<u>Frequently Asked Questions</u>

December 10, 2013

*****New** Announcement FFP1, Invitation No. 4-***

1. ***Question:*** If the sugar purchased from CCC is being processed to make yeast, and the yeast is used in making another product, can the resulting product be used for human consumption?
   USDA's Response: No, if sugar purchased from CCC is processed into yeast (or any other product), the resulting product cannot be used for human consumption. For example, sugar purchased from CCC may be used to make yeast, and the yeast may be sold to bioenergy producers for the production of biofuels or to animal feed manufacturers to make feed rations for livestock; however, the yeast may NOT be sold to bakers to make bread.

2. ***Question*:** Can a company buy the sugar from CCC and then turn around and resell it?
   USDA's Response: No. The company purchasing sugar from CCC must use the sugar (or the replacement sugar, if substitution is authorized) by processing or manufacturing the sugar into a product. The resulting product may be sold, but it may NOT be used for human consumption or mixed with any other ingredients in making another product that would be used for human consumption.

Announcement FFP1, Invitation 3 –

3. ***Question:*** Must a storing warehouse operator deliver from the cataloged warehouse?
   USDA's Answer: Yes, unless the purchaser agrees to a different origin.

4. ***Question:*** Can one type of sugar be swapped for another type of sugar?
   USDA's Answer: Yes, if arrangements are made with the storing warehouse and the arrangement is agreeable to all parties, although the sugar that was swapped cannot go back under loan.

5. ***Question:*** Must a storing warehouse operator deliver bulk sugar?
   USDA's Answer: Yes, unless the purchaser agrees to a package size.

6. ***Question:*** Is sugar in one-ton (2,000 lbs) and ½-ton (1,000 lbs) totes considered "bulk" sugar?
   USDA's Response: Yes, but the storing warehouse operator has the right to deliver other bulk sugar, i.e., not in totes.

7. ***Question:*** If I substitute raw sugar for ethanol production for the refined sugar I purchased from CCC, is there any requirement of how much raw sugar I must use for ethanol production?
   USDA's Response: You must use an equivalent amount of raw sugar for ethanol production that you swapped for refined sugar. That means you must use 1.016 pounds of raw sugar (calculated from 99.0 degrees polarity) per pound of CCC refined sugar you substituted.

8. ***Question:*** Is a CCC Sugar Storage Agreement (SSA) required for substituted sugar if the substituted sugar will never be stored a sugar processor's warehouse?
   Answer: If the sugar is delivered to the bioenergy producer's plant before the substitution occurs, no CCC SSA is required.

Announcement KCPBS2, Invitation 4/Announcement FFP1, Invitation 2 -

9. ***Question:*** Will the 5.1 percent reduction due to sequestration also apply to this invitation?
   USDA's Response: Yes, due to an Executive Order, a 5.1 percent reduction will be applied due to sequestration. Just the amount the Commodity Credit Corporation (CCC) purchases will be reduced. We will not reduce the actual payment amount.

10. ***Question:*** Will USDA consider purchasing sugar for this program if they don't have a bidder on the bioenergy side to match it up to?
    USDA's Response: No

11. ***Question:*** Why is CCC encouraging sugar processors and bioenergy producers to submit joint offers under this round of Feedstock Flexibility Program (FFP)?
    USDA's Response: USDA is encouraging communication between sugar processors and bioenergy producers to resolve any potential issues that might occur later on.

12. ***Question:*** What activities do you expect sugar processors to communicate/coordinate with bioenergy producers?
    USDA's Response: Discussions should include the quality of sugar to be delivered, delivery arrangements (loadout, schedules, and transportation), storage arrangements, and prearranging a schedule for premiums and discounts.

13. ***Question:*** How should the joint bid package be submitted?
    USDA's Response: 1st Option – Sugar processor and bioenergy producer both complete offer forms and send in together with a letter that the enclosed represents a joint offer.
    2nd Option – Send offer forms separately, including a letter from both the sugar processor and bioenergy producer that each is entering into an agreement with the other.

14. ***Question:*** Are sugar processors expected to "partner" with bioenergy producers in advance of submitting **<u>quantity</u>** offers by 1:30 p.m. central time Friday, September 20?
USDA's Response: No. Processors considering forfeiture to CCC of loan sugar are reminded that a quantity offer does **<u>not</u>** obligate the processor to sell sugar to CCC. The obligation to sell occurs only when price offers are submitted.

15. ***Question:*** Can a sugar processor submit joint bids with **<u>multiple</u>** bioenergy producers?
USDA's Response: Yes, however, the sugar processor would need to clearly discuss the quantity which may be available for each bioenergy producer, and which lot(s) of cataloged sugar (or portions of lots) may be available. A joint offer from the sugar processor with one bioenergy producer would be submitted separately from another joint offer from the same sugar processor with a different bioenergy producer.

