

UNITED STATES
DEPARTMENT OF
AGRICULTURE

COMMODITY
CREDIT
CORPORATION

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

EFFECTIVE: July 22, 2005

ANNOUNCEMENT BAR1

**PURCHASE OF
BARLEY**

FOR USE IN EXPORT PROGRAMS



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BARLEY

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ANNOUNCEMENT BAR1 PURCHASE OF BARLEY FOR USE IN EXPORT PROGRAMS

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 barley (hereinafter referred to as barley or product) 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, appendix 2 to this announcement, and the invitation.

2. ELIGIBILITY OF OFFERORS

To be eligible to submit an offer under this announcement, the bidder shall:

- A. Demonstrate its ability to meet the prescribed standards specified in the Government's vendor qualification requirements located at <http://www.fsa.usda.gov/daco>. This process will determine that a potential contractor has the quality, fitness, capacity, and experience to satisfactorily perform the proposed work and has demonstrated the requisite trustworthiness. The government reserves the right to adjust, limit, suspend, or rescind any potential contractor who has been deemed qualified and placed on the Government's Qualified Bidders List based on any subsequent information. The Government reserves the right to waive any minor irregularity and/or omission in the information contained in the qualification application that has been submitted.

- B. 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.
- C. Have Federal Grain Inspection Service (FGIS) official commodity inspections at the point of manufacture.

3. SUBMISSION OF OFFERS

A. How to Submit Offers

- (1) Offers, modifications, withdrawals of offers, and price adjustments must be submitted by using the Electronic Bid Entry System (EBES). **(The invitation will specify the Internet address to which offers, modifications, withdrawals of offers, and price adjustments are to be submitted).** Submission of the above by any means other than EBES will be determined non-responsive.
- (2) CCC will not be responsible for any failure attributed to the transmission of the bid data prior to being accepted and stored on our web server including but not limited to the following:
 - (a) Any failure of the offeror's computer hardware or software.
 - (b) Availability of your Internet service provider.
 - (c) Delay in transmission due to the speed of your modem.
 - (d) Delay in transmission due to excessive volume of Internet traffic.

B. Where and When to Submit Offers

- (1) Offers, modifications, withdrawals of offers, and price adjustments must be submitted to the Kansas City Commodity Office (KCCO), EBES web page 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) The time of receipt will be determined and recorded by the EBES system.

C. Late Submissions, Modifications, and Withdrawals of Bids

- (1) Any bid received by the EBES system after the designated time specified for receipt in the invitation will not be considered.
- (2) Notwithstanding paragraph C(1) above, a late modification of an otherwise successful bid that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

- (3) Notwithstanding paragraph A(1) above, a bid may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and that person signs a receipt for the bid.
- (4) For the purpose of this announcement, USDA-1, Articles 6 and 7 are excluded.

D. Basis of Offer

- (1) An offeror must quote a price for the cost of delivering commodities f.a.s. vessel or f.o.b. destination as specified in the applicable invitation.
- (2) In formulating the offer price, the offeror should consider in addition to the price of the barley, the cost of:
 - (a) Obtaining bags as specified in Appendix 2 of this announcement.
 - (b) Obtaining official commodity inspection certificates from FGIS, or any other organization designated by FGIS.

(NOTE) - Vendors are required to obtain or pay for FGIS export inspection certificates and should consider this additional cost when formulating the offer price. Vendors are required to make arrangements with FGIS for the inspection and issuance of the official certificates.
 - (d) Transportation expenses to the destinations specified in the applicable invitation.
 - (e) All port terminal charges to effect delivery f.a.s. vessel unloading.

