



**United States
Department of
Agriculture**

May 20, 2002

EOD-111

Farm and Foreign
Agricultural
Services

NOTICE TO THE TRADE

Farm Service
Agency

To: All Suppliers of Value-Added Soy Products for Use in Export Programs

Kansas City
Commodity Office
P.O. Box 419205
Kansas City,
Missouri
64141-6205

The enclosed amendment to Announceme nt VASP1 is effective for all purchases made after May 20, 2002.

Any questions regarding the amendment should be directed to the Export Operations Division, Bulk Commodities and Freight Forwarding Branch, at 816-926-1477.

George W. Aldaya
Director

Enclosure



**UNITED STATES
DEPARTMENT OF
AGRICULTURE**

**COMMODITY
CREDIT
CORPORATION**

**KANSAS CITY COMMODITY OFFICE
POST OFFICE BOX 419205
KANSAS CITY, MO. 64141-6205**

May 20, 2002

**AMENDMENT 2 TO ANNOUNCEMENT VASP1
PURCHASE OF VALUE ADDED SOY PRODUCTS
FOR USE IN EXPORT PROGRAMS**

The purpose of this amendment is to:

1. Add the Total Quality Systems Audit (TQSA) Supplier Guidelines requirement.
2. Amend the specification requirements in Section 9 B., for the Soy Flour, Defatted and Textured Soy Proteins tables.

This amendment is effective with contracts awarded on or after May 20, 2002.

George W. Aldaya
Director

UNITED STATES
DEPARTMENT OF
AGRICULTURE

COMMODITY
CREDIT
CORPORATION

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

EFFECTIVE: May 20, 2002

ANNOUNCEMENT VASP1

**PURCHASE OF VALUE-ADDED
SOY PRODUCTS
FOR USE IN EXPORT PROGRAMS**



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**ANNOUNCEMENT VASPI
PURCHASE OF VALUE ADDED SOY PRODUCTS
FOR USE IN DOMESTIC 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 value added soy products (hereinafter referred to as soy products 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, the Total Quality Systems Audit (TQSA) Supplier Guidelines, 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

Section 11 of this announcement contains the commercial packaging and marking specifications 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) Item 19 and 20. Must be an officer of the company.
- B. Offeror 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 manufacturer or nonmanufacturer as defined below.
 - (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) Nonmanufacturer, means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public, and will supply the end item of a small business manufacturer or processor made in the United States, or obtain a waiver of such requirement pursuant to 13 C.F.R. 121.406.
- 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.

- ✓..F. Meet the requirements of the Total Quality Systems Audit (TQSA) program. Offerors shall only be allowed to offer from plants that have been audited under TQSA and have received a score of at least 80 points. However, a result of “0” in any element of the TQSA Report Form TQ-003 would preclude participation in the commodity purchase programs until such time corrective action is implemented and verified as effective. (Element scoring: 0= one (or more) questions with a result of “0”, or four or more questions with a result of “M”.) The Total Quality Systems Audit Suppliers Guidelines setting forth the TQSA requirements may be obtained at the Internet location www.fsa.usda.gov/daco/TQSA/tqsa.htm or by contacting the appropriate Contracting Officer. ..✓

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**) and must include a signed original and one copy of the offer form. Reproduction of the offer form are acceptable. Appendix 1 to this Announcement must be submitted 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 VASPI, (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, facsimile, 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.
 - (3) 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 changes.

(5) Changes by facsimile must contain the required signatures.

B. Where and When to Submit Offers

(1) Offers, modifications, 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 business day.

(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 Commodity Office (KCCO) mailroom.

(3) Offers, modification, or withdrawals of offers must be submitted to:

Kansas City Commodity Office
Export Bid Box
Export Operations Division
P.O. Box 419205 Mail Stop 8738
Kansas City, Missouri 64141-6205

(4) Users of the various express delivery services are to address correspondence to:

Kansas City Commodity Office
Export Bid Box
Export Operations Division
6501 Beacon Drive Mail Stop 8738
Kansas City, Missouri 64133-4676
Facsimile (FAX) Number for Bids: (816) 926-6767

C. Late Submissions, Modifications, and Withdrawals of Bids

(1) Any bid received after the designated time specified for receipt in the invitation will not be considered. Notwithstanding the 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.

