

ANNOUNCEMENT PY-289

Purchase Of

TURKEY TACO FILLING

For Distribution To Eligible Outlets



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Announcement PY-289

I. GENERAL

A. The United States Department of Agriculture (USDA) will periodically issue an Invitation for offers (Invitation) under this Announcement to sell to USDA frozen taco filling (commodity). The Commodity Specification listed below is published separately and is incorporated herein and made a part hereof.

Commodity Specification for Turkey Taco Filling dated July 2004

- Turkey Taco Filling (231330)

Interested offerors must submit (1) a Technical Proposal as described in Section III. and (2) two pre-bid samples of the turkey taco filling prepared in accordance with the Commodity Specification and the offeror's Technical Proposal. Approved suppliers will be chosen based on evaluation of the pre-bid samples. Only approved suppliers will be invited to submit offers. Suppliers approved under the previous year's announcement (PY-274) remain approved and need not re-submit a Technical Proposal or samples. However, product must be produced under the Technical Proposal that was previously approved.

B. The Invitation will specify the commodity, the offer date, the delivery period, the destinations, estimated quantities, the closing time for receipt of offers, and any provisions applicable to the proposed procurement which are in addition to or different from those contained in the Announcement. Provisions of the General Terms and Conditions for the Procurement of Agricultural Commodities or Services, Revision No. 2, dated November 1984, and Amendments 1, 2, 3, and 4, dated October 1990, November 1990, August 1989, and March 1990, respectively (USDA-1), are incorporated herein except as specifically excluded. Offerors are cautioned to carefully read all applicable terms and conditions of USDA-1, this Announcement, the applicable Invitation, and the Commodity Specification. The Contractor is cautioned that statements made by persons other than the Contracting Officer are not binding on the Government unless subsequently confirmed in writing by the Contracting Officer.

C. Offer prices will be f.o.b. (or f.a.s vessel) at the destinations listed in the applicable Invitation. Offers will be invited on a purchase unit basis or multiples thereof, except that from time to time the Invitation will indicate two or more destinations in a line item which will require a split delivery (drop) at each destination. Delivery by either mechanically refrigerated trucks or mechanically refrigerated railcars is at the option of the Contractor except for those destinations which specify the method of delivery.

D. Responsibility of Offeror

A firm submitting an offer under this Announcement must meet the Federal standards for responsibility in the Federal Acquisition Regulations at 48 C.F.R. part 9, USDA-1, and this Announcement. Facilities to be used in fulfilling USDA contracts must be operating under the provisions of the Poultry Products Inspection Act (PPIA) and regulations issued thereunder. All subcontractors and suppliers subject to the PPIA who will be utilized in fulfilling this procurement, either directly or indirectly, must first be approved by the Contracting Officer for responsibility. Approval must be received prior to their performance under this Announcement. Offerors must submit a complete list of all subcontractors and suppliers including potential subcontractors and suppliers, prior to the offeror's participation in this program. During the life

of the Announcement, offerors must update the list of subcontractors and suppliers as changes occur. Subcontractors and suppliers will be determined to be nonresponsible if they have been suspended or debarred and that suspension or debarment is in effect at the time of a bid or during performance.

In addition to the certifications required by Parts C and D of USDA-1, the offeror must also certify in item 6 of the offer, that: (1) all producing plants specified in the offer are facilities operating under the provisions of the PPIA; (2) neither the offeror nor any of its officials are currently suspended or debarred as defined under 48 C.F.R. § 9.4; (3) the offeror will identify to the Contracting Officer all prospective subcontractors and suppliers subject to the PPIA and request a determination of responsibility prior to their performance; (4) the offeror will only utilize those subcontractors or suppliers in fulfilling the contract who have been approved by USDA; and (5) the offeror will include these certification requirements in every subcontract for the poultry component of this commodity.

Offerors are cautioned NOT to OFFER quantities in excess of what they can reasonably expect to timely deliver in accordance with the contract. Deliveries must be made during the contracted delivery period. No extensions will be granted due to weekends or Federal holidays. Because this commodity is used in domestic food programs, on-time delivery is imperative. See Section VIII.B. as to the importance of timely delivery and the difficulty inherent in quantifying actual damages for delay in delivery. Late deliveries cause serious and substantial damages to USDA and to other agencies that use this commodity. **Contractors delivering late on a contract(s) must immediately notify the Contracting Officer of late deliveries and how soon delivery can be expected. Additionally, if the Contractor intends to request an extension of time due to causes beyond the control and negligence of the Contractor, such notice must be made to the Contracting Officer 3 business days in advance of bid opening in which the Contractor wants to bid. Notification must include (1) a production report of completed and/or expected production, including pounds and dates, and (2) actual or expected shipment or delivery dates by Delivery Order (D/O) numbers. See Article 68 of USDA-1.** Offeror must certify to timely performance on outstanding contracts in each offer. A determination that the late performance is beyond the control or negligence of the Contractor or the Contractor's subcontractor must be made by the Contracting Officer prior to bid opening. An offeror may be deemed nonresponsible if the late shipment/delivery is not due to causes beyond the Contractor's control or negligence. This provision is a deviation from 48 C.F.R. § 9.103(b) and § 19.6.

