



ANNOUNCEMENT RSC1  
SALE OF PROCESSED FOOD COMMODITIES  
FOR USE OTHER THAN HUMAN CONSUMPTION  
(Supersedes Announcement KC-RS-1)

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

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 processed food commodities for use other than human consumption. The processed food commodities will be sold delivered in-store at the point(s) of storage.

B. Terms and Conditions

The invitation will specify the quality, quantities, location(s), container size, 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

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 form 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) Items 19 and 20. Must be an officer, owner, or partner of the company.

- B. Resubmit form SF-129 as necessary when the information requires updating.
- C. 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. CCC may require a power of attorney or other documentary evidence of the authority for a person to execute the contract in the name of offeror.
- D. 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 a financial statement to the KCCO before making an offer or communicate with that office to determine whether such a statement is desired. When satisfactory financial responsibility has not been established, CCC also reserves the right to consider an offer only after receipt from offeror of a certified or cashier's check, irrevocable commercial letter of credit, or other security (acceptable to CCC) assuring that if the offer is accepted, the offeror will pay for the product as provided in section 9 of this Announcement. The security for the offer will be returned to an unsuccessful offeror as soon as practicable after the opening of offers, and to a successful offeror after payment for the commodities.

### 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 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. 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 RSC1 DAIRY 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 Kansas City Commodity Office (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 Office (KCAO), mailroom's time stamp.
- (3) If sent by facsimile, time of receipt will be the time recorded by the KCAO Communication Center's equipment.

**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. QUALITY, WARRANTY, AND COMPLIANCE

A. It is expressly understood that the processed food commodities sold under this Announcement by CCC are not suitable for human consumption.

B. By submitting an offer, the offeror warrants that the commodity will not be used or resold for human consumption and agrees to handle the commodity in accordance with the requirements of this Announcement.

8. QUANTITY

CCC's acceptance of offers shall be on the basis of the entire invitation line item consisting of one or more warehouse lots. 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 the Dairy Grading Branch, Dairy Programs of USDA's Agricultural Marketing Service (AMS) or by the Federal Grain Inspection Service (FGIS) of USDA's Grain Inspection, Packers and Stockyards Administration. 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 10 business days after the date of the contract, payment for the commodity must be received in the KCCO by one of the following methods:
- (1) Wire transfer of funds from Contractor's bank as shown on acceptance wire.
  - (2) Certified check or cashier's check made payable to CCC.
  - (3) Irrevocable commercial letter of credit, acceptable to CCC, upon which CCC will draw drafts in accordance with the terms of the letter of credit as deliveries are made.
- B. If payment has not been made within 10 business days after the date of contract, interest at the rate per annum specified in the monthly sales list in effect at the time the offer is accepted by CCC shall be paid by the Contractor to CCC from the end of such 10 day period to the date of payment. Notwithstanding paragraph 10.B., the Contractor shall also be responsible for any storage charges commencing on the sixteenth business day following the end of such 10-day period.
- 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. DELIVER, 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. If financial arrangements are by letter of credit, CCC will issue a Notice to Deliver authorizing the release of the commodity to the Contractor in accordance with the terms of the letter of credit. If financial arrangements are other than a letter of credit, CCC will issue to the warehouseman a Notice to Deliver to transfer the commodity to the

Contractor once payment is received. The original of the Notice to Deliver will be mailed to the warehouseman and a copy will be mailed to the Contractor. The date of mailing the Notice to Deliver shall be the date of issuance.

- B. CCC shall be responsible for any storage charges accruing up to and including the fifteenth business day following the date of issuance of the Notice to Deliver. 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.
- C. Title and risk of loss shall pass to the Contractor when the commodity is delivered to the Contractor. Since it may be necessary to deliver physical possession of the commodity to the Contractor to accomplish denaturing, it is agreed that such delivery shall not be considered to have deprived CCC of a right to possession, title and ownership of the goods until the commodity is actually denatured as provided in section 11. It is further agreed that any loss of, or damage to the commodity after delivery to the Contractor, shall be the responsibility of the Contractor and shall reimburse CCC. CCC will assign to the Contractor any claims it may have which may be necessary to protect the Contractor's interest.

