

UNITED STATES DEPARTMENT OF
AGRICULTURE

AGRICULTURAL MARKETING SERVICES

PEANUT EXCHANGE INVITATION:
AG-DGO-PNUT-19-0002

TABLE OF CONTENTS

I.	CCC OWNED BULK PEANUTS.....	3
II.	COMMERCIAL PEANUT BUTTER.....	3
III.	TITLE TRANSFER OF CCC OWNED BULK PEANUTS	4
IV.	ACCEPTANCE OF COMMERCIAL PEANUT BUTTER.....	4
V.	SUBMISSION OF OFFERS	4
VI.	EVALUATION OF OFFERS	5
VII.	CLAUSES AND PROVISIONS	5
VIII.	CONTRACT DOCUMENTS, EXHIBITS AND ATTACHMENTS.....	18
IX.	SOLICITATION PROVISIONS	20

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Under the authority of 7 USC 1431, Disposition of Commodities to Prevent Waste, The Commodity Credit Corporation (CCC) desires to exchange CCC-owned bulk peanuts for commercial peanut butter. The peanut butter will be in 12/16-ounce containers, produced and packaged in accordance with USDA specification as outlined in Attachment 1, and destined for various US locations. Bidders may submit offers for less than the quantity indicated. CCC may make award to multiple bidders to fulfill the requested quantity. CCC may reject any or all offers.

I. CCC OWNED BULK PEANUTS

CCC-owned bulk peanuts are available for the exchange and will be released in-store at the primary code and location listed on the catalog, using the factors shown on the warehouse receipt(s). Although CCC does not guarantee the quality of the peanuts that will be loaded out, warehouse operators are obligated to deliver the total CCC receipt value of peanuts represented on the warehouse receipt, based on the factors on the warehouse receipt. CCC will not pay the load out charges. Prospective contractors are strongly urged to contact the storing warehouse operator regarding scheduling, quality, and any applicable charges including fumigation and grading/inspection fees. The contractor will be responsible for any fees that apply. **Any differences in quantity and quality of CCC-owned peanuts received by the buyer are to be settled between the storing warehouse operator and the buyer. CCC will not facilitate this settlement.**

The warehouse operator is obligated to load out of the advertised location, unless otherwise agreed upon by the contractor. Please be advised that due to the existence of merged agreements, the CCC-owned bulk peanuts may or may not be located in the exact advertised location. However, the warehouse operator is responsible for any freight differential from a location other than the advertised location.

CCC-owned peanut inventory information is provided in Attachment 2.

II. COMMERCIAL PEANUT BUTTER

Only peanut butter produced at AMS approved plant locations will be accepted. The peanut butter will be in 12/16-ounce containers, produced and packaged in accordance with USDA specification, as outlined in Attachment 1, and destined for various US locations. Peanut butter shall be delivered 2,880 cases per truck (34,560lbs per truck).

All costs for transportation/manufacturing/handling of peanut butter from the contractor's plant to the destination are for the contractor's account.

Commercial peanut butter shall be delivered between **January 1, 2020 and September 30, 2020**. Delivery Orders will be issued via WBSCM no later than 45 days prior to the start of each two-week delivery period.

III. TITLE TRANSFER OF CCC OWNED BULK PEANUTS

CCC will pay storage on CCC-owned bulk peanuts through the date of the title transfer. The contractor is responsible for paying loadout charges in accordance with the CCC Peanut Storage Agreement, plus storage charges and any other applicable charges (i.e. fumigation, grading/inspection fees) incurred from the day after the transfer of title. The stop storage date for peanuts released to the contractor will be shown on the wire release.

CCC will transfer title of the CCC-owned bulk peanuts within 7 business days after the award of the contract. The contract date is the date the offeror is notified by CCC that their bid is successful.

If CCC transfers title to CCC-owned bulk peanuts in-store, the storage and handling rates contained in the CCC Schedule of Rates will apply to peanuts until loaded out, provided the transferee, in writing, orders the peanuts loaded out for immediate shipment within 30 days after the date title is transferred. If the transferee does not request, in writing, load out within 30 days after the date title is transferred, the storage and handling rates applicable to the transferee for the peanuts shall not exceed CCC's Schedule of Rates in effect at the time of title transfer until the earlier of:

- 1) 60 days, or
- 2) Title to the peanuts is transferred by the transferee to another party, or
- 3) The transferee loads the peanuts out of the warehouse.

