (3) of Announcement SDP1, **OR**
- ☐ (1) The offeror is not the person in their organization who is authorized and responsible within that organization for the decision as to prices being offered but has been authorized in writing, and Commodity Credit Corporation has been notified of this authorization, in writing on corporate letterhead, to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to subparagraphs A.(1) through A.(3) of this section, and as their agent does hereby so certify; and
- (2) The offeror has not participated, and will not participate, in any action contrary to subparagraphs A. (1) through A. (3) of Announcement SDP1.

4. Offeror acknowledges receipt of amendments to **invitation (if applicable)** by entering the amendment number and date.

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

The certifications, warranties, and representations as set forth in this invitation are hereby made.

IN WITNESS WHEREOF, the undersigned has executed this offer this _____ day of _____, 20 ____.

NAME OF FIRM		
SIGNATURE	TITLE	
Typed Name of the Officer or Employee Responsible and Authorized for the Offer:		
TYPE OF FIRM (Corporation, Partnership, or Sole Proprietorship)		
ADDRESS		
CITY	STATE	ZIP CODE
E-MAIL ADDRESS	FAX NO.	TELEPHONE NO.
AFTER HOURS CONTACT (Name)		TELEPHONE NO.

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PRIVACY ACT STATEMENT

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a, as amended). The authority for requesting the information identified on this form is 15 U.S.C. 714. The information will be used to evaluate bids to sell processed commodities. The information collected on this form may be disclosed to other Federal, State, and local government agencies, tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA Number FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in nonconsideration.

PUBLIC BURDEN STATEMENT

The collection involves 10 or less individuals; therefore, it does not require Office of Management and Budget (OMB) clearance. The time required to complete this information collection is estimated to average 15 minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate any any other aspect of this collection of information, including suggestions for reducing this burden estimate to the U.S. Department of Agriculture, Kansas City Commodity Office, Chief, Business Operations Support Division, Stop 8768, P.O. Box 419205, Kansas City, Missouri 64141-6205.

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities and activities on the basis or race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

NOTE: The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.