

UNITED STATES
DEPARTMENT OF
AGRICULTURE

COMMODITY
CREDIT
CORPORATION

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

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ANNOUNCEMENT TAL4

PURCHASE OF TALLOW FOR USE IN EXPORT PROGRAMS



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1. GENERAL

A. Invitation for Offers

- (1) The Commodity Credit Corporation (CCC) will from time to time issue an invitation for offers under this announcement to sell tallow (hereinafter referred to as tallow or product) in bulk, to CCC for use in export programs.
- (2) The invitation will specify the office to which offers are to be submitted, the closing time for receipt of offers, and provisions applicable to the proposed procurement which are in addition to or different from those set forth herein.

B. Terms and Conditions

- (1) Provisions of "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," USDA-1, Revision No. 2, as amended (USDA-1), are incorporated as specified in Section 5 of this announcement.
- (2) Offerors are cautioned to read all terms and conditions of USDA-1, this announcement, the appendixes to this announcement, and the invitation.

C. Certifications, Representations, and Warranties

Appendix 1 to this announcement contains certifications, representations, and warranties that must be certified and submitted annually to CCC prior to or with an offer. In addition to an annual submission, offerors must submit an updated Appendix 1 as changes in the certifications, representations, and warranties submitted to CCC occur throughout the year.

2. ELIGIBILITY OF OFFERORS

To be eligible to submit an offer under this announcement, the offeror must:

- A. Submit a completed "Solicitation Mailing List Application" (Standard Form 129) to the contracting officer prior to a first offer. Offeror must complete all portions of the SF-129, except Item 18, and include the following additional information for:
 - (1) Item 8. Identify all affiliates including any parent company. Provide full name and main office address. A "parent" company is one that owns or controls the activities and basic business policies of the bidder. An "affiliate" is defined on the back of the form.
 - (2) Item 10. Identify the commodities/products the offeror is interested in supplying.
 - (3) Item 19 and 20. Must be an officer of the company.
- B. Offerors must resubmit form SF-129 as necessary when the information requires updating.
- C. Affirmatively demonstrate responsibility as defined in Federal Acquisition Regulation (FAR) 9.104-1. CCC may request a pre-award survey to be conducted by the Defense Contract Management Command for the purpose of evaluating the offeror's ability to perform the contract.
- D. Meet the definitions of a dealer or manufacturer as defined below. **Brokers are ineligible to submit offers.**
 - (1) Manufacturer, means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - (2) Regular dealer, means a person that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.
- E. Maintain a bona fide business office in the United States for the purpose of selling to CCC the product described in this announcement. Additionally, the offeror must maintain an office, employee, or agent for service of process.

3. SUBMISSION OF OFFERS

A. How to Submit Offers

- (1) Offers must be submitted by regular mail, express mail, 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. Reproductions of the offer form are acceptable. Appendix 1 to this Announcement must be submitted to the Kansas City Commodity Office (KCCO) with the offer form if it was not previously submitted within the calendar year.
- (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. All envelopes are to have Optional Form OF-17, Offer Label, filled in and attached or must be plainly marked with the following statement: **"DO NOT OPEN UNTIL PRESCRIBED TIME UNDER ANNOUNCEMENT TAL4 EXPORT 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 or withdrawals of offers may be submitted by letter, express mail, Telex, Easylink, or hand delivered.
- (4) Amended 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.

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 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 workday.
- (2) Whether an offer, modification, or withdrawal is received timely will be determined, in the case of regular mail and express mail, by the time stamp of the Kansas City Management Office (KCMO) mailroom.
- (3) Whether wire modifications or withdrawals are received timely will be determined by the Easylink system.

C. Delivery Basis

- (1) An offer must express a price per metric ton for the delivery of the bulk tallow specified in the invitation, f.o.b. vessel at a port facility named in the offer.
- (2) Unless an offer specifies exceptions, it will be the responsibility of the offeror to ensure that any type or size of vessel nominated by CCC will be acceptable for loading at the named port facility.
- (3) Offer prices will be quoted and delivery will be f.o.b. vessel as specified in the invitation.

4. 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 time of shipment, the total cost to the Government to deliver the product to the ultimate destination, and the responsibility of the offeror as demonstrated by prior contract performance.
- C. CCC may accept or reject any or all offers, or portions thereof.

