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THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR
(803) 734-8018

JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

Protest Decision

Matter of: Spartanburg Meat Processing Co., Inc and Robbins Sales Co., Inc.

File No.: 2024-120 & 2024-121

Posting Date: March 8, 2024

Contracting Entity: Department of Corrections

Solicitation No.: 5400026161

Description: Beans, Corn and Ground Turkey

DIGEST

The Chief Procurement Officer (CPO) denies the protest of Spartanburg Meat Processing Co., Inc. (Spartanburg) for nonresponsiveness to the solicitation's requirements. The CPO grants the protest of Robbins Sales Co., Inc (Robbins) where Robbins' bid was responsive to the solicitation's requirements. Protests are attached as Exhibits A and B.

AUTHORITY

The Chief Procurement Officer¹ (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210. This decision is based on materials in the procurement file and applicable law and precedents.

¹ The Materials Management Officer delegated the administrative review of this protest to the Director of Statewide Sourcing.

BACKGROUND

Invitation for Bids Issued	11/01/2023
Amendment 1 Issued	11/16/2023
Statement of Intent to Award Posted	12/18/2023

The facts pertinent to this decision are:

- On November 01, 2023, the Department of Corrections (SCDC) advertised for bids to purchase beans, corn, and ground turkey. The bidders were required to identify the brands they were bidding and were to include a manufacturer's cut sheet with size and nutritional information. Bidders were also required to "clearly and specifically identify the product being offered and enclose one copy of complete details, descriptive literature, illustration, catalog cuts and specifications with the bid **to enable SCDC to determine if the product offered meets the requirements of the solicitation.**" [emphasis supplied]
- Amendment 1 answered vendor questions and reissued the solicitation with some modification including adding a requirement that the ground turkey must be USDA certified. As used hereinafter, reference to the solicitation is a reference to Amendment 1.
- By the deadline for receipt of bids, SCDC received three bids for Line 1, Ground Turkey; however, the bids from Spartanburg and Robbins were deemed non-responsive on the grounds that they failed to submit information showing the product they were bidding was USDA certified ground turkey. [Exhibits C & D]
- On December 18, 2023, SCDC posted a notice of intent to award a contract to Clarks Trading Company (Clarks) for Line Item # 1 for ground turkey. [Exhibit E] The total potential value of this line item is \$739,200.
- On December 18, 2023, Spartanburg protested. On December 19, 2023, Robbins protested. Both protestants argued that they were the lower responsive and responsible

bidder, and both met the requirement that the meat bid comes from a USDA certified plant.

DISCUSSION

Both Spartanburg and Robbins protest the award to Clark's on the grounds that each was a lower responsive and responsible bidder and met all solicitation requirements.

The solicitation required the meat be USDA certified in two places, in answer to vendor question 5 and on the bidding schedule. In three places, the cover page, Section III Scope, and the bid schedule, the solicitation required bidders to "STATE BRAND YOU ARE OFFERING IN THE BIDDING SCHEDULE AND INCLUDE MANUFACTURERS CUT SHEET WITH SIZE AND NUTRITIONAL INFORMATION." (all caps in original). Finally, in the bidding schedule, the solicitation required bidders "TO SUBMIT A BRAND FOR REVIEW YOU MUST STATE THE BRAND NAME - YOU ALSO ARE REQUIRED TO INCLUDE THE MANUFACTURERS CUT SHEET WHICH INCLUDES SIZE AND NUTRITIONAL CONTENT - PACKAGING MUST BE AS STATED IN SOLICITATION." (all caps in original). None of these requirements to provide information required bidders to provide information showing the product they were bidding was USDA certified.

Part II of the solicitation also included the following clause:

DESCRIPTIVE LITERATURE -- REQUIRED (JAN 2006)

The bidder shall clearly and specifically identify the product being offered and enclose one copy of complete details, descriptive literature, illustration, catalog cuts and specifications with the bid to enable SCDC to determine if the product offered meets the requirements of the solicitation.

Your failure to provide descriptive literature may result in rejection of your offer.
Failure to provide the literature results in a delay of processing the award.²

This clause required bidders to supply sufficient information for SCDC to determine that the product they were bidding met “the requirements of the solicitation.” One of those requirements was that the product be USDA certified. Although the failure to include product literature is typically a minor informality under § 11-35-1520(13)(g), “if the data is needed to determine whether the offered items themselves conform to the solicitation’s specifications, a bidder’s failure to include appropriate data requires rejection of the bid as nonresponsive.” *Matter of: Camar Corp.*, B-248485 (Comp. Gen. Aug. 31, 1992); *see also Matter of: Computer Science Corp.*, B-213134 (Comp. Gen. May 14, 1984) (“When descriptive literature is required by an IFB to be submitted with bids, the adequacy of the literature in showing compliance with the specifications is a matter of responsiveness. Where the literature does not show compliance, the bid must be rejected.”).