(2) Notwithstanding the above, a bid may be withdrawn in person by a offeror or an 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.
- (1) 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 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) TQSA Supplier Guidelines.

(6) USDA-1, except Article 50 and all of Part E.

B. If the provisions of USDA-1, TQSA Supplier Guidelines, 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	NAICSCODE	SIZE STANDARD (EMPLOYEES)
Soy bean processing	311222	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 implemented the Procurement Marketing and Access Network (PRO-Net), which has replaced the former Procurement Automated Source System (PASS). PRO-Net is a procurement related Internet-based electronic search engine for locating small, small disadvantaged, and women-owned small business sources. The PRO-Net Internet address (URL) is (<http://pro-net.sba.gov>). Companies that do not have access to the Internet may register for PRO-Net through your local SBA Office. The PRO-Net is a free electronic gateway to the Commerce Business Daily, government agency home pages, and other sources of procurement opportunities.

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. Quality of Value Added Soy Products

- (1) 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.
- (2) Subject to the provisions of Articles 60 and 68 of USDA-1, product which deviates from the specifications of this contract will be rejected.
- (3) The product must meet the following requirements:

✓.. Soy Flour, Defatted

ITEM:	REQUIREMENTS	
	MINIMUM	MAXIMUM
Protein (N x 6.5) % As is	50	
Moisture, %		9.0
Fat, %		1.5
Crude Fiber, %		3.5
Ash, %		7.0
PDCAAS	0.90	
Carbohydrates (by Difference)	20	
Standard Plate Count		50,000 ✓..
Salmonella	Negative	
E. Coli	Negative	

Soy Protein Concentrates

ITEM:	REQUIREMENTS	
	MINIMUM	MAXIMUM
Protein (N x 6.5) % As is	65	
Moisture, %		6
Fat, %		1
Crude Fiber, %		4.0
Ash, %		6.0
PDCAAS	.95	
Carbohydrates (by Difference)	20	
Material Through a U.S. Standard 100 Screen	95	
Standard Plate Count		10,000
Salmonella (class)	Negative	
E. Coli	Negative	

Isolated Soy Protein

ITEM:	REQUIREMENTS	
	MINIMUM	MAXIMUM
Protein (N x 6.5) % As is	90	
Moisture, %		6
Fat, %		1
Crude Fiber, %		.2
Ash, %		4.5
PDCAAS	.90	
Carbohydrates (by Difference)	4	
Material Through a U.S. Standard 100 Screen	95	
Standard Plate Count		10,000
Salmonella (class II)	Negative	
E. Coli	Negative	

Soy Milk Replacers

ITEM:	REQUIREMENTS	
	MINIMUM	MAXIMUM
Protein (N x 6.5) % As is	25	
Moisture, %		5
Fat, %		25
Crude Fiber, %	NA	
Ash, %		6.0
PDCAAS	.90	
Carbohydrates (by Difference)	20	
Material Through a U.S. Standard 100 Screen	95	
Standard Plate Count		10,000
Salmonella	Negative	
E. Coli	Negative	

✓..

Textured Soy Proteins

ITEM:	REQUIREMENTS	
	MINIMUM	MAXIMUM
Protein (N x 6.5) % As is	50	
Moisture, %		10.0
Fat, %		3
Crude Fiber, %		4.0
Ash, %		6.5
PDCAAS	.90	
Carbohydrates (by Difference)	20.0	
Standard Plate Count		50,000/gm
Salmonella (class II)	Negative	
E. Coli	Negative	
Granule size	May vary from 1/16 inch to 1/4 inch ✓..	

