

**DOMESTIC COMMODITY INVITATION – NATURAL AMERICAN CHEESE
DESCRIPTION – 12-3J14-22-B-0569
BID INVITATION NUMBER – 2000008825**

TENDERING TEXT

*****IMPORTANT SOLICITATION DETAILS*****

- **This solicitation is subject to the attached AMS Master Solicitation for Commodity Procurement (MSCP) dated March 1, 2022 .**
- **CRD - This solicitation is subject to the attached Commodity Requirements Document Natural American Cheese (DNAC6) Dated September 2019.**
- **Products delivered under contracts awarded from this solicitation must be manufactured in a plant approved by USDA Dairy Programs. Plant approvals must be listed on the Dairy Survey Plant list.**

I. Solicitation For Commercial Items

Solicitation Number: 12-3J14-22-B-0569

Solicitation Issue Date: September 29, 2022

Issued and Administered by:
United States Department of Agriculture
Agricultural Marketing Service, Commodity Procurement
Program 1400 Independence Ave SW
Room 3522-S, STOP – 0239
Washington, DC 20250-0239

Sealed Bidding/Invitation for Bid

Offer Due Date: October 18, 2022, 1:00 PM CT.

Award Notification Date: October 25, 2022, 5:00 PM CT.

Public Release of Award Date: October 26, 2022, 5:00 PM CT.

Name: Jenny Babiuch
Email: jenny.babiuch@usda.gov

This Acquisition is:
/x/ Unrestricted
/x/ Set-Aside for:

Small Business (50 percent): Any small business concern proposing to furnish a product that it did not itself manufacture must furnish the product of a small business manufacturer.

Offers received for these set-aside quantities from firms who are not eligible business concerns will not be considered. In the event the Government is unsuccessful in contracting with an eligible business concern(s) for the set-aside quantities, it may award the quantities to other business concerns. See FAR part 19.507.

Contract Type:

Indefinite Delivery/Indefinite Quantity

Fixed Price (Differential) with Economic Price Adjustment (cheese market price)

Schedule of Supplies

Estimated Yearly Quantity	Minimum Contract Amount	Maximum Contract Amount
62,049,600 pounds	\$1,800	70,500,000 pounds

Maximum Annual Totals:

6/5 Shreds 100002 and 100003 6,412,800 pounds

6/5 Shreds RDU 100012 4,723,200 pounds

Barrels 110242 55,447,200 pounds

40 Pound Blocks 110253 and 110254 3,916,800 pounds

Maximum Total: 70,500,000 pounds

Estimated Cheese Sales Orders

The maximum contract amount stated is not guaranteed to be purchased. Please see the contract clause 52.216-22, Indefinite Quantity. See Bid Invitation Item Detail section elsewhere in this solicitation for a listing of maximum pounds by pack size.

The following list is provided as information to offerors and includes estimated quantities and destinations. Actual sales orders and destinations may vary from the list below due to changes in program requirements. CAPACITY OFFERED MAY EXCEED ANTICIPATED ORDER QUANTITY. The quantity awarded may be less than the quantity advertised due to program changes.

