Commodity Procurement Division

1400 Independence Avenue, SW Room 3932-S, STOP 0256 Washington, DC 20250-0201

August 1, 2012

AMENDMENT NO. 2

AGRICULTURAL MARKETING SERVICE MASTER SOLICITATION FOR COMMODITY PROCUREMENTS

This amendment is issued to make the following changes to the Master Solicitation, as follows:

1. Add the following statement under Section II.A(3) WBSCM Offer Form, to read:

Constraints - AMS does not allow offerors to enter minimum constraints, but allows to enter maximum constraints. AMS may award any volume up to the maximum constraints submitted by the offeror. Any minimums submitted with the bids will not be accepted.

2. Amend the chart under Section X. Invoices and Payment Process, as follows:

If the items delivered are:	Payment must be made as close as possible	
	to but not later than:	
Meat or meat food products. As defined in	7 th day after product delivery.	
section 2(a)(3) of the Packers and Stockyard		
Act of 1921 (7 U.S.C. 182(3)), and as further		
defined in Public Law 98-181, including any		
edible fresh or frozen poultry meat, and		
perishable poultry meat food product, fresh		
eggs, and any perishable egg product.		
Fresh or frozen fish. As defined in section	7 th day after product delivery.	
204(3) of the Fish and Seafood Promotion Act		
of 1986 (16 U.S.C. 4003(3)).		
Perishable agricultural commodities As	10 th day after product delivery, unless another	
defined in section 1(4) of the Perishable	day is specified in the contract.	
Agricultural Commodities Act of 1930 (7		
U.S.C 499a(4)). (This includes frozen fruit		
and vegetable products).		
All other processed canned commodities	30 th day after product delivery	
(including fruits, vegetables, fish, and poultry		
products).		

3. Delete the North American Industry Classification System (NAICS) codes 111331 (Apple Orchards) and 111310 (Orange Groves) and replace it with 424480, change the description of NAICS code 311991, and change the small business size standard of NAICS code 414510 under Section XII.A(1) and (2), as indicated below. NAICS codes for all other commodities and/or commodity groups remain the same.

Size Standards

NAICS	Commodity Description	or No. of employees
	Fresh Fruits & Vegetables Merchant Wholesalers	
424480	(including bulk commodities)	500
	Perishable Prepared Food Manufacturing	
311991	(fresh sliced apples, baby carrots, etc.)	500
424510	Grain and Field Bean Merchant Wholesalers (Dry Beans and Legumes)	500

Millions of Dollars (\$)

4. Incorporate the representation and assurance regarding felony conviction or tax delinquent status for corporate applicants under Section XII. FAR/AGAR Provisions by Reference, as follows:

C. AGAR Clauses

AGAR 452.209 -71

ASSURANCE REGARDING FELONY CONVICTION OR TAX DELINQUENT STATUS FOR CORPORATE APPLICANTS

- (a) This award is subject to the provisions contained in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. No. 112-55, Division A, Sections 738 and 739 regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by accepting this award the contractor acknowledges that it –
- (1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and
- (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal or State law within 24 months preceding the award, unless a suspending and debarring official of the United States Department of Agriculture (USDA) has considered suspension or debarment of the awardee, or such officer or agent, based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government.
- (b) If the awardee fails to comply with these provisions, the Agricultural Marketing Service, USDA, may terminate this contract for default and may recover any funds the awardee has received in violation of sections 738 or 739.

(End of Clause)

E. AGAR Provisions

AGAR 452.209 –70 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction.

REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION (DEVIATION 2012-01) (FEB 2012)

- (a) Awards made under this solicitation are subject to the provisions contained in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (P.L. No. 112-55), Division A, Sections 738 and 739 regarding corporate felony convictions and corporate federal tax delinquencies. To comply with these provisions, all offerors must complete paragraph (1) of this representation, and all corporate offerors also must complete paragraphs (2) and (3) of this representation.
- (b) The Offeror represents that
 - (1) The Offeror is [], is not [] (check one) an entity that has filed articles of incorporation in one of the fifty states, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, U.S. Virgin Islands. (Note that this includes both for-profit and non-profit organizations.)

If the Offeror checked "is" above, the Offeror must complete paragraphs (2) and (3) of the representation. If Offeror checked "is not" above, Offeror may leave the remainder of the representation blank.

- (2) (i) The Offeror has [], has not [] (check one) been convicted of a felony criminal violation under Federal or State law in the 24 months preceding the date of offer.
 - (ii) The Offeror has [], has not [] (check one) had any officer or agent of Offeror convicted of a felony criminal violation for actions taken on behalf of Offeror under Federal or State law in the 24 months preceding the date of offer.
- (3) The Offeror does [], does not [] (check one) have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(End of provision)

All other terms and conditions remain unchanged.

Sincerely,

Felicitas C. Lofton Contracting Officer

AMS, Commodity Procurement Division