

United States
Department of
Agriculture

Farm
Service
Agency

Date Issued: December 3, 2013

Announcement FFP1
Invitation No. 4, Amendment 1
Sale of Commodity Credit Corporation-Owned Sugar
Restricted for the Production of Biofuel
Or Other Non-Human Consumption Uses

Amendment Summary:

The Commodity Credit Corporation has amended Announcement FFP1, Invitation No. 4 to observe the following modification:

OFFER FORM

On page 2, the Offer Form CCC-331-D4 should read Offer Form CCC-331D.

* This amendment supersedes Announcement FFP1, Invitation No.4 issued on November 22, 2013.

**ANNOUNCEMENT FFP1, INVITATION NO. 4
SALE OF COMMODITY CREDIT CORPORATION-OWNED SUGAR
RESTRICTED FOR THE PRODUCTION OF BIOFUEL
OR OTHER NON-HUMAN CONSUMPTION USES**

The Commodity Credit Corporation (CCC) invites offers under the Farm Security and Rural Investment Act of 2002, as amended, and the Food, Conservation, and Energy Act of 2008, from bioenergy and other non-human consumption use (nonfood use) producers, such as pet food, livestock and bee feed suppliers, etc., to purchase sugar from CCC, subject to the terms and conditions of this Announcement and Invitation. Under the Feedstock Flexibility Program (FFP), the use of sugar sold by CCC to bioenergy producers is restricted to the production of biofuel, where biofuel means products such as ethanol, butanol, or other marketable biofuels as determined by CCC.

Section 9010 (b)(3) of the Food, Conservation, and Energy Act of 2008 provides authority to otherwise dispose of CCC-owned sugar for nonfood use, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act of 1996. Sugar sold by CCC for nonfood use means that the sugar (or the replacement sugar, if a substitution is authorized by CCC), cannot be used for human consumption, including sugar as a component in any product that is eventually consumed by humans. Furthermore, any sugar purchased under this Invitation cannot benefit from any Re-Export program or Polyhydric Alcohol Program administered by the Foreign Agricultural Service.

CCC will conduct compliance activities to verify the use of the sugar is in accordance with this Invitation, and successful offerors (purchasers) must submit a plan for the disposal and allow CCC access to facilities and records for such verification. Accordingly, **potential offerors are required to contact the contracting officer before the bid due date in order to determine whether their operation and product is suitable for making an offer for consideration under this Invitation. Bioenergy producers with an Environmental Protection Agency (EPA) plant number are pre-qualified.** Subcontractors and non-manufacturers (e.g., brokers) are excluded from consideration.

Quality of raw cane sugar will be based on KC-227, Raw Sugar Certification Report, and quality of refined beet sugar will be based on KC-227-A, Refined Sugar Certification Report. Offerors are encouraged to contact Warehouse Operators (Sugar Processors) in advance of bidding to discuss the quality of sugar to be delivered, a delivery schedule, and to prearrange a schedule for premiums and discounts. CCC will not be responsible for the quantity or quality of sugar delivered out of the storage facility, nor will CCC be responsible for any storage charges beginning **December 1, 2013**, or handling charges, including loadout.

CCC Sugar Storage Agreement (SSA) rates are \$0.08 per cwt per month for raw cane sugar and \$0.10 per cwt per month for refined beet sugar. Offerors that are awarded contracts will be responsible for storage charges beginning **December 1, 2013**, and loadout charges. The rate for load out is \$0.18 per cwt for all sugar types.

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

- (1) 60 days, or
- (2) title to the sugar is transferred by the transferee to another party, or
- (3) the transferee loads the sugar out of the warehouse.

A catalog listing with CCC-owned quantities is attached to this Announcement/Invitation.

Offers on partial lots are acceptable; however, for consideration under this Invitation, the **minimum overall quantity** to offer is 5,000 short tons (10,000,000 pounds). Offer prices must be expressed in U.S. dollars per pound, with up to four decimal places.

Participants are encouraged to make offers on **ALL** catalog items. No offer on any one catalog item number will be contingent upon the acceptance of another catalog item number; however, offerors **may** specify a total minimum and/or maximum quantity they are willing to accept for contract award, in Item No. 4, Miscellaneous Information, on Offer Form CCC-331-D4. Contract awards will be made based on bid evaluation that results in the least cost to CCC.