E. Delivery Basis

- (1) Offer prices will be quoted and delivery will be either, f.a.s. vessel, intermodal plant, or intermodal bridge as specified in the contract.
- (2) Contractors must deliver the commodity according to the following:
 - (a) Contracts for f.a.s. vessel must be delivered in accordance with Article 56 of USDA 1.
 - (b) Contracts for intermodal plant must be delivered f.o.b. conveyance. Contractors are responsible for obtaining the transportation conveyance and loading the cargo. Steamship lines are responsible for transportation costs to the U.S. port and all charges incurred to load vessel.
 - (c) For intermodal bridge contracts, contractors are responsible for loading cargo and paying for transportation costs to a specific location at the designated U.S. point, named by the steamship line. Contractors are to contact the notify party indicated on the Notice to Deliver and/or the steamship line to obtain the

exact location for delivery. Steamship lines are responsible for transportation expenses incurred (if any) to move the transportation conveyance to a U.S. port, unloading the conveyance (including container stuffing charges, where applicable), and all charges incurred to load the vessel.

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 commodity price, factors considered in accepting offers will include the time of shipment, the lowest combination of commodity and ocean freight costs 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 2.
 - (5) USDA-1, except Articles 6, 7, 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, 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 comes from another USDA official.

6. NAICS CODE AND SMALL BUSINESS SIZE STANDARD

- A. The North American Industry Classification System (NAICS) code for this acquisition and the small business size standard is:

Commodity	NAICS Code	Size Standard (Employees)
Barley	311211	500

- B. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

7. 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.

8. 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 Federal 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 Federal Procurement Programs;
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal 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.

9. COMMODITY SPECIFICATIONS

A. Domestic Origin

- (1) The product delivered under this announcement shall be produced in the United States from commodities produced in the United States.
- (2) For the purpose 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 shall maintain records to verify that during the contract shipping period, at the point of packaging or, in 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. Quality of Product

- (1) All barley products must be tested for vomitoxin. Testing for vomitoxin is to be performed by the contractor. Any shipments in excess of two parts per million will be rejected to the contractor's account in accordance with Article 60.
- (2) The product will conform to the requirement of the United States Standards for Barley. The barley shall be cleaned using standard grain cleaning equipment to remove dockage, foreign matter and stones in accordance to good manufacturing practices.
- (3) The product must conform in every respect to the provisions of the "Federal Food, Drug, and Cosmetic Act," as amended, and the regulations promulgated thereunder, including any Defect Action Level guidelines issued by the Food and Drug Administration (FDA) which may be applicable to this product. Any shipments with counts in excess of the FDA Defect Action Level guidelines will be rejected to the contractor's account in accordance with Article 60 of USDA-1.
- (4) Warranty. The product must have a shelf life of at least one year from date of manufacture. Product must not be manufactured more than 30 days prior to shipping. Contractor must replace defective commodity with equal quantity of commodity which conforms to all contract requirements and specifications, provided replacement is agreed to by USDA.

C. Subject to the provisions of Articles 60 and 68 of USDA-1, product which deviates from the specifications of this contract will be rejected.

D. Product Analysis

Hulled cut barley shall be milled from U.S. No. 1 food grade supplies. The barley shall be hulled and cut in accordance with good manufacturing practices. The bran layer shall remain intact for nutritional content. The finished product shall conform to the following requirements:

Chemical Properties	
Moisture	14.0% Max.
Protein (NX 6.25)	13.0% Min

Physical Properties : 100 g. Rotap 2 min with hammer	
On U.S. # 8	15% Max
On U.S. # 12	75% Max
On U.S. # 16	75% Max
On U.S. # 20	15% Max

Thru U.S. # 20	5 % Max
Density	42 lb / Cu. Ft.