#### 11. DENATURING AND OBLITERATING MARKINGS

- A. The processed food commodity is offered for sale as not suitable for human consumption. The Contractor shall denature the commodity by any method meeting the requirements of local, State, and Federal Food and Drug Administration authorities. The denaturing of the commodity shall be performed as promptly as possible following delivery of commodity by CCC at origin in accordance with the provisions of section 10 and the applicable invitation. The denaturing must be performed not later than 60 days following the date of the contract and shall be under continuous inspection performed by AMS, or FGIS. Procedures and a schedule of fees for services may be obtained by contacting:

Dairy Grading Branch  
Dairy Programs, AMS  
Building A, Suite 370  
800 Roosevelt Road  
Glen Ellyn, Illinois 60137  
630-790-6920

Policy and Procedures Branch  
Field Management Div., FGIS  
Grain Inspection, Packers and  
Stockyards Administration  
Stop 3632  
1400 Independence Ave., S.W.  
Washington, DC 20250-3632  
202-720-0252

As part of the denaturing process, the Contractor shall obliterate all government markings and shall clearly mark the containers used for

packaging the commodity, "Not for Use as Human Food." All costs of denaturing, including costs of materials, labor, marking, and inspection, shall be for the account of the Contractor. The Contractor shall furnish the Kansas City Commodity Office within 10 days after date of its issuance, a certificate issued by AMS or FGIS stating that the commodity has been denatured and government markings have been obliterated. The Contractor may denature the commodity at a location other than origin as long as the Contractor is in compliance with local, State, and Federal Food and Drug Administration regulations at both origin and destination and has made arrangements for payment within the time provided in section 9 of this Announcement.

- B. The appearance in commercial or other channels of any labels, bags, containers, or packaging bearing government markings may cause Agency expense in determining whether commodities have been diverted from authorized use and in answering inquiries. Contractor therefore agrees to delete or obliterate, or arrange for the deletion or obliteration, of any such markings on any labels, bags, containers, or packaging. If any labels, bags, containers, or packages appear in commercial or other channels without deletion or obliteration of such markings or labels, Contractor agrees to pay the first \$5,000 of the cost of any resulting investigation undertaken by Agency.

## 12. LIQUIDATED DAMAGES

- A. Commodities, which are acquired under price support or related programs, are frequently sold for use other than as human food under this Announcement. The use of any part of any of these processed food commodities for human consumption not only will violate the Federal Food, Drug and Cosmetic Act, and the regulations issued thereunder, but may also result in the purchase by CCC of additional quantities of similar or related products under price support or other CCC programs. Since it will be difficult to prove the amount of damage to CCC in the event of breach of the Contractor's warranty herein contained, the Contractor shall pay to CCC by way of compensation as liquidated damages, and not as penalty, the amount by which such sales price is exceeded by (1) the purchase price paid for the commodity by CCC at the time of purchase, or (2) the sales price announced by CCC in its Monthly Sales List for the commodity for unrestricted use on the date of the contract, or (3) such sales price as stated in the Monthly Sales List on the date of breach of warranty, or (4) the market price the commodity would have at time of sale as determined by CCC when there is no announced sales price, whichever of the foregoing is the highest. It is mutually agreed that the damages provided for by this paragraph are reasonable estimates of probable actual damages. The Contractor agrees to pay such damages upon demand.
- B. Failure of the Contractor to denature the commodity within the period permitted in section 11 and in accordance with the provisions of that



paragraph will cause added administrative costs for the commodity which are not under the direct control of CCC. Since these costs and other possible damages would be difficult or impossible to compute, the Contractor shall pay to CCC by way of compensation as liquidated damages and not as a penalty \$200.00 per contract item for each thirty day period of delay or fraction thereof in denaturing up to a maximum of 90-days. After 90-days of delay beyond the period permitted in section 11 for denaturing, CCC may repossess the commodity and offer it for resale under this Announcement and hold the original Contractor liable for any damages sustained by reason of such resale. CCC will return to the original Contractor the purchase price for the commodity resold less such damages.