Estimated Destinations

CHEDDAR, SHRED 6/5 LB BAGS (GENERIC)		CHEDDAR, RDU FAT SHRED 6/5 LB BAGS (GENERIC)	
City	State	City	State
VAN BUREN	AR	CLANTON	AL
PHOENIX	AZ	BIRMINGHAM	AL
DIXON	CA	SPRINGDALE	AR
POMONA	CA	VAN BUREN	AR
ONTARIO	CA		
SACRAMENTO	CA		
BAKERSFIELD	CA	PHOENIX	AZ
COLORADO SPRINGS	CO	SAN FERNANDO	CA
GRAND JUNCTION	CO	ONTARIO	CA
PUEBLO WEST	CO	DIXON	CA
DOUGLAS	GA	SACRAMENTO	CA
LEESBURG	GA	LOS ANGELES	CA
WARNER ROBINS	GA	PUEBLO WEST	CO
AUBURNDALE	FL	JACKSONVILLE	FL
JACKSONVILLE	FL		
AUGUSTA	ME		
CANTON	MI		
WYOMING	MI	LEESBURG	GA
BILLINGS	MT	ATLANTA	GA
HELENA	MT	DOUGLAS	GA
CREEDMOOR	NC		
SALISBURY	NC	CLEVELAND	GA
CONCORD	NH		
NEWARK	NJ	WATERLOO	IA
VINELAND	NJ	DES MOINES	IA
SPRINGFIELD	OH	EMMETT	ID
CLEVELAND	OH	DES MOINES	IA
DAYTON	OH	GRANITE CITY	IL
MCALESTER	OK	VINCENNES	IN
MILWAUKIE	OR	SOUTH BEND	IN
IMPERIAL	PA	FORT WAYNE	IN
MOOSIC	PA	INDIANAPOLIS	IN
CRANSTON	RI	CYNTHIANA	KY
LEXINGTON	SC	OWENSBORO	KY
FORT MILL	SC	BOWLING GREEN	KY
SIOUX FALLS	SD		
CHATTANOOGA	TN	SHEPERDSVILLE	KY
SAN ANTONIO	TX	BATON ROUGE	LA
PHARR	TX	ST MARTINVILLE	LA
AUSTIN	TX		
DALLAS	TX		
HOUSTON	TX		
LUBBOCK	TX		
CLEARFIELD	UT	NEWPORT	MN
WEST JORDAN	UT	KANSAS CITY	MO
SALT LAKE CITY	UT	JACKSON	MS
ESSEX	VT	CONRINTH	MS
SEATTLE	WA	HELENA	MT
SYRACUSE, ROCHESTER, BRENTWOOD NY	NY	CREEDMOOR	NC
MALONE, WATERTOWN, HALFMOON, NY	NY	SALISBURY	NC
ROCKY HILL	CT	FARGO	ND
CLEVELAND	GA	GRAND ISLAND	NE
CINCINNATI	OH	CONCORD	NH
		NEWARK	NJ
		ALBUQUERQUE	NM

		LAS VEGAS	NV
		BINGHAMTON	NY
		BRENTWOOD	NY
		BUFFALO	NY
		YORKVILLE	NY
		HALFMOON	NY
		CINCINNATI	OH
		DAYTON	OH
		CLEVELAND	OH
		MCALESTER	OK
		MILWAUKIE	OR
		WILKES-BARRE	PA
		PHILADELPHIA	PA
		COAL TOWNSHIP	PA
		DUNCANSVILLE	PA
		LEXINGTON	SC
		FORT MILL	SC
		SIOUX FALLS	SD
		CHATTANOOGA	TN
		JOHNSON CITY	TN
		AUSTIN	TX
		SAN ANTONIO	TX
		HOUSTON	TX
		DALLAS	TX
		PHARR	TX
		LUBBOCK	TX
		SUFFOLK	VA
		MADISON HEIGHTS	VA
		RICHMOND	VA
		CULPEPPER	VA
		ESSEX	VT
		ALGONA	WA
		SPOKANE VALLEY	WA
		MADISON	WI
		EAU CLAIRE	WI

		RIPLEY	WV

CHEDDAR, 40 LB BLOCKS (GENERIC)		NATURAL AMERICAN 500 LB BARRELS	
City	State	City	State
PHOENIX	AZ	SAN FERNANDO	CA

SANTE FE SPRINGS	CA	DES MOINES	IA
VERNON	CA	NORWOOD	MN
BROOKLYN PARK	MN	SOMERSET	NJ
YORK	PA	RENO	NV
		HARRISON	OH
		NEW CASTLE	PA
		HUMBOLDT	TN
		SPENCER	WI

This solicitation incorporates FAR provisions 52.212-1, 52.212-3, and clauses 52,212-4, and 52.212-5. These provisions and clauses are included within this document.