IV. ACCEPTANCE OF COMMERCIAL PEANUT BUTTER

CCC will acknowledge receipt of the commercial peanut butter when the contractor submits a Certificate of Analysis and the State Distributing Agency/Recipient Agency has entered a goods receipt into the Web Based Supply Chain Management system (WBSCM). These documents will be provided to CCC at no additional cost.

V. SUBMISSION OF OFFERS

The contractor will specify the number of trucks of commercial peanut butter they are willing to deliver to a region, in exchange for any number and combination of available lots of CCC-owned bulk peanuts that are assigned to the region. No offer on any one catalog lot number will be contingent upon the acceptance of another catalog lot number. Offers on partial lots are unacceptable, lots must be bid on in full. Offers including partial truck loads are also unacceptable.

All offerors must be registered in the System for Award Management (sam.gov) and USDA's Web Based Supply Chain Management System (WBSCM) prior the offer due date. Only peanut butter produced at AMS approved plant locations will be accepted. AMS reserves the right to refuse an offer if AMS does not have adequate information to determine the responsibility of the offeror, financially or otherwise. All non-manufacturers must furnish to the Government, at the time of offer, the name, address, and telephone number of the supplier.

Offers, modifications, or withdrawals shall be submitted electronically to the following address:
CPDomesticInput@usda.gov

Place in the subject line "AG-DGO-PNUT-19-0002".

The offer form (Attachment 3) must be completed and signed. Reproductions of the offer form are acceptable. Offers must be received by the date and time specified in this invitation.

Offers, modifications, or withdrawals must be received by: 4:00 p.m. CDT, July 16, 2019.

AMS will email contractor with notice of acceptance by: 4:00 p.m. CDT, July 30, 2019.

The recorded date and time per incoming email will be used to determine the time of receipt by AMS. OFFERORS ARE RESPONSIBLE FOR THE TIMELY RECEIPT OF OFFERS, MODIFICATIONS, OR WITHDRAWALS OF OFFERS. No offers, modifications, or withdrawals will be accepted by telephone.

Upon award, the offeror must obtain a holder ID, which may require a signature and minimal fee payable to EWR, Inc. (Electronic Warehouse Receipts). Their website is www.ewrinc.com.

Participation in this program is certification with full knowledge of the provision of 15 U.S.C. 714M(a), for making any statement knowing it to be false, for the purpose of influencing in any way the action of the United States Department of Agriculture.

Further information may be obtained by contacting:

Kyla Stoufer - Telephone (816) 926-8828
Kyla.stoufer@usda.gov

VI. EVALUATION OF OFFERS

Offers will be evaluated based on pounds of peanut butter offered in relation to the value of CCC-owned bulk peanuts to be acquired by the offeror in this exchange, as determined by AMS. AMS reserves the right to accept offers most advantageous to the government, which may not necessarily reflect the lowest exchange ratio. In the event two or more offers are equal, award will be made in accordance with the Federal Acquisition Regulation at 48 CFR Part 14.408-6.

VII. CLAUSES

Sections of 48 CFR are referenced in this section.

A. Changes

Changes in the terms and conditions of this contract may be made only by written agreement of the parties. The Contracting Officer may at any time, by written order, and without notice to the

sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Method of shipment or packing.
- (2) Place of delivery.
- (3) Time of delivery.

If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract, unless the contract terms provide for regional delivery pricing that covers cost adjustments. The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

B. Disputes

This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

C. Excusable Delays

The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

D. Termination for the Government's Convenience.

The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination,

plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

E. Termination for Cause

The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

F. Stop Work Order

1. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of up to 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-
 - a. Cancel the stop-work order; or
 - b. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
2. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
 - a. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - b. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
3. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

4. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

G. Performance Bonds

A Performance Bond in the minimum amount of \$250,000 must be acquired by the contractor. When requested, this performance bond must be furnished to the Contracting Officer. Failure to furnish such performance security in a timely manner is considered a failure of performance and the contractor is therefore in default on the contract.

