



June 28, 2005

United States
Department of
Agriculture

NOTICE TO THE TRADE

Marketing and
Regulatory
Programs

(ANNUAL REPRESENTATIONS AND CERTIFICATIONS)

Agricultural
Marketing
Service

Washington, DC
20250

Effective **August 1, 2005**, subject to the Federal Acquisition Regulation Part 4.12, the Commodity Procurement Branch (CPB) Fruit and Vegetable Programs (FVP) will require prospective contractors to submit Annual Representations and Certifications via the Online Representations and Certifications Application (ORCA), a part of the Business Partner Network (BPN). This will eliminate the administrative burden for contractors to submit the same information to various contracting offices; and establish a common source for this information to procurement offices across the Government.

Prospective contractors shall complete electronic annual representations and certifications at <http://orca.bpn.gov> in conjunction with required registration in the Central Contractor Registration (CCR) database. The prospective contractors shall update the representations and certifications submitted to ORCA as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and certifications are effective until one year from date of submission or update to ORCA.

Contractors who have previously (prior to August 1, 2005) submitted the Appendix 1 for calendar year 2005 will be relieved from the ORCA online registration requirement until the expiration date of their Appendix 1.

A revised abbreviated **Appendix 1 dated August 2005 (attached)** will be required for contractors registering via the ORCA system.

Please direct any inquiries concerning this new requirement to the contracting officers, CPB at 202-720-4517.

Stephanie Wells
Acting Branch Chief
Commodity Procurement Branch
Fruit and Vegetable Programs

Attachment



APPENDIX 1

**ANNUAL CERTIFICATIONS,
REPRESENTATIONS
AND WARRANTIES**

FOR PURCHASE OF FRUIT AND VEGETABLE PRODUCTS



(THESE CERTIFICATIONS CONCERN MATTERS WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTICIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER THE UNITED STATES CODE, INCLUDING TITLE 18, U.S.C. SECTION 1001)

This Appendix is incorporated by reference to all USDA/AMS Fruit & Vegetable Programs Announcements (Announcement) and must be submitted to the Contracting Officer so that the determination of responsibility can be made with respect to offers submitted in response to Invitations issued under the Announcement. The Fruit & Vegetable Programs of Agricultural Marketing Service (F &V-AMS) will retain on file this appendix as the offeror's certifications, representations, and warranties for subsequent Invitations for offers under the Announcement. By signing an offer under the Announcement, the offeror certifies and warrants that the Appendix on file with F&V-AMS is current. Offerors are responsible for updating this Appendix as may be necessary prior to submission, or with any applicable offer submitted.

A false certification may result in rejection of an offer, suspension or debarment, termination of the contract, liability for damages under the provisions under USDA-1, or criminal prosecution.

1. Notice of Requirements for Certification of Non-Segregated Facilities

By signing an offer under this Announcement, the offeror will have been deemed to have signed and agreed to the provisions of the "Certification of Non-Segregated Facilities" of Article 31 of USDA-1.

2. Responsibility of Offeror

- A. Offeror certifies that the producing plant(s) specified in the offer is a facility operating under the provisions of the Agricultural Marketing Act of 1946.
- B. The offeror agrees to include the certification in Paragraph A above in all applicable subcontracts.

3. Buy American Certification

By submitting an offer, the offeror certifies that end products to be furnished will be of domestic origin as defined in section I.F. of the Announcement. This provision is a deviation from 48 C.F.R. Part 25.

4. Domestic Products Certification

A. Responsibility

1. The offeror agrees to deliver only end products originating from U.S.-produced crops grown and processed and packaged solely in the United States as defined in section I. F. of the Announcement.
2. The offeror agrees to obtain approval of its domestic origin program prior to performance on USDA contracts for compliance with the domestic product requirements as defined in section I.F. of the Announcement.
3. The offeror agrees to include section I.F. “Domestic Products” in its entirety in all subcontracts for agricultural supplies used in fulfilling any contracts awarded under the Announcement.
4. The offeror agrees to maintain records including, but not limited to, invoices, production, and inventory records evidencing product origin; and to make such records available for review by the Government in accordance with Article 76 of USDA-1.

B. In making each shipment under the contract, the Contractor is certifying that all products delivered to USDA under the contract are domestic as defined in section I. F of the Announcement.

5. Contingent Fee Representation (Circle Option at A and B)

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

- A. **(HAS) (HAS NOT)** employed or retained any person or company to solicit or obtain this contract;
and
- B. **(HAS) (HAS NOT)** paid or agreed to pay to any person or entity 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.

6. Clean Air and Water Certification (Circle Option at A)

Offeror certifies as follows:

- A. Any facility in performance of this proposed contract **(IS) (IS NOT)** listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
and

- B. The offeror WILL 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 which it proposes to use for the performance of contract is under consideration to be listed on the EPA List of Violating Facilities; and
- C. The offeror WILL include a certification substantially the same as this certification, including this paragraph C, in every non-exempt subcontract. (Article 47 of USDA-1 contains the Clean Air and Water clauses)

7. Additional Certifications

1. 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 material, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

2. Nonmanufacturer (Check One)

Offeror represents and certifies it is, is not a non-manufacturer.

Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sell 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.

- 8. In addition to the submission of Appendix 1, prospective contractors must also complete the online Annual Representations and Certifications via the Online Representations and Certifications Application (ORCA), a part of the Business Partner Network (BPN) at <http://orca.bpn.gov> in conjunction with required registration in the Central Contractor Registration (CCR) database.

8. Authorized Signatures

| Additional Representatives Authorized to Execute Contracts | |
|---|------------|
| Signature | Typed Name |
| | |
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- 9. The certifications, warranties, and representations as set forth in this Appendix and part C and D of USDA-1, are hereby made.**

IN THE WITNESS WHEREOF, the undersigned has executed this Appendix this _____ day of _____, _____

NAME OF FIRM: _____

SIGNATURE:* _____ TITLE: _____

(Typed Name of the Officer or Employee Responsible for Offers)

TYPE OF FIRM: _____
(Corporation, Partnership, Individual Proprietorship)

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NO: _____ FAX NO: _____

TAX IDENTIFICATION NO. (TIN): _____

*** Before signing this Appendix, See Article 6 of USDA-1, Signing of Offers**