The following documents are required to be attached to the eINV in WBSCM:

-Bill of Lading

-Certificate of Analysis

-Proof of Delivery signed and dated by the recipient

II. Additional provisions and clauses for IDIQ Cheese Contracts

52.212-4 (a)(2)(B) – ADDENDUM

- Proof of product conformance as evidenced by:
 - Copies of Certificate of Analysis (COA) and/or
 - Certificate of Conformance (Per FAR Clause 52.246-15) and/or
 - The AMS Commodity Inspection Certificate or Graders Memorandum
 - If contractor elected to comply with official inspection by AMS; the contractor shall bear the expense of AMS inspection.
 - Procedures and a schedule of fees for these services may be obtained by contacting: AMS / **Darrell DeMont at phone 630-297-5030, or email: Darrell.DeMont@usda.gov**

52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (June 2020)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at [41 U.S.C. 4712](#) by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR [3.908](#)

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under [41 U.S.C. 4712](#), as described in section [3.908](#) of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

(End of clause)

52.211-16 Variation in Quantity (Apr 1984)

Variation in Quantity (Apr 1984)

- (a) 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.
- (b) The permissible variation shall be limited to:

See Clause 4A52.216-19 Percent increase

See Clause 4A52.216-19 Percent decrease

This increase or decrease shall apply to the Delivery Order (WBSCM Purchase Order) item quantity (i.e. net weight).

(End of clause)

4K52.216-19 Delivery Order - Limitations

- 1) The Government shall request delivery of supplies in truckload quantities to the states shown in the invitation item details attributes page of WBSCM. The table below identifies the truckload target quantity and acceptable variations in quantity for the specified type of cheese.

<i>Cheese Pack Size</i>	<i>Lower Quantity Limit</i>	<i>Target Quantity/Variation Limit, see Clause 52.211-16</i>	<i>Upper Quantity Limit</i>
<i>Cheese Natural Amer FBD Barrel - 500 LB (bulk weight) 110242</i>	<i>39,200 lbs</i>	<i>40,000 lbs +/- Two Percent</i>	<i>40,800 lbs</i>
<i>Cheese Ched Block 40 LB - (bulk weight) 110253 and 110254</i>	<i>39,100 lbs</i>	<i>39,950 lbs +/- Two Percent</i>	<i>40,800 lbs</i>
<i>Cheese Ched Shred-Bag 6/5 LB 100002 and 100003</i>	<i>38,400 lbs</i>	<i>38,400 lbs +/- Zero Percent</i>	<i>38,400 lbs</i>
<i>Cheese Ched Shred RDU -Bag 6/5 LB 100012</i>	<i>38,400 lbs</i>	<i>38,400 lbs +/- Zero Percent</i>	<i>38,400 lbs</i>

*Variable weight material example, Cheddar cuts 4/10 pound Purchase Order Item for 940 units, 39,950 pounds; Unit weight may vary from 40 to 44 pounds per unit;
 -for a lot that weighs an average of 40 pounds per unit, the delivery would be 940 units; 37,600 pounds;
 -for a lot that weighs an average of 44 pounds per unit, the delivery would be 907 units, 39,908 pounds.

- 2) The Government may make changes and/or cancellations to delivery orders by giving the Contractor no less than 48 hours' notice of the change. If the Government cancels an order and the Contractor can provide evidence satisfactory to the Government that it has already packaged the order as required by the contract, the Government will accept the commodity.
- 3) The commodity ordered shall be delivered by the contractor not later than the delivery period set forth in the Purchase Order. No extensions will be granted due to weekends or Federal holidays.
- 4) For shipments of commodity in excess of two stop-offs and a final destination, the adjustment to the contract price will be mutually agreed upon prior to delivery.

452.211-74 Period Of Performance (Feb 1988)

The base period of performance of this contract is from 1/01/2023 through 12/31/2023.
 (End of Clause)

452.211-75 Effective Period Of The Contract (Feb 1988)

The effective period of this contract is from contract award date through December 31, 2023.