10. QUALITY ASSURANCE

- A. The contractor must perform the product testing and quality analysis to ensure that the product meets the specifications described in Section 9. The results must be evidenced by a Certificate of Analysis. The contractor must retain the certificates of analysis and furnish to CCC upon request. Contractors are required to notify KCCO immediately of lots that fail to meet contract requirements.
- B. Contractor must not ship the product unless the containers and markings meet the Acceptable Quality Level (AQL) of the "U.S. Standards for Condition of Food Containers." Except with respect to shipments that do not meet the AQL standards, and notwithstanding Article 56 (b) of USDA-1, contractor assumes all risks and liabilities that arise with respect to the failure of the shipped product to meet contract specifications.
- ✓.. C. TQSA program is a method of contractor verification and shall not relieve contractors of their responsibility to deliver a product which complies with all contractual and specification requirements.
- D. If contractor becomes TQSA non-compliant after contract is awarded and through execution of contract, the contracting officer may terminate the contract for default. ..✓

11. COMMERCIAL PACKAGING AND MARKING SPECIFICATIONS

- A. In accordance with Article 60 of USDA-1, CCC's contractor will be liable if containers or packaging material do not meet contract requirements.
- B. All containers and packaging materials must be manufactured and assembled in the United States. The components that make up the fabricating materials of the containers and packaging materials must be of U.S. origin to the extent that they are commercially available.
- C. The marking and labeling for commercial products must be in accordance with good commercial practices.
- D. At contractor's option, a statement such as "NOT FOR RETAIL SALE" may be printed on the principal display panel of the food label.
- E. The manufacturer's lot code/lot identification must be shown on the commercial bill of lading.
- F. Container and packaging requirements for commercial products are those used in the current commercial shipping practices for export and must comply with the following unitization requirements:
 - (1) Unless otherwise specified by CCC, all shipments of packaged products must be unitized (palletized and stretch wrapped).

- (2) Pallets must be:
 - (a) Constructed to facilitate the safe handling and transportation of the packaged product, as a unit, without loss or damage.
 - (b) 48 X 40 inches, four-way or partial four-way, and reversible or nonreversible flush stringer.
 - (c) Suitable for use in the shipment of food products.
- (3) Plastic stretch wrap must be:
 - (a) Constructed of a plastic film which is to be stretched a minimum of 50 percent beyond its original length when stretched around the pallet load.
 - (b) Applied as tightly as possible around all tiers of the palletized shipping containers. The shipping containers must be held firmly in place by the stretch wrap.
- (4) Pallet loads must be:
 - (a) Stacked in such a way as to minimize the amount that shipping containers overhang the edges of pallets. (While shipping containers may overhang the edges of pallets, contractors are reminded that they are responsible for the safe shipment and delivery of the product.)
 - (b) Blocked and braced or otherwise loaded into the conveyance in a manner that prevents shifting during transit.
- G. Shipping containers must be marked to show the maximum safe stacking height. It is the responsibility of the contractor in cooperation with the shipping container manufacturers to determine the safe stacking height.

12. 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 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.

13. LIQUIDATED DAMAGES

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

Liquidated damages for delay in shipment due to late issuance of "Notice to Deliver" (KC-269), 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.

14. 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
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 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers. 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. If you have questions or would like these forms mailed to you, contact Financial Operations Division, Payment Certification Branch.

15. 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

George W. Aldaya
Director
Kansas City Commodity Office

UNITED STATES
DEPARTMENT OF
AGRICULTURE

COMMODITY
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CORPORATION

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

EFFECTIVE: December 10, 2001

APPENDIX 1

Certifications, Representations, and Warranties for EXPORT COMMODITY PROCUREMENTS



APPENDIX 1

Certifications, Representations, and Warranties

These certifications concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under the United States Code, including Title 18, U.S.C., Section 1001 and Title 15, U.S.C., Section 714m.

- The certifications, representations, and warranties listed in this appendix are required for submission of offers. The Kansas City Commodity Office (KCCO) will retain this appendix on file as the offeror's certifications, representations, and warranties for subsequent invitations for offers under the announcement(s) checked in the table below. By submitting an offer under the announcement(s) checked as applicable by the offeror in the table below, the offeror certifies and warrants that the appendix on file with KCCO contains the current status of the offeror. Offerors are responsible for updating this appendix as may be necessary prior to, or with any applicable offer submission by the offeror.

