

Poultry Division

June 1997

ANNOUNCEMENT PY-209

Purchase Of

PASTEURIZED WHOLE EGGS

For Distribution To Eligible Outlets



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Announcement PY-209

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 pasteurized whole eggs (commodity). The applicable commodity specification, listed below, is published separately and is incorporated herein and made a part hereof.

Commodity Specification for Pasteurized Whole Eggs dated May 1996

- Five-pound cartons (082065)
- Thirty-pound containers (082030)
- Bulk liquid whole eggs (083090)

B. The Invitation will specify the commodity, the offer date, the delivery period, the destinations, 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 this 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 for Pasteurized Whole Eggs dated May 1996. 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 destinations in a line item which will require a split delivery (drop) at each destination from the same delivery vehicle. 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 (FAR) 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 Egg Products Inspection Act (EPIA) and regulations issued thereunder. All subcontractors and suppliers subject to the EPIA who will be utilized in fulfilling this procurement, either directly or indirectly, must 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 7 of Appendix-1 that (1) all producing plants specified in the offer are facilities operating under the provisions of the EPIA; (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 EPIA 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.

Bidders are cautioned NOT to BID on 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 and 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 deliveries 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 must inform the Contracting Officer, as soon as possible, of late deliveries and how soon delivery can be expected. Offerors must certify to timely performance on outstanding contracts in each offer. An offeror may be deemed nonresponsible if the offeror, on other contracts with USDA, is shipping/delivering late and 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.

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, and criminal prosecution.

E. Buy American Certification

End products furnished must be of domestic origin as defined in I.F. below. This provision is a deviation from 48 C.F.R. Part 25 and for the purposes of this Announcement replaces Article 49 of USDA-1.

F. Domestic Products

The commodity must be produced and processed from poultry and/or egg products including maltodextrin (products) which were produced, raised, and processed in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territories of the Pacific Islands. If the contractor processes or handles products originating from sources other than the United States, its territories or possessions, Puerto Rico, or the Trust Territories of the Pacific Islands, the contractor must have an acceptable identification and segregation plan for those products to ensure they are not used in commodities purchased under this Announcement. This plan must be made available to a representative of the Egg Products Inspection Division, Food Safety Inspection Service, USDA (inspector), and the Contracting Officer or agent thereof upon request. The contractor must 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.

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 the 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.

II. SUBMISSION OF OFFERS

A. How to Submit Offers

Offers must be submitted by mail, telegraph, telecopier (FAX), or hand delivery. Facilities for receiving offers by TWX, telex, or FAX are:

(Answer Back)

Easy Link 62052433
(Western Union)

ESL UD

Telecopier (FAX):
Verification:

202-720-7271 (24 Hours)
202-720-2104 (7:00 a.m.-4:15 p.m.,
Washington, DC 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-209" on lower left-hand corner of the envelope. If offer is sent by

mailgram, it is the offeror's responsibility to instruct Western Union to place the above prescribed notation 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.

B. Where and When to Submit Offers

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

For U.S. Postal Service Priority Mail and Mailed Offer Form -

Contracting Officer
USDA/AMS/Poultry Division
Commodity Procurement Branch STOP 0260
P.O. Box 96456
Washington, DC 20090-6456

For U.S. Postal Service Express Mail, Private Express Services (DHL, Federal Express, etc.), telegraphic, and FAX -

Contracting Officer
USDA/AMS/Poultry Division
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-Agricultural Marketing Service (AMS)-Management Services Division (MSD)-Communications Office (CO), the USDA mailroom, or, if hand delivered, the office of the Contracting Officer, Room 3943-S, in Washington, DC, not later than 1 p.m., Washington, DC time on the second and fourth Monday of each month as identified 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 1 p.m., Washington, DC time on the next succeeding business day. Whether an offer, modification, or withdrawal is received within the time limitation will be determined by the time stamp recorded by the USDA-AMS-MSD-CO (if by telecopier or telegraphic) 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 in Washington, DC.

C. What to Submit

An offeror must have completed and submitted a Solicitation Mailing List Application (Standard Form 129) and 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. 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, 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 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-209; Appendix-1; the Commodity Specification for Pasteurized Whole Eggs dated May 1996; 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 for FAX, TWX, or telex.

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

3. _____ (total number of) purchase units of each commodity type offeror is willing to sell (not less than one purchase unit) for delivery between _____ and _____.

NOTE: Show the number of purchase units offered for each commodity type for each processing plant if offering from more than one.

4. Item number listed on applicable Invitation, destination*, and price per pound delivered to specific destinations 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 NUMBER WILL NOT BE APPARENT TO THE CONTRACTING OFFICER.**

NOTE: a. Offers will be made and considered only for one delivered price per pound 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 indicate the number of purchase units by item number or by delivery option.

5. Name and location (include complete street address and county) of (a) each final processing plant and (b) shipping point for each processing plant. Only one shipping point can be listed 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), or (c) as appropriate.

(a) The Offeror (HAS) completed required performance of any contracts 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) (HAS NOT) notified the Contracting Officer; OR

(c) The Offeror (DOES) (DOES NOT) have outstanding contracts with USDA.

8. Certificate of Independent Price Determination

(a) Offeror certifies that the person submitting this bid, as identified in item 10 below, (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" clause of Article 30 of USDA-1; or

(b) Offeror certifies that the person submitting this bid, as identified in item 10 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 (a) (DOES) (DOES NOT) certify that annual certifications, representations, and warranties dated (date Appendix-1 was signed by officer) which are incorporated herein by reference as Appendix-1, have been submitted to the Contracting Officer issuing this solicitation and that Appendix-1 is current, accurate, and complete as of the date of

this offer and are a part of this offer; and (b) (HAS) (HAS NOT) submitted changes or additions to Appendix-1 with this offer.