(End of Clause)

52.216-18 Ordering (Aug 2020)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from date of the award of this contract through December 31, 2022.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

52.216-19 Order Limitations (Oct 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than one truckload, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(1) *Maximum order.* The Contractor is not obligated to honor— Any order for a single item in excess of the balance of the contract maximum or Contractor's offered capacity for the applicable delivery period, whichever is less;

(2) Any order for a combination of items in excess of items in excess of the balance of the contract maximum or Contractor's offered capacity for the applicable delivery period, whichever is less; or

(3) A series of orders from the same ordering office within 31 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(b) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(c) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 7 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

52.216-22 Indefinite Quantity (Oct 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after 90 days after the through date in clause 452.211-74.

(End of clause)

452.216-73 Minimum and Maximum Contract Amounts (Feb 1988)

During the period specified in FAR clause 52.216-18, Ordering, the Government shall place orders totaling a minimum of the amount shown in the Schedule of Supplies' "Minimum Contract Amount", but not in excess of the amount shown in the "Maximum Contract".

(End of Clause)

4A52.216-1 Delivery Order Procedures

A. Ordering of Commodity Procedure

The Government shall issue delivery instructions to the Contractor via a Purchase Order at least seven (7) calendar days prior to the first day of each delivery period (e.g. 10/1-15) scheduled in the contract. Contractor shall comply with the instructions in the delivery instructions. If a delivery instruction is issued less than seven (7) calendar days prior to the first day of the contracted delivery period, the delivery period shall be extended by the number of days the delivery instructions is issued late. Contractor shall not be entitled to any extension of the delivery period unless it furnishes evidence satisfactory to the Government that it was prepared to perform during the contracted delivery period.

- 1) For each allocation period of contract performance, the awarded price and capacity of all Contractors in good standing will be considered for USDA/Food and Nutrition Service food requisitions. In addition to price and capacity, factors considered in ordering will include the time of shipment, the total cost to the Government to deliver the product to the ultimate destination, minimum amount guaranteed, maximum quantity limit, set-aside(s), and the responsibility of the Contractor as demonstrated by past performance under the contract, including, but not limited to, quality and timeliness.
- 2) Ordering of commodity under this contract shall be accomplished by issuance of a Purchase Order not less than 30 calendar days before the required delivery period except in the case of emergencies. In the case of an emergency, commodity may be ordered by telephone, facsimile, or electronic commerce. The Government shall confirm telephone requests in writing.
- 3) The Contractor may increase their stated monthly or delivery period capacity if the Government agrees to the capacity change. Changes to the capacity will not affect overall maximum contract quantity.
- 4) If the Contractor intends to use AMS for quality assurance, the Government shall allocate a minimum of three (3) truckloads per month to the Contractor unless a smaller quantity is requested by the consignee.
- 5) USDA may modify the allocation of products ordered under the contract because of changes in program requirements; provided USDA complies with the overall minimum-maximum amounts for the contract, and the contractor agrees to the change in allocations among pack sizes.
- 6) An agency official independent of the contracting officer will serve as the delivery order ombudsman. The ombudsman will review complaints from contractors and ensure contractors are afforded a fair opportunity to be considered, consistent with the procedures in the contract. The following individual has been appointed the delivery order ombudsman for contracts issued by this contracting activity.

Christine Gouger
USDA-Agricultural Marketing Service Commodity Procurement
Procurement Policy and Service Contracting Division
PO Box 419205, Mailstop 8698
Kansas City, MO
Phone 816.926.3379
Email: christine.gouger@usda.gov

Any contractor who is not satisfied with their complaint's resolution by a contracting activity ombudsman may request the Departmental Task Order Ombudsman to review the complaint. The Chief, Procurement Policy Division, Office of Procurement and Property Management, has been designated as the Departmental Task Order Ombudsman.

- B. Maximum EPA Price: If the previous month's average price for 40-block and/or barrel cheese exceeds \$2.25 per pound (referred to as the maximum price), the Government reserves the right to suspend ordering under the contract.

4A52.214-1 Electronic Submission of Bids – Addendum

(c) WBSCM Offer Information

Work Instruction for LTC offer submission may be found at:

http://www.fsa.usda.gov/Internet/FSA_File/wbscm_work_instructions.pdf under “WI and Follow On Activities.”