Export Announcements (Check <input checked="" type="checkbox"/> Applicable Announcements)			
BGGR	Bagging CCC-Owned Grain		KCPS Seeds
BO	Crude Degummed Soybean Oil & Crude Sunflower Seed Oil		MF Instant Corn-Soya Masa Flour
BWSF	Bulgur/Soy-Fortified Bulgur		MR Milled Rice
CO	Corn Oil		PBL Dry Edible Peas, Beans & Lentils
CMSF	Cornmeal/Soy-Fortified Cornmeal		SFSG Soy-Fortified Sorghum Grits
CSB	Corn-Soy Blend		SFSO Sunflower Seed Oil
CSSM	Corn-Soy/Instant Corn-Soy Milk		SSFR Seasoned, Soy-Fortified Rice
DPP	Dehydrated Potato Products		TAL Tallow
DVP	Dehydrated Vegetable Products		VASP Value Added Soy Products
EFR	Emergency Food Rations		VO Vegetable Oil
FF	Fresh Fruit		WFBF All Purpose Wheat Flour/ Bread Flour
FPP	Frozen Pork Products		WSB Wheat-Soy Blend
KC-P-BAGS	Bags and Twine		WSM Wheat-Soy Milk
KCBG	Purchase of Bagged Grain		
KCPG	Grains/Milled Rice		

2. Notice of Requirements for Certification of Nonsegregated Facilities

By submitting an offer under the announcement(s) indicated in paragraph 1 of this appendix, the offeror shall be deemed to have agreed to the provisions of the "Certification of Nonsegregated Facilities" in Article 31 of USDA-1.

3. Manufacturer (*Check One*)

Offeror represents and certifies that it is is not a manufacturer.

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.

4. Nonmanufacturer (*Check One*)

Offeror represents and certifies it is is not a nonmanufacturer.

Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public; and will supply the end item of a small business manufacturer or processor made in the United States, or obtains a waiver of such requirement pursuant to 13 C.F.R. 121.406.

5. Notice of Total Small Business Set-Aside (Applicable if procurement is a Total Small Business Set Aside)

A. Definition

"Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in Title 13 CFR 121.

B. General

SET-ASIDE ITEM NUMBERS ARE THOSE IN THE 700-900 SERIES. Offers received from other than a small business for small business set-aside item numbers will not be considered unless CCC is unsuccessful in contracting for those item numbers under set-aside provisions. In that event, CCC may award the set-aside item numbers to other than small businesses.

C. Agreement

A manufacturer or nonmanufacturer submitting an offer in its own name warrants that it will furnish in performing the contract, only small business set-aside end items manufactured or produced by small business concerns inside the United States, its territories and possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

6. Small Business Concern Representation (Check One)

- A. Offeror represents and certifies as part of its offer that it is is not a small business concern as defined in paragraph 5.A. of this appendix.
- B. If offeror is a small business concern, manufacturer or nonmanufacturer, it also represents that all not all end items to be furnished must be manufactured or produced by a small business concern in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

7. Small Disadvantaged Business Concern Representation (Check One)

Offeror is is not a small disadvantaged business concern as defined in Article 45 of USDA-1.

8. Women-Owned Small Business Representation (Check One)

Offeror is is not a women-owned small business concern as defined in Article 42 of USDA-1.

9. HUBZone Representation (Check One)

Offeror is is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

Offeror is is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in the above paragraph of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.*) The offeror is responsible for each HUBZone small business concern participating in the joint venture submitting a separate copy of the HUBZone representation.

10. Veteran-owned Small Business Concern Representation (Check One)

Offeror is is not a veteran-owned small business concern as defined below.

Veteran-owned small business concern means a small business concern:

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101 (2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

11. Service-disabled Veteran-owned Small Business Concern Representation (Check One)

Offeror is is not a service-disabled veteran-owned small business concern as defined below.

Service-disabled veteran-owned small business concern means a small business concern:

- (1) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (3) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service connected, as defined in 38 U.S.C. 101 (16)

12. Contingent Fee Representation (Check One)

The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror:

- A. Has Has not employed or retained any person or firm to solicit or obtain this contract;
- B. Has Has not paid or agreed to pay to any person or firm employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

13. Clean Air and Water Certification (Check One)

Offeror certifies as follows:

- A. Any facility to be used in the performance of this proposed contract is is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- B. Offeror must immediately notify the contracting officer, before award, of the receipt of any communication from the Administrator, or a designee of the EPA, indicating that any facility that the offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities;
- C. Offeror must include a certification substantially the same as this certification, including this paragraph, in every nonexempt subcontract. (Article 47 of USDA-1 contains the Clean Air and Water Clause.)