Contractor must be registered with the Central Contractor Registration (CCR) as prescribed in 48 C.F.R. § 4.1104 and must certify in its Certifications, Representations, and Warranties (Appendix-1) on file with the Contracting Officer.

An offeror's false certification may result in rejection of the offer, suspension and debarment, termination of the contract, liability for damages under the provisions of USDA-1, civil damages, and criminal prosecution.

With respect to purchases under the 8(a) program, the conditions and clauses contained in the Agreement Between USDA, Agricultural Marketing Service (AMS), and the Small Business Administration (SBA) (Interagency Agreement), apply to the 8(a) Contractor as defined in 48 C.F.R. § 19.800(a). For the purposes of purchases made under the 8(a) program, reference to "Contractor," in all USDA contract documents, means the 8(a) Contractor. In accordance with the Interagency Agreement as authorized under 48 C.F.R. § 19.800(c), SBA has delegated responsibility to USDA for the administration of contracts awarded to 8(a) Contractors with

complete authority to take any action on behalf of the Government under the terms and conditions of the contract. In the event of non-performance of a contract by an 8(a) Contractor or its subcontractor, it is agreed that no further contract will be offered by the SBA to that Contractor during the current fiscal year or until claims for damages resulting from non-performance are settled.

E. Buy American Certification

End products furnished must be of domestic origin as defined in Section I.F., below. To the extent, if any, that this provision is a deviation from 48 C.F.R. part 25 and for the purposes of this Announcement, this provision supersedes Articles 34 and 49 of USDA-1.

F. Domestic Products

The commodity must be of 100 percent domestic origin, meaning that it was produced and processed from poultry and/or egg products, including maltodextrin, (products) which were produced, raised, and processed only in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territories of the Pacific Islands (hereinafter referred to as “the United States”). If the Contractor processes or handles products originating from sources other than the United States, the Contractor must have an acceptable identification and segregation plan for those products to ensure they are not used in commodities purchased under the Announcement. This plan must be made available to a representative of the Grading Branch, Poultry Programs, AMS, USDA (Grader), and the Contracting Officer or agent thereof upon request. The Contractor must ensure that both the Contractor and subcontractor(s) maintain records such as invoices, or production and inventory records evidencing product origin, and make such records available for review by the Government in accordance with Article 76 of USDA-1. Contractor agrees to include this domestic origin certification clause in all subcontracts for products used in fulfilling contracts awarded under this Announcement. The burden of proof of compliance is on the Contractor. Failure to observe this requirement may lead to actions including, but not limited to, the assessment of actual and/or liquidated damages, suspension or debarment, contract termination, penalties at Title 18, Section 1001 of the US Code concerning falsification of information, or other remedies in favor of the Government as may be allowed by law. The attached form (EXHIBIT 3) must be completed for each contract awarded and be presented to a Grader at the processing facility prior to performance in this program, and the Contracting Officer or agent thereof upon request.

G. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity

1. If the Government receives information that a Contractor or 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, 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 evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

2. If the Government rescinds the contract under paragraph (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 Announcement.

H. Service of Protest

1. Protests, as defined in 48 C.F.R. § 33.101, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer by obtaining written and dated acknowledgment of receipt.

2. The copy of any protest shall be received in the office designated above within 1 day of filing a protest with the GAO.

I. Requirements

Requirements contracts, as described in 48 C.F.R. § 16.503, will be awarded for turkey taco filling for the delivery periods stated in the Invitation. The quantities of turkey taco filling in the Invitation are estimates only and are not purchased by this contract. The quantities specified are the maximum orders to be purchased, and may be subject to adjustment based on changes in needs by recipient agencies.

Delivery must be made only as authorized by the Notice to Deliver (N/D) issued in accordance with the Ordering clause (48 C.F.R. § 52.216-18). Subject to any limitation in the Delivery-Order Limitations clause (48 C.F.R. § 52.216-19) or elsewhere in this Announcement, the Contractor must furnish to USDA all commodity as specified in the Commodity Specification and called for by the N/D issued in accordance with the Ordering clause.

The commodity must not be processed and packaged more than 30 days prior to the first day of the delivery period.

J. Ordering

N/D's for domestic deliveries will be issued by the Kansas City Commodity Office (KCCO) not later than 30 days prior to the first day of the delivery period. N/D's for offshore deliveries will be issued by the KCCO not later than 7 days prior to the first day of the delivery period.

Products to be furnished under this Announcement shall be ordered by issuance of N/D's by KCCO. An N/D is considered "issued" when KCCO deposits the notice in the mail. All N/D's are subject to the terms and conditions of this Announcement.

AMS reserves the right to suspend ordering should market conditions warrant.

K. Pricing

Offerors will bid only one processing cost per pound for the entire Invitation, and one transportation cost per pound to each State listed in the Invitation (see Exhibit 4).

