

UNITED STATES
DEPARTMENT OF
AGRICULTURE

COMMODITY
CREDIT
CORPORATION

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

EFFECTIVE: December 22, 1997

ANNOUNCEMENT PBL7

PURCHASE OF WHOLE DRY PEAS, SPLIT PEAS, DRY EDIBLE BEANS, AND LENTILS FOR USE IN EXPORT PROGRAMS



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WHOLE DRY PEAS, SPLIT PEAS, DRY EDIBLE BEANS, AND LENTILS

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**ANNOUNCEMENT PBL7
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DRY EDIBLE BEANS, AND LENTILS
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 whole dry peas, split peas, dry edible beans, and lentils (hereinafter referred to as peas, beans, lentils 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, 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.

D. Packaging and Marking Specifications

Appendix 2 to this announcement contains the detailed packaging and marking specifications, and other requirements, applicable to the product delivered under this announcement.

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) Item 10. Identify the commodities/products the offeror is interested in supplying.
 - (3) Items 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, 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 nonresponsive.
- (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.

D. Destination Delivery Basis

- (1) Offer prices will be quoted and delivery will be f.o.b. destination or f.a.s. vessel, as specified in the invitation.
- (2) The offeror's plant(s) which the offeror lists on the offer form will be the point(s) where delivery f.o.b. conveyance, as applicable, occurs on intermodal plant contracts.
- (3) On intermodal bridge contracts, the delivery point will be f.o.b. at the bridge port(s) specified in the offeror's offer form.

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 Appendixes 1 and 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.

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	Corresponding Sic Code	Size Standard (Employees)
Peas	42259	5159	500
Beans	42251	5153	500
Lentils	42259	5159	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.
- C. The U.S. Small Business Administration (SBA) has established the Procurement Automated Source System (PASS) to assist large businesses in locating small suppliers of goods and services. Presently, it lists profiles of over 200,000 companies, including minority-owned and women-owned firms. For more information concerning PASS, contact your local SBA office.

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 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. Specifications

- (1) Whole dry peas, split peas, and lentils must meet the specifications as defined in the "U.S. Standards for Whole Dry Peas, Split Peas, and Lentils" in effect at the time the applicable invitation for offers is issued. Whole dry peas shall grade U.S. No. 2 or better, except U.S. No. 3 or better because of cracked seed coats.
- (2) Information regarding grading factors must be included on inspection certificates issued by Federal Grain Inspection Service (FGIS). Split peas shall grade U.S. No. 2 or better. Dry edible beans shall grade U.S. No. 2 or better, except marrow, great northern, flat small white, small white, white kidney, light red kidney, dark red kidney, small red, pink, black, and miscellaneous beans, may include up to 5 percent

total defects due to surface dirt which is readily removed during processing, and will meet the specifications for the class(es) of beans listed in the invitation and in the "U.S. Standards for Beans."

- (3) Pea beans must grade U.S. No. 2 or better but will contain no more than 5 percent of beans with surface dirt and grime and total defects. Lentils must grade U.S. No. 3 or better.
- (4) The grade certificates issued by FGIS for beans, except for pea beans, containing between 4 and 5 percent total defects due to surface dirt will show the grade U.S. No. 3, and must include the following statement:

"This lot meets the requirements applicable for U.S. No. 2 or better (class of beans) except for defects due to dirt and grime."

- (5) The grade certificate issued by FGIS for pea beans must include the following statement:

"This lot contains (percent) of beans with surface dirt and grime and total defects. Beans with surface dirt and grime are not considered damage in pea beans and are not included in the "Total Defects results."

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

C. Average Net Weight Specifications

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.

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.-C.), 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 CCC 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 each Tuesday and Thursday, until shipping is complete, to both the Traffic Management Division, KCCO (facsimile number 816-926-6767) 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 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 1199A, Direct Deposit Sign-Up Form and Form W-9, Request for Taxpayer Identification Number and Certification, 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 these forms mailed to you, contact Commodity Financial Operations Division, ICB.

14. 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