5. 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.
 - (5) USDA-1, except Article 50 and all of part E.
- B. If the provisions of USDA-1, and this announcement are not consistent, the provisions of this announcement will prevail. If the provisions of USDA-1, this announcement, Appendix 1 to 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.

6. RESPONSES TO ILLEGAL OR IMPROPER ACTIVITY

- A. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
 - (1) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may:
 - (a) Cancel the solicitation, if the contract has not yet been awarded or issued;
or
 - (b) Rescind the contract with respect to which:
 - 1) The contractor or someone acting for the contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either:
 - a) Exchanging the information covered by such subsections for anything of value; or
 - b) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or
 - 2) The head of the contracting activity has determined, based upon a

preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.

- (2) If the Government rescinds the contract under paragraph A. (1) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
- (3) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

B. Price or Fee Adjustment for Illegal or Improper Activity

- (1) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph B. (2) of this clause if the head of the contracting activity or designee determine that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (2) The price or fee reduction referred to in paragraph B. (1) of this clause shall be:
 - (a) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;
 - (b) For cost-plus-incentive-fee-contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or “fee floor” specified in the contract;
 - (c) For cost-plus-award-fee contracts:
 - 1) The base fee established in the contract at the time of contract award;
 - 2) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the contractor for each award fee evaluation period or at each award fee determination point.
 - (d) For fixed-price-incentive contracts, the Government may:

- 1) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or
 - 2) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the contracting officer may defer such adjustment until establishment of the total final price of the contract. The total final prices established in accordance with the incentive price revision provisions of the contract award and such reduced price shall be the total final contract price.
- (e) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the contracting officer from records or documents in existence prior to the date of the contract award.
- (3) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph B. (2) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
 - (4) In addition to the remedies in paragraphs B. (1) and B. (3) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

7. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT

- A. The Government suspends or debar contractors to protect the Government's interests. Contractors must not enter into any subcontract equal to, or in excess of, the small purchase limitation of \$25,000 with a contractor that has been debarred, suspended, or proposed for debarment unless the acquiring agency's head or designee determines there is a compelling reason for such action (FAR 9.405).
- B. The contractor must require each proposed first-tier subcontractor, whose subcontract shall exceed the small purchase limitation of \$25,000, to disclose to the contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the federal government.

- C. A corporate officer or a designee of the contractor must notify the contracting officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (See FAR 9.404 for information on the list of Parties Excluded from Procurement Programs). The notice must include the following:
- (1) The name of the subcontractor;
 - (2) The contractor's knowledge of the reasons for the subcontractor being on the list of Parties Excluded from Procurement Programs;
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the list of Parties Excluded from Procurement Programs;
 - (4) The systems and procedures the contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

8. COMMODITY SPECIFICATIONS

A. Domestic Origin

- (1) The product delivered under this announcement must be produced in the United States from commodities produced in the United States.
- (2) For purposes of this section, the following definition applies:

"Produced in the United States" means manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution, from components originating in the United States. Components originating in the United States which have been exported, and subsequently imported back into the United States, will not be considered as having been produced in the United States.
- (3) The contractor must maintain records to verify that during the contract shipping period, at the point of packaging or, in the case of bulk commodities, at the point of delivery to CCC, the product was in compliance with the domestic origin requirements of this section of the announcement. (See Article 76 of USDA-1)
- (4) CCC will randomly conduct domestic origin compliance reviews to determine if the product delivered to CCC was produced and manufactured in the U.S. from materials produced and manufactured in the U.S. Upon request, the contractor must submit documentation substantiating compliance to the contracting officer for review. This documentation may include procurement, production, inventory, delivery, and any other pertinent records. Onsite reviews may also be performed, at the discretion of CCC.

B. Product Quality Specifications

(1) Analytical Requirements

The quality of the tallow must correspond to the specifications contained in Rule 7 of the Rules of the American Fats and Oils Association (AFOA) for animal tallow and grease (export contract), or any modifications agreed to, that are in effect on the date the contract is entered into. The grade and commodity specifications must be as specified in the invitation.

(2) Deviations

All the tolerances and discounts as provided for in AFOA rules 9, 10, and 11 will apply.