1. Base Price

a. The base price is intended to reflect the approximate value of the turkey contained as ingredients in the finished turkey taco filling. The base price per pound will be 18 cents plus the Fresh Tom Drumstick Weekly Weighted Average Price published by the USDA Poultry Market News on the Friday prior to the week each N/D is issued. The average price will be expressed on a per-pound basis, rounded to the fourth decimal place.

b. If no price is quoted for the specific week an N/D is issued, the base price will be the last published price for the Fresh Tom Drumstick Weekly Weighted Average Price.

c. Inquiries on the Fresh Tom Drumstick Weekly Weighted Average Price should be directed to Poultry Programs, Market News Branch, by telephoning (202) 720-6911.

2. Offer Price

a. Offerors will bid only one processing cost per pound for the entire invitation, and one transportation cost per pound to each State listed in the Invitation. These costs, added together, will constitute the offer price. The offer price is intended to reflect the cost of manufacturing turkey into turkey taco filling and other costs, and reflects the difference between the base price and the final price to produce and deliver the specific end products.

b. The offer price will be added to the base price for each N/D to determine the price per pound to be paid.

c. Offers must specify only one transportation cost per line item listed on the invitation. Line items with more than one cost listed will not be considered.

II. EVALUATION FACTORS FOR AWARD

An offer which was not approved under the previous year’s Announcement (PY-274) must submit two pre-bid samples, its Technical Proposal, and a PY-210 Poultry Grading Certificate to be eligible for award. The two samples must be received, at no expense to the Government, at or prior to the time specified for receipt of samples. The pre-bid samples will be evaluated as stated below. One of the two samples will be evaluated by a five-member panel. The remaining sample will be held for comparison purposes. The samples will be scored for overall quality on texture, appearance, flavor, and packaging. Samples will be evaluated on a pass/fail basis, with a score of 75 percent or above passing. Individual test results will be provided to participating vendors submitting samples. Vendors whose samples pass the evaluation process will be placed on an “Approved Supplier” list.

FACTOR/SUBFACTOR	WEIGHT/POINTS
1. TEXTURE	50
Chewiness	25
Mouth Feel/Bite	15
Juiciness	10
2. APPEARANCE	50
Crumbles	35
Separability	10
Color	5
3. FLAVOR	40
Seasonings	30
Greasiness	5
Aftertaste	5
4. PACKAGING	10
Package Integrity	10

III. PRODUCTION AND SUBMISISON OF PRE-BID SAMPLES, TECHNICAL PROPOSAL, AND OFFERS

A. Where and How to Submit Pre-Bid Samples and Technical Proposals

A minimum of 30 pre-bid samples must be prepared in accordance with the Technical Proposal under the direct supervision of a USDA Grader. The cost for the USDA Grader will be at the expense of the contractor. The Technical Proposal and **two** pre-bid samples must be prepared and submitted in accordance with the guidelines found in Section 10 of the Poultry Graders Handbook. The remaining 28 samples will be maintained under the Grader’s control in a sample box or cage with a USDA-approved locking device and held in the freezer of the production facility. A PY-210 Poultry Products Grading Certificate shall accompany the samples submitted to the address listed below. The samples shall be packaged in the same style and packed in the same type of shipping container as stated in the Commodity Specification. Samples must be labeled with the name of the offeror and the following statement: **SAMPLES SUBMITTED FOR EVALUATION UNDER ANNOUNCEMENT PY-289**. Submit samples to the following address:

Contracting Officer
 USDA/AMS/Poultry Programs
 Room 3941-South
 1400 Independence Avenue SW
 Washington DC 20250

The Technical Proposal must include the following:

1. Statement identifying submission as the Technical Proposal. State “For Announcement PY-289.”
2. Name and complete address of offeror (include both street and mailing address, if different), return phone number, and FAX number.
3. A specific description of the formulation, processing steps, and equipment used to produce the turkey taco filling in accordance with the Commodity Specification. **The same formulation procedures and equipment must be used for the production of both the commodity and the pre-bid samples.**
4. **Signature and title** of person submitting the Technical Proposal on behalf of the offeror. The person submitting the Technical Proposal must be an officer or representative authorized to sign as evidenced by the Solicitation Mailing List Application (Standard Form-129) filed with the Contracting Officer.

B. Where and How to Submit Offers (Approved Suppliers Only)

Offers must be submitted by mail, FAX, or hand delivery.

FAX: 202-205-1977 (24 hours)
 Verification: 202-720-2104 (7:00 am – 4:15 pm, Eastern Standard Time, Mon.-Fri.)

If the offer is sent by mail or hand delivered, place the notation “Do not open until prescribed time per Announcement PY-289” on the lower left-hand corner of the envelope. Offerors may contact the Contracting Officer to verify receipt of a mailed offer prior to the time set for receipt of offers by telephoning 202-720-7693.

Offers, modifications, or withdrawals of offers must be addressed as follows:

Contracting Officer
 USDA/AMS/Poultry Programs
 Commodity Procurement Branch STOP 0260
 1400 Independence Avenue SW
 Washington, DC 20250-0260

Offers, modifications, or withdrawals of offers must be received in the USDA-AMS-Management Services Division (MSD)-Communications Office (CO), the USDA mailroom, or, if hand delivered, the office of the Contracting Officer not later than **12 noon, Central Time**, on the Monday as indicated in the Invitation. In the event Monday falls on a nonworkday for USDA employees in the District of Columbia, offers, modifications, or withdrawals are to be received not later than **12 noon, Central Time**, on the next succeeding business day. Whether an offer, modification, or withdrawal is received within the time limitation will be determined by

the latest time recorded by the USDA-AMS-MSD-CO (if by fax), or, in the case of mail, the time stamp recorded by the USDA mailroom in Washington, DC. For hand-delivered offers, modifications, or withdrawals, the time of receipt will be determined by the time recorded by the office of the Contracting Officer.