16. ***Question:*** Can a bioenergy producer submit bids on its own, without packaging the offer with a sugar processor?
USDA's Response: Yes; however, advance discussion with the sugar processor is strongly encouraged to resolve issues, as discussed above (see Question No. 4).

General FFP Questions -

17. ***Question:*** How will FFP alleviate the sugar surplus?
USDA's Response: By purchasing sugar for re-sale to biofuel production, the domestic sugar supply for human consumption is reduced and sugar prices are strengthened.

18. ***Question:*** Does the sugar have to be forfeited before it is sold under FFP?
USDA's Response: No, the law allows USDA to preempt forfeitures (to stop them from happening)---as attempted with the August 15 Invitation to buy sugar under loan that is due this August 31. The CCC can use the FFP either to prevent forfeitures or to dispose of CCC inventory after forfeitures occur.

19. ***Question:*** Why would processors sell sugar to CCC now under the FFP rather than wait to forfeit?
USDA's Response: Processors may sell now if they believe that their sugar under loan will exit their storage facility faster if sold to CCC prior to forfeiture. Most processors try to clear their limited storage facilities prior to the onset of harvest, which could start in September. In contrast, if the processor forfeits to CCC that forfeited sugar remains in the processor's warehouse until CCC decides to ship it out—a situation that creates difficulties for processors.

20. ***Question:*** Why was the Re-export Program purchase and exchange strategy under the Cost Reduction Options (CRO) used twice before FFP?
USDA's Response: Reducing surplus supplies by retiring re-export credits through a purchase and exchange strategy is the least cost next step compared to FFP. As the world price of raw sugar is almost the same as the U.S. price of raw sugar, the re-export credit,

which provides tariff-free access to the U.S market, is worth very little compared to historic values. Therefore, the sugar refiners holding these credits are currently willing to exchange credits for a relatively small quantity of domestic sugar.

Eligible Products -

21. ***Question:*** Are biofuels the only eligible product for meeting the FFP production requirement?
    USDA's Response: Under FFP, the use of sugar sold by CCC to bioenergy producers is restricted to the production of fuel grade ethanol and other biofuels.

22. ***Question:*** Is this program open to bioenergy producers that exclusively produce biofuel, or will this program be open to biorefineries that make renewable chemicals that are not considered biofuels. Several companies in the United States are producing renewable chemicals, so they are not in a bioenergy category per se. Would this program be open to those participants?
    USDA's Response: This is not the way the legislation is written. It is specifically aimed at bioenergy producers who produce fuel grade ethanol and other biofuel. Any changes would require a legislative change to the 2008 Farm Bill. USDA has other authorities to dispose of sugar like the first two sales for exchanging for re-export credits. This particular exchange is specifically for the FFP.

23. ***Question:*** If a biorefinery makes products, both bioenergy, as is defined, and also the co-product, which is a high value renewable chemical, would that refinery be eligible?
    USDA's Response: If bioenergy is produced with the sugar that was purchased, that biorefinery would be eligible.

24. ***Question:*** Is a by-product (co-product) eligible?
    USDA Response: No. It is required that biofuel be produced.

Announcement KCPBS2, Invitation 3 -

25. ***Question:*** What commodity is eligible under the current Invitation?
    USDA's Response: Any sugar under loan that is maturing at the end of August 2013.

26. ***Question*:** Is the "offer cap" for Announcement KCPBS2 Invitation No. 3 the same as KCPBS2 Invitation No. 1, Amendment 1?
    USDA's Response: There is no publicized "offer cap" under FFP; however, CCC does not anticipate paying high prices to acquire sugar, as FFP is implemented to avoid loan forfeitures.

Announcement FFP1, Invitation 1 -

27. ***Question:*** What are the mechanics of the FFP under Announcement FFP1, Invitation 1?
    USDA's Response: CCC issues a tender to purchase sugar from processors and then sells that sugar to biofuel producers through a bid process. CCC will publish the lots of sugar offered for sale on the FSA/DACO website in a "catalog" and request bids from biofuel producers to purchase the sugar offered. On the bidding deadline, CCC will match sugar processor offers and biofuel producer bids and consider combinations most beneficial based on net cost to the government. CCC will acquire no permanent inventory; the transactions between CCC and the sellers and buyers occur almost simultaneously.

General Invitation/Offer Questions –

28. ***Question:*** Any preferential treatment to a small business?
    USDA's Response: No

29. ***Question:*** Will the biofuel producers be competing in terms of price with the sugar producers?
    USDA's Response: No. The sugar producers will be selling to CCC and CCC will in-turn sell to the bioenergy producers under the FFP. Price competition is a factor among the bioenergy producers.