H. Incorporation by Reference

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

I. System for Award Management Maintenance

The Contractor shall maintain registration in SAM during contract performance and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement. The Contractor is responsible for the currency, accuracy and completeness of the data within SAM, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in SAM after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in SAM to ensure it is current, accurate and complete. Updating information in SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

J. Liquidated Damages

If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages per calendar day of delay, not to exceed 45 days of delay, at the following rates:

\$0.45/cwt/day

The Contracting Officer may choose to file a single claim associated with any, or all liquidated damages at the conclusion of the period of performance or may choose to file multiple claims throughout the period of performance.

If the Government terminates this contract in whole or in part under the Default—Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default—Fixed-Price Supply and Service clause in this contract.

K. Compensation for Delays in Delivery

1. If a Contractor determines that it will not be able to deliver the commodity by the Not-Later-Than (NLT) delivery date, the Contractor shall notify the Contracting Officer immediately. If the reason for not meeting the NLT delivery date is beyond the control or negligence of the Contractor, the Contractor is required to submit a waiver request within 2 working days after the scheduled NLT delivery date. Failure to submit a waiver request within the time specified will result in liquidated damages being assessed. Waiver requests submitted after the time specified will not be accepted.
2. If a Contractor delivered a product and the product is rejected, the Contractor shall deliver an acceptable replacement product prior to the end of the NLT delivery date and liquidated damages will not be assessed. However, if the replacement product will be delivered beyond the NLT delivery date, liquidated damages will be assessed.

L. Variation in Quantity

1. A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) of this clause.
2. The permissible variation shall be limited to:
Zero Percent increase
Zero Percent decrease
This increase or decrease shall apply to the Delivery Order (WBSCM Purchase Order) item quantity (i.e. net weight).

M. Advance Shipment Notice (ASN) and Unloading Appointment

1. Contractor shall enter a WBSCM advanced shipment notice (ASN) on or before the date of shipment. Contractors are encouraged to create the ASN for the purchase order item number as soon as a delivery appointment has been scheduled, but not less than 24 hours. The Contractor must provide accurate information when creating the ASN. The ASN provides an alert to the appropriate recipient agency that the product will be shipped for a sales order. Advanced shipment notices shall contain:
 - Shipper's name
 - Commodity
 - Sales Order or Requisition Number (SO or RN)
 - Units per (SO or RN)
 - Destination
 - Purchase Order Number

- Ship date
- Mode of transportation. If truck, anticipated date of arrival.

Note: USDA has provided an excel template in a comma delimited (csv) format that allows the Contractor to upload purchase order line items that will create multiple ASNs.

2. The creation of the ASN does not relieve the Contractor or subcontractor of their responsibility to obtain an unloading appointment.
3. Appointments are required for all deliveries.
4. Delivery appointments shall be made as far in advance of expected delivery as possible, but not less than **72 hours** prior to delivery by contacting a responsible representative at the applicable Purchase Order Item's Ship-to-Address for an unload appointment. Reference the Purchase Order (PO) Number, PO Item Number, and when provided, the Sales Order (SO) Number and SO Item Number for which the appointment is being scheduled. Ramifications of failure to schedule an appointment or failure to arrive on time for an appointment are the full responsibility of the contractor
5. The Contractor may deliver early if the recipient agency agrees to accept early delivery, there is no additional cost to the Government, and upon AMS personnel being available to perform any necessary check loading and acceptance requirements, if applicable.

N. Regulatory Requirements for Commodities and Packaging

1. The commodity shall conform to the applicable provisions of the "Federal Food, Drug, and Cosmetic Act"(21 U.S.C. 301 et. seq.), as amended, and the relevant regulations, **including applicable Food Safety Modernization Act regulations (FSMA), and sections in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act)**. The contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations related to its performance under this contract.
2. All containers and packaging materials shall be constructed to meet the requirements of the Food and Drug Administration for safe contact with the packaged product. In addition, all containers and packaging materials shall be constructed to comply with the sum concentration levels of lead, cadmium, mercury, and hexavalent chromium addressed by the Coalition of Northeast Governors (CONEG) model legislation. The sum of the concentration levels of lead, cadmium, mercury, and/or hexavalent chromium present in any package or packaging component shall not exceed 100 parts per million. Concentration levels shall be determined using American Standard of Testing Materials test methods, as revised, or U.S. Environmental Protection Agency test methods for evaluating solid waste, S-W 846, as revised.