An offeror must have completed and submitted a Standard Form-129 and Certifications, Representations, and Warranties (Appendix-1), which must be signed by a duly authorized officer of the company, prior to making an offer. If not already received, copies of Standard Form-129 and Appendix-1 may be obtained from the Contracting Officer or the commodity procurement website at www.ams.usda.gov/cp. An offeror who has previously provided a Standard Form-129 must furnish updated information only.

The offeror must complete all portions of the Standard Form 129 (except item 18) in accordance with the attached EXHIBIT 1 and include the following information for Items 4, 8, 10, 14, 16B, 19, and 20:

- | | |
|-------------------|---|
| Items 4 and 8 : | The Federal inspection plant number. |
| Item 8 : | Identify all affiliates, including any parent company. |
| Item 10 : | The products the offeror is interested in supplying, weekly volume of production, and percent of capacity available for USDA contracts. |
| Item 14 : | Company's DUNS Number. |
| Item 16B : | Identify the freezer or warehouse to be used and its storage capacity. |
| Items 19 and 20 : | Must be an officer of the company, as identified in item 7. |

An offer must include each of the following numbered items in the order listed (See EXHIBIT 2 of this Announcement for examples of offers.)

1. Offer is made subject to Announcement PY-289, Appendix-1; the Commodity Specification for Turkey Taco Filling dated July 2004; Invitation No. ____; and USDA-1.

NOTE: If documents are subsequently amended, offers must reference such amendments.

2. Name, complete address of offeror, telephone number, and return number.

NOTE: If more than one return number is listed, the first one will be used for any acceptance wire.

3. Processing Cost.

NOTE: Offers will be made and considered only for one processing cost per pound.

4. Item number listed on applicable Invitation, destination*, and transportation price per pound to specific destination for each processing plant, if more than one processing plant will be used.

*OFFEROR MAY, AT OFFEROR’S OWN RISK, EXCLUDE THE NAME OF THE DESTINATION. ERRORS IN ITEM NUMBERS WILL NOT BE APPARENT TO THE CONTRACTING OFFICER.

- NOTE:
- a. Offers will be made and considered only for one transportation cost for each processing plant for each item number listed on the invitation.
 - b. The Invitation will indicate any restrictions in the mode of shipment on particular destinations by indicating “Truck Only” or “Rail Only.”
 - c. Offers should include as many item numbers as desired.
 - d. Offers must not include the number of purchase units by item number or delivery option.
 - e. Offer prices may be quoted for up to four places to the right of the decimal point. **If more than four places, any digit past the fourth will be dropped.**

5. Name and location (include complete street address and country) of (a) each final processing plant and (b) shipping point for each processing plant. If the shipping point is the same as the processing plant, state “Same.”

6. Name, complete mailing address, and telephone number of office or person to receive shipping and delivery instructions.

7. Timely Performance Certification. Answer (a), (b), (c), or (d) as appropriate.
- (a) The offeror (HAS) completed required performance of any contract with USDA prior to this bid opening; OR
 - (b) The offeror (HAS NOT) completed required performance of any contracts with USDA prior to this bid opening and (HAS) notified the Contracting Officer; OR
 - (c) The offeror (HAS NOT) completed required performance of any contracts with USDA prior to this bid opening and (HAS NOT) notified the Contracting Officer; OR
 - (d) The offeror (DOES NOT) have outstanding contracts with USDA.

8. Certificate of Independent Price Determination.

- (1) Offeror certifies that the person submitting this bid, as identified in item 12 below, (IS) the person in the 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" clause of Article 30 of USDA-1; or
- (2) Offeror certifies that the person submitting this bid, as identified in item 8 below, (IS) an authorized agent for (name of principal), 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) of the "Certificate of Independent Price Determination" clause of Article 30 of USDA-1; and, as agent, (HAS NOT) personally participated and (WILL NOT) participate in any action contrary to subparagraphs (a)(1) through (a)(3).

9. Offeror (HAS) (HAS NOT) submitted to the Contracting Officer Annual Certifications, Representations, and Warranties (Appendix-1) (date Appendix-1 was signed by officer). The Appendix-1 is current, accurate, and complete as of the date of this bid, except as follows (insert changes that affect only this solicitation; if "none", so state); and offeror (b) (HAS) (HAS NOT) enclosed its Appendix-1.

10. Offeror (DOES) (DOES NOT) certify that the information previously submitted on the Solicitation Mailing List Application (SF-129) is accurate and is a part of this offer; and offeror makes the certification of responsibility required by Section I.D. of this Announcement and the certifications, representations, and warranties provided in Parts C and D of USDA-1.

11. Offeror requests HUBZone small business price evaluation preference (YES) (NO). Applies only to firms certified in the Small Business Administration's Historically Underutilized Business Zone program (48 C.F.R. § 19.13).