Prospective contractors are responsible for starting the applicable processes early in the offering period and completing the applicable processes soon enough to ensure that their offer, modification, or withdrawal is received by the exact time specified herein for receipt of offers. Offer submission may include processes, such as: register vendor, authorize user access and roles, create eAuthentication account, accept WBSCM rules of behavior, register plants, assign users to plants, save plant responses and submit vendor response (offer).

Quantities will be awarded in increments of USDA standard truckload quantities, subject also to the offer’s quantity constraints. Quantity constraints shall be entered in pounds.

An offer requires timely submission of all plant responses AND a vendor response. Plant response consists of:

- 1) STATE PRICES for applicable items in the Bid invitation item detail attributes section and
- 2) CERTIFICATION ANSWERS in the ATTRIBUTES section of the invitation header tab. Important: Submission of the plant response just saves the data entered – the vendor response must also be submitted.

Vendor response consists of:

- 1) Entering quantity CONSTRAINTS to limit the offer to a quantity to less than or equal to the maximum invitation quantity, and
- 2) Plant responses – submission of vendor response before the Offer Due Date and Time also physically submits all previously submitted/saved plant responses. Failure to timely submit the vendor response will result in no offer for the applicable solicitation.

It is imperative that the offeror verify the accuracy of their offer. The offeror has the ability to review the Vendor Response Log as part of the bid submission process by selecting the “Vendor Response Log” button and/or the offer may be printed from the WBSCM portal path Supplier>Bid Management>Vendor Response Log.

4K52.214-2 Basis of Offers

- 1) Offers shall be submitted as a differential price per pound to the CME Group (CME) barrel cheese cash market price for barrel cheese and the CME Group 40 pound block cheese cash market price for the other Natural American cheeses.

- 2) The Differential Price in WBSCM will accept positive, zero (\$0.0000), and negative offer prices (i.e., - \$0.0300). A blank price field will be interpreted as no offer for a particular state. A price of zero (\$0.0000) IS A VALID PRICE and is a offer of flat market price to the CME Group. Anticipated delivery cities by type and/or pack are identified elsewhere within this solicitation. Offerors are encouraged to enter a price for each state displayed on the Item Detail Attributes page.
- 3) The contract price for a delivery month shall be the total of the accepted differential price, PLUS the following economic price adjustment (EPA): the previous months average (PMA) of the CME Group cash barrel or 40 pound block cheese trading as reported in USDA's *Dairy Market News*.
- 4) The month average for the PMA is a simple average of all the closing prices for barrel cheese or block cheese during the month of the CME Group cash trading.
- 5) In the event the CME Group prices are not available or do not accurately represent the market (as determined by the Government), the Government may use the Agricultural Marketing Service (AMS) cheese price series (or suitable replacement) as the basis for calculating the PMA value for barrel or block cheese.
- 6) Offerors may submit offers for less than the quantities indicated.

52.216-1 Type of Contract (Apr 1984)

The Government contemplates award of a fixed-price, with economic price adjustment indefinite delivery indefinite quantity contract resulting from this solicitation.

(End of provision)

52.216-27 Single or Multiple Awards (Oct 1995)

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of provision)

452.216-72 Evaluation Quantities--Indefinite-Delivery Contract (Feb 1988)

To evaluate offers for award purposes, the Government will apply the offeror's proposed fixed-prices plus estimated cheese market price(s) to the estimated sales orders included in the solicitation in section I., and will add other direct costs, if applicable.

(End of provision)

4A52.216-2 Compensation to the Contractor for Government Failure to Order Minimum Contract Amount

If the Government fails to order the minimum contract amount in contract clause 452.216-73, Minimum and Maximum Contract Amounts, the Contractor and Government expressly agree that the Government shall pay, and the Contractor shall accept, the sum of \$1,800.00 as payment in full and exclusive right and remedy for the Government not ordering the minimum contract amount.

(End of Clause)