(3) Physical Requirements

The bulk tallow must contain only fluids and fatty acids natural to the product, except for such other substances in such amounts as might occur unavoidably in accordance with industry practice. Commodities are to be free from sludge and tank bottoms.

9. SAMPLING AND ANALYSIS

- A. Immediately after the award of the contract, the contractor must furnish to KCCO a statement showing the name and address of the persons, firms or agency designated in the following paragraph that will perform the sampling, analysis and surveying service, the location of the bulk tallow and date when it will be available for vessel loading.
- B. The drawing of samples and laboratory analysis will be performed by an Agricultural Marketing Service (AMS) grader and chemist, or by independent surveyor(s) and commercial chemist(s) mutually agreeable to CCC and the contractor, at contractor's expense.
- C. The samples shall be drawn from each ship's tank(s). When more than one (1) shipper supplies material for a commingled shipment, a representative sample of each shipper's material must be secured, prior to commingling.
- D. The chemical analysis by commercial chemist(s) must be performed under methods prescribed in the Trading Rules of the National Soybean Processors Association or the American Fats and Oils Associations, as applicable.

- E. If the services are performed by the independent surveyor(s) and commercial chemist(s), CCC may at any time request AMS to draw check samples and perform check analysis. The cost of such check sampling and analysis will be for the account of CCC. All samples shall be obtained in accordance with American Oil Chemists' Society Method C 1-47.
- F. Certificates issued pursuant to this section and Section 8 of this announcement will be only prima facie evidence of the matters therein stated at the time and place of inspection and determination of weight.

10. WEIGHTS

Determination of weight shall be by an independent surveyor mutually agreeable to CCC and the contractor. The weight will be determined at the time of loading aboard the vessel. Before such loading, each tank into which the bulk tallow is to be loaded will be examined by such independent surveyor to determine that the tank(s) are clean and otherwise suitable for receipt and carriage of the bulk tallow. The costs for these services are for the account of the contractor.

11. DELIVERY

- A. KCCO will issue a vessel preadvise at least 10 days prior to estimated time of arrival of the vessel. The delivery is to be effected at CCC's call during the delivery period at the port facility specified in the contract. Each contract is to be loaded in one or more vessels at CCC's option.
- B. The bulk tallow must be delivered f.o.b. vessel at the port facility specified in the contract. The bulk tallow will be deemed to have been delivered on the date as shown on the applicable on-board ocean bill of lading.
- C. Delivery occurs when the contractor stows the contracted quantity and quality required by the contract aboard the vessel(s) designated by CCC and the ocean carrier issues signed on-board ocean bill of lading showing the acceptance of the shipment.
- D. The date of delivery will be the "on-board date" shown on the ocean bill of lading, or in the absence of such date, the date of issuance of the ocean bill of lading.
- E. Loading
 - (1) Contractor will be responsible for having loading berth ready for the vessel within six hours after notice of readiness is tendered by the vessel. When the vessel is ready to load, contractor will be responsible for providing continuous pumping of the bulk tallow at a rate not less than 100 tons per running hour per weather working day, Sundays and holidays included.

- (2) Any vessel detention costs (demurrage) due to unavailability of loading berth as provided in subsection 10. E, or to loading at a lesser rate than 100 tons per hour will be for the account of the contractor.
- F. Contractor will pay all charges including, but not limited to, wharfage, dockage, tollage, service, handling, stevedoring, pumping, and steam (when steam is necessary) incurred in stowing the goods aboard the vessel designated and provided by or for CCC on the date or within the period fixed. When CCC supplies a vessel which is unable to provide sufficient steam, any expenses for pumping and providing steam will be for CCC's account.
- G. The contractor may deliver up to two (2) percent, more or less, of the contract quantity, at CCC's option.

12. TITLE AND RISK OF LOSS

Title and risk of loss to the tallow will pass to CCC upon delivery f.o.b. vessel.

13. LIQUIDATED DAMAGES

A. Compensation to Contractor for Late Mailing of Notice to Deliver

Liquidated damages for delay in delivery due to late mailing of the ND will be payable in accordance with Article 65 of USDA-1, and will be at the rate of \$0.10 per 100 pounds (net weight) per day.