12. Signature and title of person submitting this bid (must be an officer of the company or a person authorized to execute contracts on behalf of the offeror). NOTE: See Article 6 of USDA-1.

EXHIBIT 2 provides an example of how offers may be submitted.

IV. ACCEPTANCE OF OFFERS

The Government contemplates award of a requirements contract resulting from this solicitation. Contracts will be awarded to responsible offerors whose offers conform to the Announcement and the applicable Invitation and whose offers are most advantageous to the Government in terms of, but not limited to, price, quantity requirements, and transportation costs. Acceptance of offers will be made by FAX filed at Washington, DC, not later than midnight, Eastern Standard Time, the Friday following the day for receipt of offers. The actual time of award is the time stamped on the acceptance wire at time of receipt by the USDA-AMS-Management Services Division-Communications Office. A notice of award will be issued in the form of a Food Purchase Report or other public announcement posted at the Department's Office of Public Affairs, News Division, after award and after 3 p.m., Eastern Standard Time, on the day of

acceptance. After award information is posted, inquiries may be made to a USDA-AMS Poultry Programs Market News Office or the Contracting Officer. Failure to accept an offer will constitute rejection.

Acceptance as specified above will result in a binding contract without further action by either party. The actual time of award described herein is a deviation from 48 C.F.R. § 14.405-1. Information on awards is also available electronically through the commodity procurement website at <http://www.ams.usda.gov/cp> after award.

V. PROVISIONS OF CONTRACT

The contract consists of this Announcement including Appendix-1, the Notice to Deliver, the applicable Invitation, the Commodity Specification, the Contractor's offer and Technical Proposal, Standard Form 129, the acceptance by USDA, and USDA-1, except Articles 34, 49, 50, and all of Part E. Article 56 of USDA-1 is hereby amended by deleting the words "shipment from origin" from the third line of paragraph (a) and inserting in lieu thereof the word "delivery." Additionally, Articles 56, 65, and 67 of USDA-1 are hereby amended by deleting the words "ship," "shipping," "shipment(s)," and "shipped" and inserting as appropriate the words "delivery(ies)" or "delivered." If the provisions of contract documents are inconsistent, the following priority order will prevail: Notice to Deliver, Invitation, Announcement, Specification, USDA-1, and Technical Proposal.

VI. CONTRACT COMPLIANCE

The Contractor must assure compliance with all requirements of this Announcement and the Commodity Specification prior to submission of product to USDA for acceptance. Examination and certification by USDA is solely for the benefit of USDA and will not relieve the Contractor of its obligation and responsibility to deliver a product which complies with all requirements of this Announcement and the Commodity Specification. USDA approval of any part of the production process, including but not limited to equipment, will not relieve the Contractor of the responsibility for performing in accordance with the contract. Actual damages not duplicative of liquidated damages may be assessed for performance not in accordance with the contract.

VII. SHIPMENT AND DELIVERY

Shipment and delivery must be made in accordance with this Announcement; the Commodity Specification; the applicable Invitation; and Articles 56, 57, and 64 of USDA-1, as amended by this Announcement, and the Form KC-269 (Notice to Deliver) issued by the Kansas City Commodity Office (KCCO). Contractor must closely follow delivery notification instructions contained in the Notice to Deliver. Such notification of delivery is vital, particularly in cases of minimal transit time.

When notified of shipments, consignees may request upgrading of delivery services or delivery to an alternate warehouse; for example, delivery within the consignee's premises or to a specific room within a building. Such delivery terms are beyond USDA contractual requirements. Any negotiations to upgrade services are between the Contractor and consignee and any additional charges for special delivery terms are between consignee and Contractor. Any charges invoiced to USDA for additional delivery services will be denied.

Transportation cost adjustments for diverting product to new destinations will be made in accordance with the following provisions:

A. Truck

If USDA orders delivery to a destination other than the original destination named in the contract, transportation costs adjustments will be made at the rate of \$1.10 per mile per delivery unit based on the difference in miles between (1) the shipping point and new destination and (2) the shipping point and original destination.

Applicable mileage cannot exceed that published in the most recent “Household Goods Carrier’s Mileage Guide” issued by the Household Goods Carrier’s Bureau.

The following is an example illustrating the transportation cost adjustment for a change in destination:

	<u>Point</u>	<u>Points</u>
1	Anytown, NC (shipping point)	
2	Hometown, NC (original destination)	1 to 2 = 40 miles
3	Midtown, NC (new destination)	1 to 3 = 120 miles

For this delivery unit, USDA would increase payment to the Contractor \$88 to compensate for 80 additional miles from the shipping point to the new destination at \$1.10 per additional mile. In the event the mileage is less when a change in destination is ordered, the payment would be reduced pursuant to Article 64 of USDA-1.

B. Railcar or Piggyback

Transportation cost adjustments for diverting product to the new destination using railcar or piggyback will be made in accordance with Article 64 of USDA-1.

C. Early Delivery

The Contractor may deliver early upon the approval of the KCCO. Approval may be obtained by telephoning (816) 926-6063. Approval is contingent on the recipient’s concurrence to accept early delivery and upon a USDA Grader being available to perform necessary checkloading and final acceptance duties.