O. Commodity/Packaging Labeling Requirements

1. USDA Foods products must comply with all applicable FDA and USDA labeling requirements and any additional features outlined in product specifications.

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm513734.htm>

2. Any deviations from the labeling requirements in this section must be approved by the Contracting Officer, in writing, prior to start of production.
3. Primary packaging labels or shipping containers with missing or incorrect information must be corrected before the product can be shipped.

4. **PRIMARY PACKAGING (Immediate Container):**

a. FDA/USDA defines **minimum label information on primary packaging:**

- (i) Company name
- (ii) Company/Plant location or FSIS establishment number.
- (iii) Food item
- (iv) Ingredient list
- (v) Allergen statement, as applicable
- (vi) Nutrition Facts Panel (except for foodservice pack products)
- (vii) Traceability code (see below)
- (viii) Cooking/heating/handling instructions, as applicable

- b. **Commercial Labels.** “Commercial” labels must be the processor’s own retail (e.g. commercially available, off the shelf) label. (Commercially available off-the-shelf (COTS) item is described in the 52.212-4 definitions addendum section of this contract.) Distributors’ labels are not allowed. If the vendor does not have a commercial label for retail/consumer sales, please refer to the minimum color requirements, exclusive of the package color, found in the commodity specifications documents. For some products, if the primary container does not allow the product to be visible, the label must provide a visual representation for the food.

- c. **Traceable Product Codes.** Labeling and packaging must meet all applicable FDA and USDA requirements and contain a code which allows traceability of the product in the event of a recall. When the company uses the same commercial label for the product certified as complying with USDA specifications, the identification system must differentiate between product manufactured for USDA contracts and non-USDA products.

- d. **Nutrition Facts, Ingredients and Allergen statements.** Consumer and individual sized containers/packages must include a Nutrition Facts Panel, ingredients, and allergen statement. The ingredient statement, even for single ingredient foods, must be included as a statement separate from the name of the product, e.g. Ingredients: _____. The allergen statement must comply with the Food Allergen Labeling and Consumer Protection Act (FALCPA) for any product which contains milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, soy or wheat. In accordance with FDA guidance, USDA does not encourage the use of voluntary allergen advisory labels/statements. Vendors must implement effective allergen controls. If advisory labels are used, they must comply with FDA labeling requirements and not be misleading.

Note: Vendors must provide nutrition information, ingredient and allergen statements, and Child Nutrition Program crediting information upon request for all USDA Foods products.

5. **SHIPPING CONTAINERS:**

- a. Shipping container/carton labels must include:

- (i) USDA Material code
 - (ii) Purchase order number
 - (iii) Company name
 - (iv) Company/Plant location or FSIS establishment number
 - (v) Food item
 - (vi) Ingredient list
 - (vii) Allergen statement, as applicable
 - (viii) Nutrition Facts Panel (foodservice pack products only)
 - (ix) Traceability code
 - (x) UPC symbol/code (see below)
 - (xi) USDA Shield, when applicable
- b. Labeling and marking information must be water-fast, non-smearing, of a contrasting color, clear and readable.
 - c. Information must be preprinted, stamped, or stenciled on each shipping container; or printed on a self-adhesive label and applied to each shipping container. Please refer to specification documents for sample layouts.
 - d. Nutrition Facts, Ingredients and Allergen statements must be included on shipping containers when not required on the primary package. The ingredient statement, even for single ingredient foods, must be included as a statement separate from the name of the product, e.g. Ingredients: _____. The allergen statement must be provided in the format which complies with the Food Allergen labeling and Consumer Protection Act (FALCPA) for any product which contains milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, soy or wheat.
 - e. UPC symbols/codes
 - (i) The UPC, symbol and code, called Interleaved 2 of 5 (I 2/5), must appear on each shipping container. The complete code, including the check digit, must be printed in machine-readable and human-readable form. The start and stop indicators will be included in the bar codes. Printing, readability, and scanability of the bar code must be in accordance with UPC guidelines published by:

GS1 US Corporate Headquarters
 Princeton Pike Corporate Center
 1009 Lenox Drive, Suite 202
 Lawrenceville, NJ 08648
 Phone: 609.620.0200
<https://www.gs1us.org/what-we-do/about-gs1-us>

- (ii) USDA has acquired a unique processor's identification number for the commodity purchase programs and will provide these item codes for the commodity contracts.
- f. Inventory Control Information. The processor may include any additional information (including bar codes) for processor inventory control purposes. This information may be applied somewhere on the surface of the shipping container but must not cover or conflict with the labeling requirements.