13. 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 his capacity as a farmer.

14. 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.

15. 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 unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Office a written appeal addressed to the Board of Contract Appeals, care of the Hearing Clerk, USDA, 1400 Pennsylvania Ave., Stop 0601, SW,

Washington, D.C. 20250. The decision of the 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 subparagraph 16. A.: 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 15. C., (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 Office determined Contractor has unduly delayed in pursuing remedies before the Board of Contract Appeals or a court of competent jurisdiction.

## 16. 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.

17. INQUIRIES

Inquiries pertaining to this announcement should be directed to:

Kansas City Commodity Office  
Dairy and Domestic Operations Division  
P.O. Box 419205  
Stop 8718  
Kansas City, MO 64141-6205  
816-926-6050

/s/George W. Aldaya

George W. Aldaya  
Director

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

# **APPENDIX 1**

## **Sales Offer Form**

### **ANNOUNCEMENT RSC1**

### **Sale of Processed Food Commodities**

### **For Use Other Than Human**

### **Consumption**



**SALES OFFER FORM**

**RSC1**

**1**

Subject to the terms and conditions of this invitation and Announcement RSC1, the undersigned offers to purchase CCC-owned nonfat dry milk at the prices quoted below.

**ENTER PRICE PER POUND (EXAMPLE: 1.9730).**

ITEM	BID PRICE		ITEM	BID PRICE		ITEM	BID PRICE		ITEM	BID PRICE	
001			024			047			070		
002			025			048			071		
003			026			049			072		
004			027			050			073		
005			028			051			074		
006			029			052			075		
007			030			053			076		
008			031			054			077		
009			032			055			078		
010			033			056			079		
011			034			057			080		
012			035			058			081		
013			036			059			082		
014			037			060			083		
015			038			061			084		
016			039			062			085		
017			040			063			086		
018			041			064			087		
019			042			065			088		
020			043			066			089		
021			044			067			090		
022			045			068			091		
023			046			069			092		

ENTER PRICE PER POUND (EXAMPLE: 1.9730).

ITEM	BID PRICE	MODE	ITEM	BID PRICE	MODE	ITEM	BID PRICE	MODE	ITEM	BID PRICE	MODE
093			120			147			174		
094			121			148			175		
095			122			149			176		
096			123			150			177		
097			124			151			178		
098			125			152			179		
099			126			153			180		
100			127			154			181		
101			128			155			182		
102			129			156			183		
103			130			157			184		
104			131			158			185		
105			132			159			186		
106			133			160			187		
107			134			161			188		
108			135			162			189		
109			136			163			190		
110			137			164			191		
111			138			165			192		
112			139			166			193		
113			140			167			194		
114			141			168			195		
115			142			169			196		
116			143			170			197		
117			144			171			198		
118			145			172			199		
119			146			173			200		

<b>KC-327-RSC</b> (6-01) <b>SALES OFFER FORM</b>	ANNOUNCEMENT NO. <b>RSC1</b>	INVITATION NO.	VENDOR NAME	PAGE <b>3</b>
--	---------------------------------	----------------	-------------	------------------

**1. INDEPENDENT PRICE CERTIFICATION**

Check appropriate certification for either subparagraph 4.B. **OR** 4.B.(1) and (2) of Announcement RSC1.

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 RSC1, **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 Announcement RSC1.

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

<b>KC-327-RSC</b> <small>(6-01)</small> <b>SALES OFFER FORM</b>	ANNOUNCEMENT NO. <b>RSC1</b>	INVITATION NO.	VENDOR NAME	PAGE <b>4</b>
---	---------------------------------	----------------	-------------	------------------

**NONDISCRIMINATION STATEMENT**

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of 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.