Purchasers of sugar must remit to CCC payment equal to 100% of contract value within five business days after the date of the contract. CCC will transfer title to the sugar (instore) upon receipt of payment. If payment is not received within five business days of contract date, interest will accrue for the account of the buyer on the sixth business day and continue up to the date payment is received by CCC. It is not acceptable for a purchaser to withhold payment in favor of continuing to pay interest to CCC.

Any biofuel producer that wishes to participate in the EPA's Renewable Fuel Standard (RFS) program must comply with EPA regulations, in 40 CFR part 80; however, participation in RFS is not a requirement for participation in FFP. EPA has confirmed that ethanol produced from U.S. sugarcane would qualify for an advanced fuel Renewable Identification Number (RIN), and that ethanol produced from U.S. sugar produced from U.S. sugar beets would qualify for a conventional RIN, subject to certain grandfathering provisions.

Offers and any modifications or withdrawal of offers must be received in the Kansas City Commodity Office by 1:30 p.m., central time (CT), December 11, 2013.

Successful offerors will be notified of acceptance by telephone by 1:30 p.m., CT, December 12, 2013.

The envelope containing offers must be plainly marked “DO NOT OPEN UNTIL PRESCRIBED TIME UNDER ANNOUNCEMENT FFP1, INVITATION NO. 4. Offerors are responsible for the timely receipt of offers and any modifications, or withdrawal of offers.

SUBMISSION OF OFFERS

A. How to Submit Offers

- (1) Offers, modifications, withdrawals, and cancellations shall be submitted by one of the following methods.
 - (a) Express or regular mail, and/or hand delivered. Place the notation “Offer under Announcement FFP1” on the envelope (preferably at the lower left corner).
 - (b) Facsimile (FAX) to (816) 926-6795. Place in the subject line “Offer under Announcement FFP1”.
- (2) Offer form CCC-331D must be signed. Reproductions of the offer form are acceptable.
- (3) CCC will not be responsible for any failure attributed to the transmission or receipt of faxes including, but not limited to, the following:
 - (a) Receipts garbled or incomplete;
 - (b) Availability or condition of the receiving fax equipment;
 - (c) Incompatibility between the sending and receiving equipment;
 - (d) Failure of the Offeror to properly identify the information;
 - (e) Illegibility of the information; and
 - (f) Security of data.
- (4) Envelopes containing the offers are to be sealed and marked with the name and address of the offeror in the upper left corner. Offers submitted by express mail must be sealed inside a second envelope. All envelopes must be plainly marked with the following statement, “**DO NOT OPEN UNTIL PRESCRIBED TIME UNDER ANNOUNCEMENT FFP1, INVITATION (Enter Appropriate Invitation Number).**” If overnight/express service is utilized, this statement must be printed clearly on the outer express envelope, not on the mailing label.
- (5) Changes by facsimile must contain the required signatures.

B. Where to Submit Offers

- (1) Offers, modifications, withdrawals, and cancellations of offers shall be submitted to the Kansas City Commodity Office (KCCO) and must be received by the date and local time specified in the invitation for receipt of offers.

By Mail: USDA-FSA-DACO-KCCO
Beacon Facility – Mailstop 8698
P. O. Box 419205
Kansas City, MO 64141-6205

Hand delivered: Kansas City Commodity Office
USDA-CCC-FSA – Mailstop 8698
6501 Beacon Drive
Kansas City, MO 64133-4676

By Fax: 816-926-6795

- (2) If an offer is sent by fax, the recorded date and time per incoming facsimile will serve as proof of receipt for the Kansas City Commodity Office and CCC. OFFERORS ARE RESPONSIBLE FOR THE TIMELY RECEIPT OF OFFERS AND AMENDED CHARGES. No offers, modifications, or withdrawals will be accepted by telephone.
- (3) If an offer is sent by express or regular mail and/or hand delivered, the date and time of receipt will be recorded by the Kansas City Administrative Office's (KCAO) mailroom's date and time stamp.

C. What to submit

- (1) Each Offeror shall submit a completed CCC-331D, Offer Form, (attached);
- (2) Reproduction of the forms is permissible.