30. ***Question*:** Is a buyer match required for the CCC to accept the offer?
    USDA's Response: Yes. CCC will consider sales offers from processors only if a bioenergy producer offers to purchase the sugar.

31. ***Question*:** Is the processor required to have a buyer match lined up prior to the offer?
    USDA's Response: No. However, discussion between processors and bioenergy producers is encouraged, so that the parties can prearrange an agreement on several items, such a schedule of premiums and discounts, delivery method and a delivery schedule.

32. ***Question***: What is the minimum offer quantity?
    USDA'S Response: The minimum offer quantity is 10,000,000 pounds.

33. ***Question*:** With the minimum offer being 10,000,000 pounds, can the 10,000,000 pounds come from multiple locations?
    USDA's Response: The 10 million pound minimum applies to each CCC warehouse code with a Sugar Storage Agreement. Offers from multiple locations within a single CCC warehouse code with an aggregate total of at least 10 million pounds are acceptable.

Financing and Loan Redemption -

34. ***Question:*** Will CCC consider offering financing terms to the bioenergy producer for the purchase of sugar?
USDA's Response: No.

35. ***Question:*** If a sugar processor offers a price under the loan rate for KCPBS2, Invitation 3, and the bid is accepted by CCC, is the biofuel producer liable to CCC for any "loss" if the sales price is below the sugar loan rate?
USDA's Response: The bioenergy producer is responsible only for the amount due CCC based on contract award (and must use the sugar in the production of biofuel, or be subjected to liquidated damages). The amount due CCC for loan redemption is solely between CCC and the sugar processor.

Storage, Loadout, and Delivery -

36. ***Question:*** At what point will the bioenergy producer be held responsible for storage costs?
USDA's Response: CCC will not pay storage fees for the sugar purchased under the FFP. A bioenergy producer must assume any storage costs accrued from the date of the contract to the date of taking possession of the sugar. Bioenergy producers are responsible for transportation, as the sugar is being purchased in-store. CCC strongly encourages bioenergy producers to contact warehouse operators in advance of submitting an offer, to discuss arrangements.

37. ***Question*****:** Is the sugar processor required to store the sugar until the bioenergy producer is ready for delivery?
USDA's Response: In most cases, CCC would anticipate that sugar processors will want the sugar moved out of their facility very promptly. This may require the bioenergy producer to arrange for alternative storage. This should be addressed prior to making an offer to discuss a delivery schedule.

38. ***Question*****:** Is it correct that the processor cannot charge storage for the first 14 days following the date of the contract award?
USDA's Response: Yes. The sugar processor (warehouse operator) is responsible for storage for the first 14 days following contract award.

39. ***Question*****:** Is it correct that the transferee must provide the sugar processor (warehouse operator) orders, in writing, 30 days after the date of title or the applicable CCC storage rates do not apply?
USDA's Response: The CCC storage rates apply for the first 60 days following contract award (excluding charges for the first 14 days), even if the bioenergy producer does not submit a written request for immediate delivery of the sugar. In the event the bioenergy producer submits a written request for immediate delivery within the first 30 days after transfer of title, the CCC storage rates continue to apply until the sugar is loaded out of the facility.

40. ***Question*:** Who is responsible for lining up (and paying for) transportation?
USDA's Response: The bioenergy producer is purchasing sugar in-store, meaning that the bioenergy producer is responsible for all loadout charges (not to exceed $.18/cwt.), arranging and paying for transportation, and for any storage charges beyond the 14-day period for which the processor is responsible. CCC encourages bioenergy producers to contact warehouse operators in advance of offering, to discuss the quality of sugar to be delivered, a delivery schedule, and to arrange for a schedule of premiums and discounts.

41. ***Question:*** Can a bioenergy producer arrange for a delivery schedule with a processor, such as delivering a certain quantity on a daily or weekly basis (as opposed to all at once)?
USDA's Response: Yes, if acceptable to the sugar processor.

42. ***Question:*** Is there a website to see approved warehouse storage facilities?
USDA's Response: http://www.fsa.usda.gov/Internet/FSA_File/approved_ssa_list.pdf

43. ***Question:*** Does CCC require that the bioenergy producer take physical possession of the sugar within 30 days from contract award? Are there additional fees, other than storage and loadout fees, or is there a timeline for how long the sugar can be stored?
USDA's Response: The bioenergy producer must take title to the sugar very shortly after contract award (as the Invitation requires payment to CCC within 5 business days), even though the regulations require title transfer within 30 days from the date of CCC's purchase. CCC will not pay storage fees for the sugar purchased under this program. A bioenergy producer must assume any storage and loadout fees accrued from date of contract (but no charge for the first 14 days) to the date of taking physical possession of the sugar.