VIII. LIABILITY FOR LOSSES DUE TO DETERIORATION, SPOILAGE, OR RECALL

A. Loss Due to Deterioration or Spoilage

The Contractor is liable for losses due to deterioration or spoilage for which the Contractor is responsible, which are discovered within 6 months of date of delivery to USDA in accordance with the provisions of Article 61 of USDA-1.

B. Loss Due to Product Recalled for Health or Safety Risk

In accordance with Article 60 of USDA-1, the Contractor shall be held liable for failure of the commodity or product to meet all of the contract requirements. In the event the commodity or commodity product is recalled due to a health or safety risk, the Contractor is responsible for removal and replacement of recalled commodities or products, and reimbursement of State and local costs incurred as a result of the recall, as outlined in the Food and Nutrition Service’s

(FNS) Commodity Hold and Recall Process. These costs include, at a minimum, storage, transportation, processing, and distribution of the commodities or products.

Additionally, when Contractor provides bulk product which is then further processed in accordance with a State contract, and that bulk product is subsequently recalled due to the fault of the Contractor, the Contractor is responsible for all costs incurred by USDA, the State Distributing Agency, and/or recipient agencies, as outlined in the FNS's Commodity Hold and Recall Process. At a minimum, these costs include replacement of the raw commodity and reimbursement for processing costs.

IX. LIQUIDATED DAMAGES

A. Compensation to the Contractor for Late Mailing of Notice to Deliver

Liquidated damages for failure to deliver the commodity during the delivery period due to late mailing of Notice to Deliver by the KCCO will be payable in accordance with Article 65 of USDA-1, as amended by Section IV., and will be at the rate of \$0.0025 per pound net per calendar day.

B. Compensation to USDA for Delay in Delivery

Liquidated damages for failure to deliver the commodity during the delivery period due to causes other than a late mailed Notice to Deliver will be payable in accordance with Article 67 of USDA-1, as amended by Section IV., at the rate of \$0.0025 per pound net per calendar day. When deliveries are made by contract carrier or vendor's own vehicle, the date shown on the Bill of Lading or destination USDA Poultry Products Inspection Certificate will be considered as the date of delivery. However, liquidated damages for late delivery will not be assessed on commodity delivered by railcar or piggyback if the Bill of Lading was issued prior to the beginning of the delivery period. Timely delivery is important to fulfill the nutritional and dietary needs of persons for whom the commodity is intended. It is difficult to quantify the value of nutritional and dietary needs, but the parties involved agree that the above rate is a reasonable quantification of such value. In addition, liquidated damages include, but are not limited to, compensation for the impairment of USDA's credibility in administering programs which are dependent on timely delivery of commodities.

X. INVOICES AND PAYMENT

Invoicing and payment will be handled in accordance with Article 70, USDA-1, except that a properly prepared invoice package must include the following supporting documents:

- A. USDA Form KC-269 (Notice to Deliver) or commercial invoice form;
- B. Origin USDA Poultry Products Inspection Certificate issued at time of checkloading; and
- C. A copy of the Bill of Lading or other commercial receipt signed by recipient agent evidencing delivery date and quantity of product delivered or destination USDA Poultry Products Inspection Certificate evidencing delivery of product.

The properly prepared invoice package must be mailed or delivered to the Kansas City Finance Office (KCFO) at the address shown in Section X.C.

When applicable, the Contractors will note on their invoices, "Invoice subject to adjustment in transportation costs." (See Section VI.)

Interest will be paid in accordance with the provisions of the Prompt Payment Act (31 U.S.C. § 3902 *et seq.*) if payment is made beyond the seventh day after the date of delivery. For the purpose of payment, the date of delivery of each shipment of product will be the date of receipt by KCFO of a properly prepared invoice package for the product.

USDA payments must be made directly to a financial banking institution. To receive payments electronically, Form SF-1199A, Direct Deposit Sign-up Form, can be obtained from KCCO, Commodity Financial Operations Division, ICB; Telephone (816) 926-2550.

When payment by electronic transfer has been established, the Contractor must notify the Contracting Officer of the mailing address for the disbursement statement.

XI. INQUIRIES

- A. Inquiries pertaining to USDA-1, this Announcement, Appendix-1, Commodity Specification, and applicable Invitations(s) should be directed to:

Contracting Officer
USDA/AMS/Poultry Programs
1400 Independence Avenue, SW
Commodity Procurement Branch STOP 0260
Washington, DC 20250
Telephone: (202) 720-7693

- B. Inquiries concerning shipping instructions should be directed to:

Director, Kansas City FSA Commodity Office
U.S. Department of Agriculture
P.O. Box 419205
Kansas City, Missouri 64141-6205
Telephone: (816) 926-6063

- C. Inquiries concerning payment should be directed to:

Director, Kansas City Finance Office
U.S. Department of Agriculture
ATTN: Fiscal Operations Division
Payment Certification Branch STOP 8578
Kansas City, Missouri 64141-6205
Telephone: (816) 926-6205