Microbiological Properties	
Aerobic Plate Count	100,000/ gm max
Coliform	100 / gm max
E. coli	Negative
Salmonella	Negative
Yeasts and Molds	1,000 / gm max

10. INSPECTION AND CHECKLOADING

- A. The inspection required by Article 54 of USDA-1 and checkloading as provided in Article 55 of USDA-1, will be performed by Federal Grain Inspection Service (FGIS). Checkloading is required for intermodal movements only. Procedures to be followed and a schedule of fees for this service may be obtained by contacting FGIS. Subject to Articles 54 (k) and (o) of USDA-1, the quality (as described in paragraphs 9.B.-D.), weight, packaging and checkloading (if applicable), of the product must be evidenced by commodity inspection certificates issued by FGIS. Contractors are required to notify KCCO immediately of lots that fail to meet contract requirements.
- B. Contractor must not ship the product unless informed by FGIS that the containers and markings meet the Acceptable Quality Level (AQL) of the "U.S. Standards for Condition of Food Containers." Notice by FGIS that a designated lot scheduled for shipment does not meet the AQL will constitute rejection to the contractor of such lot. Except with respect to shipments that do not meet the AQL standards, and notwithstanding Article 56 (b) of USDA-1, contractor may ship the product prior to receipt of the commodity testing and analysis results in which event contractor assumes all risks and liabilities that arise with respect to the failure of the shipped product to meet contract specifications.
- C. An examination will be performed by randomly selecting and weighing a specified number of filled shipping units for each production lot. The exact number of filled shipping units to be examined shall be determined in accordance with approved FGIS sampling procedures. The average net weight of the shipping unit shall be determined by subtracting the average tare weight from the average gross weight. The average net weight of the sampled shipping units must not be less than 98 percent of the marked net weight. Failure of the lot to meet the average net weight requirement shall cause rejection of the involved lot.
- D. If the product fails to meet contract specifications on one or more factors on the first inspection, the contractor may arrange with FGIS for subsequent inspections of the commodity. The inspections may be conducted at origin or a subsequent point of delivery if the provisions of Title 7 CFR 68.44 through 68.63 issued under the Agricultural Marketing Act of 1946, as amended, with respect to retest, appeal, and new inspections can be met. When subsequent inspections of the product are made, the results of the last inspection will be used as the basis for payment under the contract.

- E. Examination and certification of product by FGIS shall not relieve contractors of their responsibility to deliver a product that complies with all contractual and specification requirements.

11. SHIPMENT AND DELIVERY

- A. Shipment and delivery must be made in accordance with this announcement and Articles 56 and 64 of USDA-1.
- B. Title and risk of loss will pass to the designated steamship line, on the date of delivery, as evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to CCC.
- C. The quantity of the product delivered must be evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to CCC.
- D. Contractors are required to make **TWO** notifications for each shipment (See Article 56(c) of USDA-1):
 - (1) The Notify Party shown on the KC-269, "Notice to Deliver" (N/D), must be contacted prior to shipment.
 - (2) The contractor must submit form KC-366, Shipment Information Log, for each N/D, annotating on the form when the shipment is complete for each N/D. The KC-366 is to be faxed as early as possible daily as shipping occurs, until shipping is complete, to both the Traffic and Contract Administration Branch (TCAB), KCCO (facsimile number 816-823-3059) and the Notify Party(s) on the N/D. Contractors must notify the contracting officer in advance if shipments will not be made by the final shipment date under the contract, in accordance with Article 67(a) of USDA-1.

12. LIQUIDATED DAMAGES

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

Liquidated damages for delay in shipment due to late issuance of the N/D 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 Shipment

Liquidated damages for delay in shipment 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.

13. INVOICES AND PAYMENT

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

Kansas City Finance Office
Financial Operations Division, Payment Certification Branch
Stop Code 8578
P.O. Box 419205
Kansas City, MO 64141-6205

- B. The Debt Collection Improvement Act of 1996 amended U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers. Payments must be made directly to a financial banking institution. To receive payments electronically, Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form must be completed. If you have questions or would like these forms mailed to you, contact Financial Operations Division, Payment Certification Branch.

14. INQUIRIES

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

Kansas City Commodity Office
Export Operations Division
Stop Code 8738
P.O. Box 419205
Kansas City, MO 64141-6205

/s/

Steven P. Miteff
Acting Director
Kansas City Commodity Office