B. Compensation to CCC for Delay in Delivery

Liquidated damages for delay in delivery will be payable in accordance with Article 67 of USDA-1, and will be at the rate of \$0.10 per 100 pounds (net weight) per day.

C. Compensation of Contractors for Delay by CCC (F.O.B. Vessel Only)

- (1) If CCC fails to take delivery by the last day of the delivery period specified in the contract for reasons beyond the control of the contractor, CCC will pay to contractor a premium to be added in the invoice to the contract price, unless such failure is for causes as defined in Article 2(j) of USDA-1.
- (2) The premium to be paid is based on the actual (noncumulative) number of days by which the delivery period is exceeded through the date the vessel presents the notice of readiness, as follows:
 - (a) If exceeded by 1, 2, 3, or 4 days, ½ of 1% of the f.o.b. price.
 - (b) If exceeded by 5 or 6 days, 1% of the f.o.b. price.
 - (c) If exceeded by 7 or 8 days, 1-1/2% of the f.o.b. price.

- (d) If exceeded by more than 8 days, an additional premium of 1/4 of 1% of the f.o.b. price for each day beyond 8 days.
- (3) If the f.o.b. vessel contract contains multiple prices, the premium will be calculated on the weighted average of the contract prices.

14. ACTUAL DAMAGES FOR FAILURE TO PERFORM

- A. Any actual damages suffered by CCC resulting from failure or refusal of the contractor to perform, not excusable under Article 68 of USDA-1, will be for the account of the contractor. Such actual damages will include but not be limited to the cost of demurrage, interport move, if required, and reprocurment costs.
- B. If the contractor is delayed in delivering the product f.o.b. vessel at the designated port and CCC determines that such delay is due to causes beyond the control and without the fault or negligence of contractor and any of its subcontractors, CCC will reimburse contractor on presentation of paid bills for charges incurred resulting from such delay. However, in no event will CCC be liable to the contractor if the contractor did not have the commodity in position at the port to be able to deliver the product within the delivery period specified by CCC.

15. INVOICES AND PAYMENT

- A. Invoicing and payment will be handled in accordance with Article 70, USDA-1. Invoices must be mailed to:

Kansas City Management Office
Commodity Financial Operations Division, SB-VIPS
P.O. Box 419205
Kansas City, MO 64141-6205

- B. Payments may be made directly to a financial banking institution. To receive payments electronically, Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form must be completed. The Debt Collection Improvement Act of 1996 amended 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers no later than January 1, 1999. If you have questions or would like this form mailed to you, contact Commodity Financial Operations Division, ICB.
- C. An invoice for the payment for the bulk tallow must be submitted on the original Notice to Deliver (Form KC-269) or other type of invoice acceptable to the Commodity Office. The invoice must be supported by one copy of each of the following:
 - (1) A signed and dated "on-board" ocean bill of lading.
 - (2) A chemical analysis certificate issued by the Agricultural Marketing Service.

OR

- (3) A chemical analysis certificate issued by an approved commercial chemist with includes the following certification:

“The undersigned hereby certifies that the chemical analysis certificate was issued as a result of the analysis of samples taken by an independent surveyor, and that such chemical analysis was performed in accordance with methods prescribed in the Trading Rules of the National Soybean Processors Association or American Fats and Oils Association Inc.” as applicable.

- (4) The certificate must state that the bulk tallow met the analytical requirements of the specifications as provided in the announcement.

NOTE: If the chemical analysis on bulk tallow is performed by a commercial chemist, a sampling certificate which includes a statement that the samples were drawn in accordance with American Oil Chemists Society Official Method C 1-47.

- (5) A survey report of the independent surveyor showing the weight of the bulk tallow delivered and a certification that the ships tank(s) were examined and found suitable for receipt and carriage of the bulk tallow.
- (6) The Agricultural Marketing Service's verification of the accuracy of the weight determination on an Agricultural Products Acceptance Certificate (Form LS-5-3) issued by the Agricultural Marketing Service.

16. INQUIRIES

Inquiries pertaining to USDA-1 and this announcement should be directed to:

Kansas City Commodity Office
Export Operations Division
P.O. Box 419205
Kansas City, MO 64141-6205

Alan King
Director
Kansas City Commodity Office