P. U.S. Origin Product

1. The products of agricultural commodities acquired under this contract must be a product of 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"), except as may otherwise be required by law, and shall be considered to be such a product if it is

- grown, processed, and otherwise prepared for sale or distribution exclusively in the United States except with respect to minor ingredients (*See* AGAR 470.103(b)). Ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise: (1) produced in the United States; and (2) commercially available in the United States at fair and reasonable prices from domestic sources. See **U.S. Origin Product – Ingredient Waivers** below.
2. 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 this Solicitation—except for commingled products (see paragraph (c)). This plan must be made available to an AMS representative and the Contracting Officer or agent thereof upon request. The Contractor must ensure that the Contractor and any 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 FAR 52.214-26.
 3. For commodities that the Department has determined to be generally commingled, a commingled product shall be considered to be a product of the United States if the offeror can establish that the offeror has in inventory at the time the contract for the commodity or product is awarded to the offeror, or obtains during the contract performance period specified in the solicitation, or a combination thereof, a sufficient quantity of the commodity or product that was produced in the United States to fulfill the contract being awarded, and all unfulfilled contracts that the offeror entered into to provide such commingled product to the United States. However, if the commodity can be readily stored on an identity preserved basis with respect to its country of origin, the Government may require that the commodity acquired under this contract be of 100 percent U.S. origin.
 4. The Contractor agrees to include this domestic origin certification clause in all subcontracts for products used in fulfilling contracts awarded under this Solicitation. The burden of proof of compliance is on the Contractor.
 5. Domestic origin verification requirements must be included in the Contractor’s technical proposal, if applicable. Otherwise, prior to any work performed under the applicable contract or purchase order that was awarded, the attached form (EXHIBIT 1) must be completed, and must be presented to an AMS representative, the Contracting Officer, or agent thereof upon request.
 6. FAR clause 52.225-5, Trade Agreements incorporated by reference in FAR clause 52.212-5 applies only to packaging and container components. Agricultural commodities and their products are exempt from 52.225-5.

Q. U.S. Origin Product – Ingredient Waivers

1. The requirement for a commodity and/or a component ingredient to be entirely produced and/or processed in the United States may be waived due to non-availability at fair and reasonable prices.
2. Waived ingredients may be subject to the following two-part test to define a U.S. end product:
 - a. The article must be manufactured in the United States; and
 - b. The cost of domestic components must exceed 50 percent of the cost of all the components.
3. The following ingredients are subject to the U.S origin product requirement:
 - a. Waived ingredients may be acquired as a foreign end product without regard to the restrictions of the U.S origin product requirement.

4. The following ingredients have been determined by the Contracting Activity as not available at fair and reasonable prices and are waived from all U.S. origin restrictions:
 - a. Vitamin A (Retinol Palmitate)
 - b. Vitamin D
 - c. Carrageenan (stabilizing agent)
 - d. Sorbic Acid (preservative)
 - e. Potassium Sorbate (preservative)
 - f. Rennet (coagulant)

R. U.S. Origin Verification and Tracebacks

When requested, contractors will make all paperwork available to USDA that confirms 100% domestic origin traceback from the destination or final package (whichever is applicable), to the origin orchard/field/vineyard/farm/etc., including all steps in the process.

S. Contractor Expenses

Unless stipulated otherwise in the contract, all expenses incurred including but not limited to testing, analysis, fumigation, and certification requirements shall be the responsibility of the contractor.