D. Basis of Offer

The content of an offer will include:

- (1) Announcement FFP1, Invitation 4;
- (2) Company name, address, contact name, telephone, facsimile numbers, and email address;

(3) Environmental Protection Agency (EPA) Plant number (for domestic bioenergy producers only);

Note: If EPA plant number is not available, advance approval must be obtained from the Contracting Officer.

(4) Quantity expressed in pounds;

(5) INSTORE, location (address, city, state, and zip); and

(6) The offer price must be stated in U.S. dollars per pound (maximum four decimal places).

PROVISIONS OF CONTRACT

The contract will consist of:

- (1) Producer's offer;
- (2) CCC's Acceptance of Offer;
- (3) This Announcement/Invitation; and
- (4) Performance Bond (if required). See section on Performance Bond/Letter of Credit Requirement for International Producers.

TRANSFER OF TITLE

Transfer of title to successful offeror will occur upon receipt of payment.

FINANCIAL ARRANGEMENTS

Payment submitted by company, certified or cashier's check:

By regular mail:

USDA/FSC/RMO
Mail Stop 8212
P.O. Box 419205
Kansas City, MO 64141-6205

By Express Delivery Services:

USDA/FSC/RMO
Mail Stop 8212
9240 Troost Avenue
Kansas City, MO 64131

Payment submitted by Wire Transfer of funds:

Commodity Credit Corporation

Account Number 0004992

Special instructions: BNF = /AC -4992 OBI= CCC!

ABA#021030004

Federal Reserve Bank of New York

33 Liberty Street

New York, NY 10045

GENERAL COMPLIANCE

A. THE FOLLOWING REQUIREMENTS APPLY TO ALL PURCHASERS:

1. Companies purchasing CCC-owned sugar must provide a production plan describing the sugar conversion process prior to converting into nonfood use product using sugar stocks. Production plans and changes to production plans must be cleared in advance by the CCC Contracting Officer.
2. Sugar must be produced into nonfood use products by December 31, 2014.
3. Purchasers will be required to permit CCC access to the facility to conduct on-site compliance reviews to verify production of nonfood use products using sugar stocks.
4. Compliance reviews will be conducted to trace use of the sugar purchased under this invitation for the production of nonfood use products. Nonfood use producers must verify and track movement of sugar accepted into the nonfood use product plants through conversion of sugar into nonfood use products.
5. CCC will require documentation and verification from purchasers that the quantity of U.S. origin sugar purchased was used in a facility for the production of nonfood use product.
6. The purchaser must submit nonfood use production reports containing details on sugar stocks on a monthly basis to the following address:

USDA-FSA-DACO-KCCO
Commodity Management Division
Merchandising Branch
Beacon Facility – Mailstop 8748
P. O. Box 419205
Kansas City, MO 64141-6205

B. FAILURE TO PERFORM, AND LIQUIDATED DAMAGES:

CCC-owned sugar is being sold only for use in the production of nonfood use products under this Invitation, and any other use may result in CCC sugar loan forfeiture activity and additional costs to CCC. Accordingly, if a purchaser fails to timely prove production of nonfood use products corresponding to CCC sugar purchased in an amount sufficient to offset the awarded amount for that corresponding sugar, the purchaser will be subject to liquidated damages.

The purchaser may, prior to December 31, 2014, request in writing a one-time extension of up to six months to use the sugar in the production of nonfood use product. The extension request must include a detailed explanation for consideration by the CCC contracting officer as to why the production time requirement will not be met.

Purchasers who fail to perform to the satisfaction of the CCC contracting officer by December 31, 2014, or the extended time period, if applicable, shall pay CCC by way of compensation as liquidated damages, and not as penalty, an amount as follows:

CCC's cost to acquire the sugar times 125 percent, minus the price the purchaser paid for the CCC-owned sugar, times the quantity of sugar for which the purchaser was unable to verify to the satisfaction of the CCC contracting officer that the sugar was used in the production of nonfood use products. If the purchaser paid multiple prices for the sugar, the weighted average price will be used if none of the sugar was verified as used in the production of nonfood use products. If liquidated damages apply to only a portion of the sugar, the CCC contracting officer will use the highest CCC acquisition cost for sugar first, followed by succeeding lower costs, until the quantity is satisfied.

The purchaser agrees to pay such damages upon demand.

C. RECORDS RETENTION

Purchasers must maintain supporting documentation for a period of six years from the date of the contract and allow the CCC representative access to the processing plant and to the plant records.