Craig Morris
Deputy Administrator

Attachments

EXHIBIT 1

SOLICITATION MAILING LIST APPLICATION				1. TYPE OF APPLICATION <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> REVISION		2. DATE 05/01/04		OMB No.: 9000-0002 Expires: 10/31/97		
NOTE: Please complete all items on this form. Insert N/A in items not applicable. See reverse for instruction.										
Public reporting burden for this collection of information is estimated to average .58 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.										
3. SUBMIT TO	a. FEDERAL AGENCY'S NAME USDA/AMS/Poultry Programs				a. NAME Potomac Poultry Products P-1234					
	b. STREET ADDRESS 1400 Independence Ave., SW, STOP 0260				b. STREET ADDRESS Your Street			c. COUNTY Your County		
	c. CITY Washington		d. STATE DC	e. ZIP CODE 20250		d. CITY Your Town		e. STATE USA	e. ZIP CODE 12345	
5. TYPE OF ORGANIZATION (Check one)					6. ADDRESS TO WHICH SOLICITATIONS ARE TO BE MAILED (If different than Item 4)					
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> NON-PROFIT ORGANIZATION <input type="checkbox"/> PARTNERSHIP <input checked="" type="checkbox"/> CORPORATION, INCORPORATED UNDER THE LAWS OF THE STATE OF:					a. STREET ADDRESS Same as 4. b. COUNTY c. CITY d. STATE e. ZIP CODE					
7. NAMES OF OFFICERS, OWNERS, OR PARTNERS										
a. PRESIDENT Martha Washington			b. VICE PRESIDENT Samantha Jefferson			c. SECRETARY John Adams				
d. TREASURER Henny Penny			e. OWNERS OR PARTNERS Martha Washington and Samantha Jefferson							
8. AFFILIATES OF APPLICANT										
NAME		LOCATION				NATURE OF AFFILIATION				
		Also include Federal Inspection								
		Number(s)								
9. PERSONS AUTHORIZED TO SIGN OFFERS AND CONTRACTS IN YOUR NAME (Indicate if agent)										
NAME		OFFICIAL CAPACITY				TELEPHONE NUMBER				
						AREA CODE		NUMBER		
10. IDENTIFY EQUIPMENT, SUPPLIES, AND/OR SERVICES ON WHICH YOU DESIRE TO MAKE AN OFFER (See attached Federal Agency's supplemental listing and instruction, if any)										
Turkey taco filling - 500,000 lb. weekly production. 50% available for USDA contracts.										
11a. SIZE OF BUSINESS (See definitions on reverse)			11b. AVERAGE NUMBER OF EMPLOYEES (Including affiliates) FOR FOUR PRECEDING CALENDAR QUARTERS			11c. AVERAGE ANNUAL SALES OR RECEIPTS FOR PRECEDING THREE FISCAL YEARS				
<input checked="" type="checkbox"/> SMALL BUSINESS (If checked, complete items 11B and 11C) <input type="checkbox"/> OTHER THAN SMALL BUSINESS			150			\$ 750,000.00				
12. TYPE OF OWNERSHIP (See definitions on reverse) (Not applicable for other than small businesses)			13. TYPE OF BUSINESS (See definitions on reverse)							
<input type="checkbox"/> DISADVANTAGED BUSINESS <input checked="" type="checkbox"/> WOMAN-OWNED BUSINESS			<input checked="" type="checkbox"/> MANUFACTURER OR PRODUCER <input type="checkbox"/> CONSTRUCTION CONCERN <input type="checkbox"/> SURPLUS DEALER <input type="checkbox"/> SERVICE ESTABLISHMENT <input type="checkbox"/> RESEARCH AND DEVELOPMENT							
14. DUNS NO. (If available) 12-3456789					15. HOW LONG IN PRESENT BUSINESS? 10 Years					
16. FLOOR SPACE (Square Feet/M²)					17. NET WORTH					
a. MANUFACTURING 52,000		b. WAREHOUSE 64,000			a. DATE Jan. 1, 2004		b. AMOUNT \$ 1,000,000.00			
18. SECURITY CLEARANCE (If applicable, check highest clearance authorized)										
FOR		TOP SECRET	SECRET	CONFIDENTIAL	c. NAMES OF AGENCIES GRANTING SECURITY CLEARANCES			d. DATES GRANTED		
a. KEY PERSONNEL										
b. PLANT ONLY										
19a. NAME OF PERSON AUTHORIZED TO SIGN (Type or print) Martha Washington					20. SIGNATURE			21. DATE SIGNED 05/01/04		
19b. TITLE OF PERSON AUTHORIZED TO SIGN (Type or print) President										

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STANDARD FORM 129 (REV. 12-96)
Prescribed by GSA - FAR (48 CFR) 53.214(e)

INSTRUCTIONS

Persons or concerns wishing to be added to a particular agency's bidder's mailing list for supplies or services shall file this properly completed Solicitation Mailing List Application, together with such other lists as may be attached to this application form, with each procurement office of the Federal agency with which they desire to do business. If a Federal agency has attached a Supplemental Commodity list with instructions, complete the application as instructed. Otherwise, identify in Item 10 the equipment, supplies, and/or services on which you desire to bid. (Provide Federal Supply Class or Standard Industrial Classification codes, if available.) The application shall be submitted and signed by the principal as distinguished from an agent, however constituted.