T. Bankruptcy

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of government contract numbers and contracting offices for all government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

U. Government Delay of Work

1. If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.
2. A claim under this clause shall not be allowed—

- a. For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved; and
- b. Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

V. Food Defense Requirements

1. Current and potential Contractor(s) and subcontractor(s) shall have an approved food defense plan in place that provides for the security of a plant's production processes and includes the storage and transportation of pre-production raw materials and other ingredients and post-production finished product. The plan shall address the following areas, as applicable:
 - c. food security plan management;
 - d. outside and inside security of the production and storage facilities;
 - e. processing, including all raw material sources;
 - f. shipping and receiving;
 - g. storage;
 - h. water and ice supply;
 - i. mail handling;
 - j. personnel security; and
 - k. transportation, shipping, and receiving (includes the sealing of any transport conveyance for truck lot and less-than-truck lot quantities of finished product).
2. The documented and operational food defense plan must be audited and approved by USDA, AMS prior to the bid opening date of the solicitation. Nonconformance(s) must be addressed prior to the bid opening date of the solicitation. Contractors will have an opportunity to correct identified nonconformance(s) and modify their food defense plan. The frequency of any follow-up food defense audits will be determined by the Contracting Officer. Approved food defense audit is valid for twelve (12) months from the date of approval.
3. Contractors who receive contracts must have their documented food defense plan and supporting documentation readily available for review by the Contracting Officer or AMS agents. Records may be maintained on hard copy or electronic media. However, records maintained as electronic media will be made available in printed form immediately upon request by AMS or its agents.
4. All inquiries concerning audit requirements and scheduling should be forwarded to your local Grading Division office for clarification. Furthermore, USDA will not grant/accept any waiver requests for the food defense audits. It is the responsibility of the contractor and/or subcontractor to schedule the audit in a timely manner to ensure it has been completed and approved prior to the bid opening date of the solicitation. Offerors who submit a bid with a processing plant and/or shipping point that are not in compliance with this requirement will be deemed non-responsive for that processing plant and/or shipping point.

W. FDA Food Facility Registration Number

In accordance with the **Public Health Security and Bioterrorism Preparedness and Response Act of 2002**, domestic facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States are required to register with the FDA, and the **Food Safety Modernization Act of 2011** (FSMA) requires additional information for facilities to renew such registrations. If applicable, provide your FDA food facility registration number. FDA guidance is available at:

<https://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/ucm2006831.htm>

X. Loading, Blocking, and Bracing for Multiple Delivery Points (drops) on One Conveyance

When a shipment has multiple delivery points (drops), contractor must load and brace the conveyance for accurate and economical unloading, e.g. load and brace truck trailers in reverse order of delivery.

Y. F.o.b. Destination

1. The term “f.o.b. destination,” as used in this clause, means—

Supplies shall be delivered to the destination consignee's wharf (if destination is a port city Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarded for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee. The Contractor shall—

- a. Pack and mark the shipment to comply with contract specifications; or
- b. In the absence of specifications, prepare the shipment in conformance with carrier requirements;
- c. Prepare and distribute commercial bills of lading;
- d. Deliver the shipment in good order and condition to the point of delivery specified in the contract;
- e. Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
- f. Furnish a delivery schedule and designate the mode of delivering carrier; and
- g. Pay and bear all charges to the specified point of delivery.

AA. Delivery Location

Shipment of deliverable items, other than reports, shall be to: point(s) of delivery specified in the Government's delivery instructions.

BB. Seals on Transportation Conveyances

1. Suppliers of commodities, products and/or services—under the supervision of a USDA-AMS certification agent, when applicable—shall be responsible for placing a seal(s) on all cargo doors of each transportation conveyance upon completion of loading, partial unloading, inspection, or servicing.
2. Seals must meet the [American Society for Testing and Materials \(ASTM\) Standard, \(F-1157-04, and/or the International Organization for Standards \(ISO\) 17712-2010](#). Seals shall be 1/8-inch diameter cable, high security bolt, barrier-type, or equivalent device which can only be removed by bolt cutter type tools. Seals shall be sequentially numbered. The contractor or its agent shall provide a sufficient number of barrier-type seals to ensure security of the load while in route through final destination. (Suppliers of commodities, products and/or services shall be responsible for placing seal(s) on all doors of each transportation conveyance upon completion of loading or servicing (multi-stop)).