10. Signature and title of person. of mailed, telecopied, or hand carried, or name and title of person authorized to execute contracts on behalf of offeror, if offer is submitted by telegram, datagram, mailgram, TWX, or telex. (See Article 6 of USDA-1.)

EXHIBIT 2 provides examples of how offer wires or letters may be submitted.

III. ACCEPTANCE OF OFFERS

The Government will award contracts resulting from this solicitation 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 prepaid telegram, FAX, TWX, or telex filed at Washington, DC, not later than midnight, Washington, DC 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-MSD-CO. 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., Washington, DC time, on the day of acceptance. After award information is posted, inquiries may be made to a USDA-AMS Poultry Division 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. § 14.407-1.

IV. PROVISIONS OF CONTRACT

The contract consists of this Announcement, the applicable Invitation, the Commodity Specification for Pasteurized Whole Eggs, the contractor's offer including Standard Form 129 and Appendix-1, the acceptance by USDA, and USDA-1, except Article 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 words "delivery(ies)" or "delivered". If the provisions of contract documents are inconsistent, the following priority will prevail: Invitation, Announcement, Specification, and USDA-1.

V. CONTRACT COMPLIANCE

The contractor must assure compliance with all requirements of this Announcement and the Commodity Specification for Pasteurized Whole Eggs 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 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 in accordance with the

contract.

VI. SHIPMENT AND DELIVERY

Shipment and delivery must be made in accordance with this Announcement, the Commodity Specification for Pasteurized Whole Eggs, the applicable Invitation, and Articles 56, 57, and 64 of USDA-1, as amended by this Announcement.

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 costs adjustment for diverting product to new destination using railcar or piggyback will be made in accordance with Article 64 of USDA-1.

VII. 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 the date of delivery to USDA in accordance with the provision so Article 61 of USDA-1.

VIII. 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 Kansas City Commodity Office (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 caused by other than 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 Consignee's Receipt or destination USDA Egg Products Inspection and Grading Certificate will be considered as 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.

IX. 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 or commercial invoice form;
- B. Origin USDA Egg Products Inspection and Grading Certificate issued at time of checkloading; and
- C. A copy of the Consignee Receipt (or other commercial receipt evidencing delivery) as provided on the Notice to Deliver (KC-269), or destination USDA Egg Products Inspection and Grading Certificate evidencing delivery of product.

The properly prepared invoice package must be mailed or delivered to the Kansas City Management Office (KCMO) 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.B.)

Interest will be paid in accordance with the provisions of the Prompt Payment Act (31 U.S.C. § 3902) 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 KCMO of a properly prepared invoice package for the product.

X. INQUIRIES

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

Contracting Officer
USDA/AMS/Poultry Division
Commodity Procurement Branch STOP 0260
P.O. Box 96456
Washington, DC 20090-6456
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) 926-6068

C. Inquiries concerning payment should be directed to:

Director, Kansas City FSA Management Office
U.S. Department of Agriculture
ATTN: Fiscal Operations Division
P.O. Box 419205
Kansas City, Missouri 64141-6205
Telephone: (816) 926-6205

D. Michael Holbrook
Director

EXHIBIT 1

EXHIBIT 2

Example No. 2

1. Offer is made subject to Announcement PY-209; Appendix-1; the Commodity Specification for Pasteurized Whole Eggs dated May 1996; Invitation No. _____; and USDA-1¹
2. Potomac Egg Co. FAX No. 804-720-7693
1776 Monticello Boulevard TWX No. 710-822-9424
Charlottesville, VA 22901 Telex No. 89-491
Telephone No. 804-455-2345
3. 2 purchase units, 5-pound cartons, plant 1
2 purchase units, 5-pound cartons, plant 2
3 purchase units, 30-pound containers, plant 1
for delivery between _____ and _____.
4. 5-pound cartons, plant 1 ALTERNATE FORMAT²
(1) Chester, SC \$0.5150 per lb. (1) \$0.5150 per lb.
(2) Richmond, VA \$0.5200 per lb. (2) \$0.5200 per lb.

5-pound cartons, plant 2
(5) Charleston, WV \$0.5175 per lb. (5) \$0.5175 per lb.

30-pound containers, plant 1
(15) Portland, ME \$0.4200 per lb. (15) 0.4200 per lb.
5. Plant 1: Plant 2:
(a) Potomac Egg Company (a) Potomac Egg Company
623 N. Main Street 4500 Elm Street
Anytown, GA 55678 Ourtown, AL 50345
(Howard County) (James County)
(b) Anytown Cold Storage (b) Same
1200 Oak Street
Anytown, GA 65678
6. Alice Jefferson
Potomac Egg Company
326 N. Main Street
Anytown, MN 55678
Telephone: 612-362-2533
7. (a) HAS
8. (a) is, has not, will not
9. (a) DOES, dated June 1, 1997³
(b) HAS NOT
10. _____

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

² The Offeror may use either format shown in item 4 in submitting a bid. However, if the ALTERNATE FORMAT is used, it is at THE CONTRACTOR'S RISK because errors in item numbers will not be apparent to the Contracting Officer.

³ Must be date Appendix-1 for PY-209 was signed by an officer of the company.

Alice Jefferson, President⁴

⁴ Must be an officer or representative authorized to sign offers in item 9 of current Standard Form 129 filed with the Contracting Officer. Bids submitted by facsimile (telecopier), mail, or hand delivered must be signed.