D. DISPUTES

1. Any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy to the purchaser. The decision of the Contracting Officer shall be final and conclusive. However, the purchaser may appeal to the Civilian Board of Contract Appeals within 30 days from the date of receipt of the Contracting Officer's decision. Appeals should be filed with the Clerk of the Civilian Board of Contract Appeals, 1800 F Street, N.W., Washington, D.C. 20405. Other methods of filing and further information on appeals can be obtained from the Board at <http://www.cbca.gsa.gov/>. The purchaser shall mail or otherwise furnish to the Contracting Office a copy of the appeal filed. The decision of the Civilian Board of Contract Appeals shall be final and conclusive unless determined by a court of competent

jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this paragraph, the purchaser shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision hereunder of a dispute, if performance under the contract has not been completed by the purchaser or terminated by CCC, purchaser shall proceed diligently with performance of the contract and in accordance with the Contracting Officer's decision.

2. This "Disputes" section does not preclude consideration of any questions of law in connection with decisions provided for in paragraph 1 above. Provided, that nothing in the contract shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.
3. If an appeal is filed by purchaser from a final decision of the Contracting Officer under this Disputes section denying a claim arising under the contract, simple interest in the amount of the claim finally determined owed by CCC shall be payable to purchaser. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date purchaser furnishes to the Contracting Officer his written appeal under this Disputes paragraph, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to purchaser of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a Board of Contract Appeals.
4. Notwithstanding paragraph 3 above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of an appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determined purchaser has unduly delayed in pursuing remedies before the Board of Contract Appeals or a court of competent jurisdiction.

INTERNATIONAL COMPLIANCE

In addition to general compliance requirements, for production outside of the United States (U.S.) with sugar purchased from CCC, the following requirements apply:

- A. In order to verify and track movement of sugar from any U.S. port to any foreign port with eventual delivery to the foreign plant, international producer must appoint an Independent Marine Surveyor to perform a draft survey on the vessel at the port of discharge and obtain acceptable export documentation for commerce tracking that includes a copy of a non-negotiable ocean bill of lading issued by a freight forwarder and signed by an ocean carrier (or its agent); a copy of the draft survey conducted at the discharge port in the foreign country destination; and copies of the weigh scale tickets in the foreign country destination (or port weigh bridge receipts) at the time the sugar is discharged from on board the vessel.
- B. Weigh scale tickets should be provided at offloading at the foreign port of discharge and then again upon entering the production facility.

- C. CCC will require proof of production, to be obtained by providing plant production records, validated by an independent third party acceptable to CCC.

**PERFORMANCE BOND/STAND-BY LETTER OF CREDIT
REQUIREMENT FOR INTERNATIONAL PRODUCERS**

As a condition of being awarded a contract under this Announcement/Invitation, the producer outside of the U.S. who purchases CCC-owned sugar in anticipation of production outside of the U.S. must furnish a performance bond or a stand-by letter of credit in form and substance satisfactory to CCC, which meets the criteria set forth in this section:

- A. The bond or stand-by letter of credit may cover purchases made either during the period of time specified in the bond (a term bond) or for a specified time period (a single purchase bond).
- B. Only the nonfood use producer may be the principal on the bond or stand-by letter of credit covering such sugar to be used in the production of nonfood use product. The surety or sureties shall be among those listed by the Secretary of the US Department of Treasury as acceptable on Federal bonds (<http://www.fms.treas.gov/c570/c570.html>).
- C. The obligation under the bond or stand-by letter of credit shall be made effective no later than the date of title transfer of the sugar.
- D. The amount of the bond or stand-by letter of credit shall be equal to 20 cents per pound for sugar purchased under this announcement/invitation.

FALSE STATEMENTS

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 on this announcement/invitation for offers may be obtained by contacting:

Kansas City Commodity Office
Commodity Management Division
Telephone (816) 926-3816
Emails: martha.mitchell@kcc.usda.gov
kenneth.knosp@kcc.usda.gov

Martha Mitchell or Ken Knosp
CCC Contracting Officers
Kansas City Commodity Office

Attachment

CCC-331D (Sugar) (08-12-13)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	1. ANNOUNCEMENT: _____ INVITATION NO. _____ IF AMENDED, AMENDMENT NO. ____
OFFER FORM TO PURCHASE SUGAR FROM THE COMMODITY CREDIT CORPORATION		

In accordance with **Announcement _____, Invitation No. _____, Dated _____**, the undersigned offers to purchase the following quantities of Bulk Sugar from the Commodity Credit Corporation (CCC).