3. The seal numbers shall be documented on the Bill of Lading, and shipment manifest, certificate, or other delivery documents, as applicable, which must be signed or acknowledged by the carrier or its agent.
4. It will be the responsibility of the Contractor to provide an sufficient number of seals to the carrier service and to ensure that the trailer is sealed after each delivery location (when destined for multiple recipients). The seal number must be recorded on the appropriate delivery document and correspond with the applied seal at the time of arrival at the next destination.
5. When making deliveries to more than one destination from the same railcar, the quantities required at each stop off must be placed in separate compartments under seal.
6. Deliveries will be rejected, in which seals have not been used to secure all cargo doors, if:
 - a. the seal listed on the Bill of Lading does not match the seal number recorded on the Bill of Lading;
 - b. the seal is broken;
 - c. the seal is missing, or
 - d. the seal has been removed prior to the transportation conveyance reaching its unloading point.
7. A rejected conveyance will only be accepted after a Condition of Container Inspection has been performed by Agricultural Marketing Services (AMS) or Federal Grain Inspection Service (FGIS). AMS or FGIS must subsequently issue a Certificate of Quality and Condition that documents that the Condition of Container meets the applicable U.S. Standards for Condition of Food Containers. If this inspection is performed at a location other than the contracted delivery point all cargo doors must be sealed and the seal numbers documented by the Federal Inspection Agency on the Certificate.
8. Conditions of Container Inspections arrangements are available by accessing the AMS website at:
<https://www.ams.usda.gov/services/sci-contacts>
Please select AMS Federal Inspection Offices at:
<https://www.ams.usda.gov/services/sci-contacts/field-inspection-offices>
9. The Contractor is responsible for payment of all fees incurred as a result of a Condition of Container Inspection.

CC. Additional Shipping Requirements

Items purchased as a result of this solicitation shall not be transported near non-human consumption products, malodorous products or other types of harmful items that could contaminate commodities.

VIII. CONTRACT DOCUMENTS, EXHIBITS AND ATTACHMENTS

- A. Attachment 1 – Peanut Butter Specifications
- B. Attachment 2 – AG-DGO-PNUT-19-0001 CCC Inventory Catalog
- C. Attachment 3 – AG-DGO-PNUT-19-0001 Offer Form
- D. Exhibit 1 (next page)

EXHIBIT 1

DOMESTIC ORIGIN CERTIFICATION

This form must be completed by an authorized company official or their designee for each contract/purchase order delivery awarded. The completed form must be presented to a representative of the USDA, Agricultural Marketing Service (AMS), certification agent at the processing facility; the completed form must also be presented to the USDA Contracting Officer or agent thereof upon request. ***If imported product is brought into the facility during the production and shipment of product for this contract, it is the Contractor’s responsibility to notify the applicable certification branch.*** Each Contractor and/or processing facility under this contract must have a copy of this form on file.

Solicitation Number: _____
Contract/Purchase Order Number: _____
Product: _____
Crop Year (Packing Season, if applicable): _____

Does your company process or handle products originated 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, attach a copy of your segregation plan explaining how such product is stored and processed separate from domestic product.

Do any of your Subcontractor/Suppliers processes 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, attach a copy of each subcontractor’s/supplier’s segregation plan explaining how such product is stored and processed separate from domestic product.

I certify that all products sold to the Department of Agriculture are of 100 percent domestic origin and that all above statements are true. I further certify that traceability documentation will be made available to USDA, Agricultural Marketing Service representatives upon request.

WARNING: 18 U.S.C. Part 1, Chapter 47, Section 1001 states that “Except as otherwise provided in this section, whoever, in any manner within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or devise a material fact; (2) makes any materially false, fictitious or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

Knowingly and willingly making false statements for fresh or frozen fruits and vegetables may also constitute a violation of the Perishable Agricultural Commodities Act (7 U.S.C., 499a-499t), and may result in monetary penalties or license suspension or revocation.

Signature: _____
Print and Sign Name (Only authorized signatures)
Title: _____
Company: _____
Date: _____

IX. SOLICITATION PROVISIONS

A. Instructions to Offerors—Commercial Items

1. Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.
2. Late submissions, modifications, revisions, and withdrawals of offers.
3. Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offer's or revisions are due.
4. Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and
 - a. If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or
 - b. There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - c. If this solicitation is a request for proposals, it was the only proposal received.
5. However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.
6. Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
7. If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
8. Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.
9. Contract award. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

10. Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer
11. Availability of requirements documents cited in the solicitation.
 - a. The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to:
GSA Federal Supply Service Specifications Section
Suite 8100 470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925
Facsimile (202) 619-8978.
 - b. If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.
12. Unique entity identifier. (Applies to all offers exceeding \$3,500, and offers of \$3,500 or less if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at www.sam.gov for establishing the unique entity identifier.