After placement on the bidder's mailing list of an agency, your failure to respond (submission of bid, or notice in writing, that you are unable to bid on that particular transaction but wish to remain on the active bidder's mailing list for that particular item) to solicitations will be understood by the agency to indicate lack of interest and concurrence in the removal of your name from the purchasing activity's solicitation mailing for items concerned.

SIZE OF BUSINESS DEFINITIONS
(See Item 11A.)

a. Small business concern - A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is competing for Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or the other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

b. Affiliates - Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationship. (See Items 8 and 11A.)

c. Number of employees - (Item 11B) In connection with the determination of small business status, "number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary or other basis during each year in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business.

TYPE OF OWNERSHIP DEFINITIONS
(See Item 12.)

a. "Disadvantaged business concern" - means any business concern (1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals.

b. "Women-owned business" - means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

TYPE OF BUSINESS DEFINITIONS
(See Item 13.)

a. "Manufacturer or producer" - means a person (or concern) owning, operating, or maintaining a store, warehouse, or other establishment that produces, on the premises, the materials, supplies, articles or equipment of the general character of those listed in Item 10, or in the Federal Agency's Supplemental Commodity List, if attached.

b. "Service establishment" - means a concern (or person) which owns, in the furnishing of nonpersonal services, such as (but not limited to) repairing, cleaning, redecorating, or rental of personal property, including the furnishing of necessary repair parts or other supplies as a part of the services performed.

- **COMMERCE BUSINESS DAILY** - The Commerce Business Daily, published by the Department of Commerce, contains information concerning proposed procurements, sales, and contract awards. For further information concerning this publication, contact your local Commerce Field Office.

EXHIBIT 2

Sample Format for Submitting Offers

The following format, which contains all the necessary information for an offer, will assist you in submitting your offer at minimum cost and in a concise and orderly manner. When submitting offers, please include all required information as in the following example (see Section II.B.):

1. Offer is made subject to Announcement PY-289; Appendix-1; the Commodity Specification for Turkey Taco Filling dated July 2004; (offeror's) Technical Proposal; Invitation No.; and USDA-1¹

2. Your Company Name
Street Address
City, State, Zip code
Telephone and Fax number

3. Processing cost: \$0.3500 per lb.

4. Transportation costs		ALTERNATE FORMAT ²
(1) Michigan	\$0.1500 per lb.	(1) \$0.1500 per lb.
(2) New Jersey	\$0.1700 per lb.	(2) \$0.1700 per lb.

5. Production Plant	Shipping Point
Street Address	Street Address
City, State, Zip code	City, State, Zip code
(County)	

6. Name and address of person to receive Notices to Deliver. Include telephone number.

7. (a) has

8. Select (a) or (b) as appropriate.
(a) is, has not, will not

9. (a) has, dated July 1, 2004³
(b) is, has not, will not

10. does

11. no

12. Signature of person submitting bid⁴

¹ If the Announcement, Invitation, Appendix-1, Specification, or USDA-1 is subsequently amended, show appropriate amendment numbers.

² Offeror may, at offeror's own risk, exclude the name of the destination. Errors in item numbers will not be apparent to the Contracting Officer.

³ Must be date Appendix-1 was signed by an officer of the company

⁴ Must be an officer as identified in item 7 or representative authorized to sign offers as identified in item 9 of current Standard Form 129 filed with the Contracting Officer. All bids must be signed.

EXHIBIT 3

DOMESTIC ORIGIN CERTIFICATION

This form must be completed for each contract awarded and be presented to a representative of the Grading Branch, Poultry Programs, AMS, USDA (Grader) at the processing facility, and the Contracting Officer or agent thereof upon request. Each processing plant producing product under this contract must have a copy of this form on file.

Announcement Number: _____

Contract Number: _____

Product: _____

Does your company process or handle products originating from sources other than the United States, its territories or possessions, Puerto Rico, or the Trust Territories of the Pacific Islands?

YES NO If yes, a copy of your segregation plan must be on file.

Do any of your Subcontractor/Suppliers process or handle products originating from sources other than the United States, its territories or possessions, Puerto Rico, or the Trust Territories of the Pacific Islands?

YES NO If yes, a copy of their segregation plan must be on file.

I certify under penalty of law that all products sold to the Department of Agriculture are of 100 percent domestic origin and that all above statements are true.

Signature: _____

Title: _____

Company: _____

Date: _____

EXHIBIT 4

Sample Invitation

ANNOUNCEMENT : PY289
 INVITATION : 001
 COMM GROUP : 23 TURKEY, FROZEN
 COMM TYPE : 13 TURKEY TACO FILLING
 PACK SIZE : 30 30 LB CTN

ITEM NO	DESTINATION CITY ST	DELIVERY DATE	MINIMUM QUANTITY	MAXIMUM QUANTITY	TRANS RESTR
001	MICHIGAN				
	LANSING MI	9/1-15/04	39,000	117,000	
	DETROIT MI	10/1-15/04	78,000	156,000	TRUCK ONLY
002	NEW JERSEY				
	PORT NEWARK NJ	9/1-15/04	39,000	117,000	TRUCK ONLY
	VINELAND NJ	9/16-31/04	78,000	156,000	TRUCK ONLY

Signed
 Contracting Officer

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