2A. FIRM NAME/EPA PLANT NO. (If applicable)	2B. ADDRESS
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2C. CONTACT NAME	2D. TELEPHONE NO. (Include Area Code)	2E. FAX NO. (Include Area Code)
	2F. EMAIL ADDRESS	

3A. CATALOG ITEM NO.	3B. STORAGE LOCATION City, State	3C. PRICE OFFERED (price per pound, maximum decimal places, as specified in invitation)	3D. INSTORE BID QUANTITY (pounds)

4. MISCELLANEOUS INFORMATION

5A. SIGNATURE OF OFFICER/EMPLOYEE RESPONSIBLE FOR THE OFFER	5B. NAME OF OFFICER/EMPLOYEE RESPONSIBLE FOR THE OFFER	5C. DATE SIGNED (MM-DD-YYYY)
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NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 1402, 7 CFR Part 1435, and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.). The information will be used to evaluate offers submitted by an offeror to purchase bulk sugar from CCC. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-3, Consultants File. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination that the offer to purchase bulk sugar from CCC cannot be accepted/processed.

The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. **RETURN THIS COMPLETED FORM TO THE USDA-FSA-DACO-KCCO, Beacon Facility - MAILSTOP 8698, P.O. BOX 419205, KANSAS CITY, MO 64141-6205.**

As specified in the Paperwork Reduction Act (5 CFR 1320.3), the information collection for the Sugar Program, including the Feedstock Flexibility Program, does not require OMB approval, because FSA estimates that fewer than 10 participants will participate by purchasing bulk sugar owned by CCC.

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or e-mail at program.intake@usda.gov.

Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Instructions For CCC-331D

OFFER FORM TO PURCHASE SUGAR FROM THE COMMODITY CREDIT CORPORATION

This form is used by participants offering to buy Commodity Credit Corporation (CCC)-owned sugar, and the information gathered is used to evaluate bids offered to CCC for the sale of CCC-owned sugar.

Submit the original of this completed form to the USDA-FSA-DACO-KCCO, Beacon Facility – Mailstop 8698, P.O. Box 419205, Kansas City, MO 64141-6205.

Participants offering to buy CCC-owned sugar must complete Items 1 through 5C of this form.

Items 1-5C

Fld Name / Item No.	Instructions
1 Announcement and Invitation No.	Please enter Announcement and Invitation No. Acknowledge any amendment(s) by entering the Amendment No. In the block directly below, re-enter Invitation No. and date of Invitation.
2A Firm Name/EPA Plant No.	Enter offering firm's name. Enter EPA Plant No. (if applicable) for any domestic firm offering under the Feedstock Flexibility Program (FFP).
2B Address	Enter address of offering firm.
2C Contact Name	Enter appropriate contact name.
2D Telephone No.	Enter telephone no. of offering firm (including area code).
2E FAX No.	Enter fax no. of offering firm (including area code).
2F Email Address	Enter email address of offering firm.
3A Catalog Item No.	Enter Catalog Item No. or Nos. from the catalog listing of CCC-owned sugar that you are interested in purchasing.
3B Storage Location	Enter the storage location shown in the Catalog Listing of sugar (City/State).
3C Price Offered	Enter the price per pound that you are offering for CCC-owned sugar.
3D In-store Bid Quantity	Enter the quantity in pounds of in-store sugar shown in the Catalog Listing that you are interested in buying.
4 Miscellaneous	Enter additional information applicable as specified in the Invitation.

Fld Name / Item No.	Instructions
5A Signature of Officer/ Employee Responsible for the Offer	If you are mailing or faxing this form, print the form and manually enter your signature. If this form is approved for electronic transmission and you have established credentials with USDA to submit forms electronically, use the buttons provided on the form for transmitting the form to the USDA servicing office.
5B Name of Officer/ Employee Responsible for the Offer	Enter the printed name of the Officer/Employee responsible for the offer.
5C Date Signed	Enter the date (MM-DD-YYYY) that Offer Form is signed.