B. Offeror Representations and Certifications—Commercial Items

1. The Offeror shall complete the annual representations and certification electronically via the System for Award Management (SAM) Website located at <https://www.sam.gov/portal>.
2.
 - a. Annual Representations and Certifications. Any changes provided by the offeror in paragraph (2)(b) of this provision do not automatically change the representations and certifications posted on the SAM website.
 - b. The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <http://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications-Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference. (see FAR [4.1201](#)).

C. System for Award Management

1. Definitions. As used in this provision—
 - “Electronic Funds Transfer (EFT) indicator means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.
 - “Registered in the System for Award Management (SAM)” means that—
 - a. The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see [subpart 4.14](#)) into SAM
 - b. The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in SAM;
 - c. The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and
 - d. The Government has marked the record “Active”.
 - “Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.
2. An Offeror is required to be registered in SAM when submitting an offer or quotation and shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.
3. The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM.
4. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:
 - a. Company legal business name.
 - b. Trade style, doing business, or other name by which your entity is commonly recognized.
 - c. Company physical street address, city, state, and Zip Code.
 - d. Company mailing address, city, state and Zip Code (if separate from physical).
 - e. Company telephone number.
 - f. Date the company was started.
 - g. Number of employees at your location.
 - h. Chief executive officer/key manager.
 - i. Line of business (industry).
 - j. Company headquarters name and address (reporting relationship within your entity).
5. Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of this solicitation. See <https://www.sam.gov> for information on registration.

D. Inquiries

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.

E. Information Regarding Responsibility Matters

1. Definitions. As used in this provision—

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- a. The total value of all current, active contracts and grants, including all priced options; and
- b. The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

2. The offeror has does not have current active Federal contracts and grants with total value greater than \$10,000,000.
3. If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:
 - a. Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:
 - (1) In a criminal proceeding, a conviction.
 - (2) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
 - (3) In an administrative proceeding, a finding of fault and liability that results in—
 - (a) The payment of a monetary fine or penalty of \$5,000 or more; or
 - (b) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
 - (4) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
 - b. If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

4. The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management, which can be accessed via <https://www.sam.gov> (see 52.204-7).
(Applicable for contracts expected to exceed \$550,000)

F. Past Performance with Regard to Offeror's Present Responsibility

1. The offeror shall notify the Contracting Officer of late deliveries prior to submission of bids. The Contracting Officer will determine if late performance is beyond the control or negligence of the offeror prior to the bid closing date of the solicitation. The Contracting Officer may also deem the offeror non-responsible and ineligible to participate in a solicitation if the offeror or any of their affiliates or subcontractors is delivering late and the late deliveries are not due to causes beyond the offeror's control or negligence. Past performance will be evaluated for Contractor's performance for the last six (6) months prior to bid opening of the solicitation.
2. 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.
3. A false certification may result in rejection of the offer, suspension and debarment by USDA, termination of the contract, liability for damages under the provisions of this Solicitation, other administrative actions, or criminal prosecution.

G. Amendments to Invitations for Bids

1. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. Bidders shall acknowledge receipt of any amendment to this solicitation—
 - a. By signing and returning the amendment;
 - b. By identifying the amendment number and date in space provided for this purpose on the form for submitting a bid;
 - c. By letter;
 - d. By facsimile, if facsimile bids are authorized in the solicitation; or
 - e. By email, if email bids are authorized in the solicitation.
2. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

H. False Statements in Bids

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in [18 U.S.C. 1001](#).

I. Explanation to Prospective Bidders

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

J. Contract Award—Sealed Bidding

1. The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.
2. The Government may—
 - a. Reject any or all bids;
 - b. Accept other than the lowest bid; and
 - c. Waive informalities or minor irregularities in bids received.
3. The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.
4. A written award or acceptance of a bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party.
5. The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

Contracting Officer Signature