44. ***Question:*** Has CCC periodically checked the quality of these warehouses?
USDA's Response: They are checked at least twice per year.

Substitution and Special Storage Agreements -

The Invitation allows for "substitution" of the sugar purchased from CCC and for "special storage agreements" between bioenergy producers and sugar processors (also known as warehouse operators). This prompts several questions:

45. ***Question:*** If a bioenergy producer purchases sugar from CCC stored in one location, can the bioenergy producer demand sugar from another (closer) location? Conversely, can the sugar processor direct the bioenergy producer to pick up the sugar at a location not shown on the catalog (potentially much further away from the bioenergy plant)?
USDA Response: The answer is no to both questions. A substitution to change loadout locations must be agreeable to both parties. A prearranged "deal" may benefit both

parties; allowing a sugar processor to remove sugar immediately from one location while providing the bioenergy producer a much closer location to pick up sugar. In any case of substitution, the “receiving” warehouse of relocated or forwarded sugar must have a valid Sugar Storage Agreement with CCC, and have a sufficient supply of sugar to meet their storage obligations (which include CCC sugar pledged as collateral for loan, and any sugar owned by CCC or any other party (including bioenergy producers).

46. ***Question:*** Is substitution of sugar purchased from CCC restricted to other sugar within the sugar processor’s facility from which the bioenergy producer purchased the sugar from CCC?
USDA’s Response: No. The sugar may be substituted for sugar in another sugar processor’s facility. In addition, one type of sugar may be substituted for another sugar type. This allows flexibility for sugar processors, while allowing bioenergy producers to acquire the desired type of sugar (raw cane sugar, refined beet sugar, or in-process beet sugar) and possibly at a location closer to the bioenergy plant. In any case of substitution, the “receiving” warehouse of relocated or forwarded sugar must have a valid Sugar Storage Agreement with CCC, and have a sufficient supply of sugar to meet their storage obligations (which include CCC sugar pledged as collateral for loan, and any sugar owned by CCC or any other party (including bioenergy producers).

47. ***Question:*** Can a bioenergy producer arrange for the sugar processor to deliver sugar over a reasonable timeframe and schedule, such as 2 truckloads per day until all sugar is delivered?
USDA’s Response: Yes, provided the sugar processor agrees. This may include monetary consideration, and a special storage agreement between the bioenergy producer and sugar processor. In any case of substitution, the “receiving” warehouse of relocated or forwarded sugar must have a valid Sugar Storage Agreement with CCC, and have a sufficient supply of sugar to meet their storage obligations (which include CCC sugar pledged as collateral for loan, and any sugar owned by CCC or any other party (including bioenergy producers).

48. ***Question:*** Is it possible for a bioenergy producer located in a foreign country to buy sugar from CCC under the FFP, but then export that sugar to the world, and instead use sugar produced in the foreign country for bioenergy production?
USDA’s Response: No, sugar allowed to be substituted must have a valid Sugar Storage Agreement with CCC, and have a sufficient supply of sugar to meet their storage obligations. In other words, sugar is only fungible under the FFP if the replacement sugar is located in a CCC approved warehouse.

Compliance -

49. ***Question:*** Will I need a permit change to allow the use of sugar as feedstock since the original permit was issued for corn?
USDA's Response: Bioenergy producers need to check with their state/regional offices on any potential permitting changes. Air permit requirements may differ for sugar feedstocks. CCC is not certain of any available waiver.

50. ***Question*****:** Would ethanol produced under the FFP have to have a Renewable Identification Number (RIN) that would satisfy the EPA?
USDA's Response: As stated in the Invitation No. 1, the bioenergy producer is not required to comply with EPA regulations in order to participate in FFP. If there are additional questions regarding RIN qualifications, the producer should contact the EPA. Their support line is as follows: support@epamts-support.com

51. ***Question:*** Can the bioenergy producer destroy the sugar if unable to use it for biofuel production?
USDA's Response: CCC-owned sugar is being sold only for use in the production of biofuels under Announcement FFP1, Invitation No. 1. Accordingly, if a bioenergy producer fails to prove production of biofuel corresponding to FFP sugar purchased, the producer will be subjected to liquidated damages.

52. ***Question:*** Are there any audit provisions in the FFP regulations?
USDA's Response: Yes, they are outlined in the FFP regulation, Section 1435.606(c), and Announcement FFP1, Invitation 1, under the General Compliance section. CCC reserves the right to review financial statements, production records, etc.