14. Affirmative Action Compliance (Check One)

Offeror represents that it:

- A. Has Has not developed and has does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (Title 41 CFR 60-1 and 60-2);
- B. Has Has not previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor.

15. Previous Contracts and Compliance Reports (Check One)

Offeror represents that it:

- A. Has Has not participated in a previous contract or subcontract subject either to the "Equal Opportunity" clause in Article 41 of USDA-1, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;
- B. Has Has not filed all required compliance reports;
- C. Must obtain representations indicating submission of required compliance reports signed by proposed subcontractors prior to subcontract awards.

16. Certificate of Independent Price Determination (Check A or B)

- A. Offeror certifies that the person submitting this bid, as identified in Section 20, is the person in offeror's organization responsible for determining the prices being offered in this bid and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of the "Certificate of Independent Price Determination" in Article 30 of USDA-1;
- B. Offeror certifies that the person submitting this bid, as identified in Section 20, is an authorized agent for (_____) and does certify that the principal named above has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3); and, as agent, has not personally participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of the "Certificate of Independent Price Determination."

17. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

- A. The definitions and prohibitions contained in the clause "Limitation on Payments to Influence Certain Federal Transactions" in FAR 52.203-12, are hereby incorporated, by reference, in this certification.
- B. The offeror, by submitting its offer, hereby certifies to the best of his or her knowledge and belief that:
 - (1) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;
 - (2) If any funds, other than federal appropriated funds (including profit or fee received under a covered federal transaction), have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror must complete and submit, with its offer, "Disclosure of Lobbying Activities" (OMB Standard Form LLL), to the contracting officer;
 - (3) The language of this certification must be included in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- C. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Title 31, U.S.C., Section 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

18. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (*Check All That Apply*)

- A. The offeror certifies, to the best of his or her knowledge and belief, that:

- (1) The offeror and/or any of its principals:

- (a) Are Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency;
- (b) Have Have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subdivision A(1)(b) of this provision.

- (2) The offeror has has not within a three-year period preceding this offer, had one or more contracts terminated for default by any federal agency.

- B. "Principals," for the purpose of this certification means officers, directors, owners, partners, and/or persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
- C. The offeror must provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- D. A certification where any items in paragraph A. of this provision exists shall not necessarily result in withholding of an award under this solicitation. However, certification shall be considered in connection with a determination of the offeror's responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the contracting officer may render the offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph A. of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- F. The certification in paragraph A. of this provision is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the contracting officer may terminate the contract resulting from this solicitation for default.

19. Taxpayer Identification

A. Definitions

- (1) "Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.
 - (2) "Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity or an unincorporated entity (e.g., sole proprietorship or partnership).
 - (3) "Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns.
- B. All offerors are required to submit the information required in paragraphs C. through E. of this section in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the IRS. If the resulting contract is subject to the reporting requirements described in FAR 4.903, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

C. Taxpayer Identification Number (TIN)

TIN: _____

TIN has been applied for.

TIN is not required because: _____

D. Corporate Status (*Check One*)

Corporation	
Sole Proprietorship	
Partnership	

E. Common Parent

Offeror is not owned by a common parent as defined in paragraph A.

Common parent name: _____

Common parent TIN: _____

20. The certifications, warranties, and representations as set forth in this appendix to the announcement(s) indicated as applicable in paragraph 1 of this appendix and Part C of USDA-1, are hereby made.

IN WITNESS WHEREOF, the undersigned has executed this offer this _____ day of _____, _____.

(Month) (Year)

NAME OF FIRM _____

SIGNATURE ¹ _____ TITLE _____

TYPED NAME _____

Officer or Employee Responsible for the Offer

Additional Representatives Authorized to Sign Offers

¹ Before signing this Appendix, see Article 6 of USDA-1.

Signature	Typed Name

ADDRESS _____

CITY _____

STATE _____

ZIP CODE _____

TELEPHONE NO. _____

FAX NO. _____

EMAIL ADDRESS _____