Based on the forgoing, the CPO must determine whether the protestants provided sufficient information with their bids to “enable SCDC to determine if the product offered meets the requirements of the solicitation.” For example, Spartanburg stated on its bid that it was providing meat produced by Butterball and included information from Butterball regarding its product. However, nothing in the provided information states that the meat is USDA certified. This is not the end of the matter though. If the fact that the meat was produced by Butterball was sufficient to “enable SCDC to determine if the product offered meets the requirements of the solicitation,” then Spartanburg is responsive. The same is true for Robbins. In fact, Robbins provided more information. Robbins identified its producer as Kingsland Prime Meats (Kingsland) and the information provided included Kingsland’s plant number.

² This clause when considered with the earlier cited clauses creates an ambiguity. However, the ambiguity is patent and, per the solicitation, the bidder “assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State’s attention.” SCDC could have avoided these protests had it been clearer about what information it expected bidders to provide to enable it to determine the product complied with the specifications.

In the United States, the slaughter of animals and production of meat from their carcasses for commercial sale for human consumption is governed by the Federal Meat Inspection Act (FMIA). 21 USC 601, et seq. Robbins argues that “[a]ll domestic meat processors are USDA certified/inspected, the direct proof of which is their USDA Plant Number.” Spartanburg likewise argues that “[a]ll meat producers for commercial use must be USDA certified. Indeed, under the FMIA, all domestic producers must be USDA certified and their meat products sold for human consumption must bear a seal of USDA certification. Even producers who process meat products to be sold only within a State, a situation that does not apply here, are subject to the federal inspection unless they are regulated under a State Meat and Poultry Inspection program certified by USDA. 21 USC 661. The USDA publishes an *FSIS Meat, Poultry and Egg Product Inspection Directory -By Est. Name*. Per the USDA this directory “is a listing of establishments that produce meat, poultry, and/or egg products regulated by USDA’s Food Safety and Inspection Service (FSIS) pursuant to the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.” See data.gov, an official website of the United States Government – <https://catalog.data.gov/dataset/fsis-meat-poultry-and-egg-inspection-directory-by-establishment-number>. Both Butterball and Kingsland are listed in this directory and the Kingsland plant number in the information provided by Robbins with its bid matches the plant number in the directory. According to Robbins, SCDC could have easily used the information it provided to confirm that the product it was offering was produced in a USDA certified plant and therefore, is USDA certified.³ The CPO agrees. Therefore, by including the plant number, Robbins included sufficient information on the face of its bid to determine its responsiveness.


Spartanburg, however, failed to provide enough information with its bid to determine its responsiveness. If Butterball is also an importer of meat products for sale in the United States, those meats may not be USDA certified but certified under the regime of the country of origin.

³ Indeed, in response to the protests SCDC states “[w]hile meats domestically produced must be processed in a plant that is USDA certified or inspected this is not so for foreign entities.” Thus, SCDC acknowledges that if the product is produced in a United States plant it is USDA certified. The awardee also placed great emphasis on the importance of the Plant Number for establishing USDA certification in its bid. [Exhibits F and G]

While each of the countries have been certified by USDA as having an inspection regime equivalent to that in the United States, these meats are not USDA certified.⁴ While the CPO can speculate, she cannot conclusively determine based on the producer's name alone that Spartanburg's product is USDA certified. Had Spartanburg also provided one or more Butterball Plant Numbers matching the Plant Numbers on the USDA list of producers, the result would be different.

DECISION

For the reasons stated above, the CPO denies the protest of Spartanburg and grants the protest of Robbins. The award is cancelled, and the procurement is remanded to The Department of Corrections to process in accordance with the Procurement Code.



Stacy Adams
Director of Statewide Sourcing

Columbia, South Carolina

⁴ These products are inspected by USDA when entering the United States, but this is not the same as a USDA certification.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2023)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILING FEE: Pursuant to Proviso 111.1 of the 2023 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. *[The Request for Filing Fee Waiver form is attached to this Decision.]* If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1205 Pendleton Street, Suite 367, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

-
1. What is your/your company's monthly income? _____
 2. What are your/your company's monthly expenses? _____
 3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this
_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.

- °°

From: [White, John](#)
To: [Mallory Smith](#)
Cc: [Ruthie Bishop \(C045688\)](#); [Monica Briseno \(C062794\)](#); [Adams, Stacy](#)
Subject: RE: [External] Solicitation 5400026161
Date: Tuesday, January 16, 2024 10:37:17 AM
Attachments: [RE External Solicitation 5400026161.msg](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)

Ms. Smith,

Based on the attached, I have Spartanburg Meat Processing on record as protesting the award Clark's Trading Company on December 19, 2023, on the grounds that Spartanburg Meat Processing was a lower responsive and responsible bidder, specifically that Spartanburg Meat Processing's bid met the requirement that the meat bid come from a USDA certified plant. There is nothing more that you need to do at this time.

Please be aware that you are not the only protestant. Robbins Sales has protested on the same grounds.

Sincerely

John White



John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-0768 |

From: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Sent: Tuesday, January 16, 2024 10:08 AM
To: White, John <jswhite@mmo.sc.gov>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>; Adams, Stacy <sadams@mmo.sc.gov>
Subject: RE: [External] Solicitation 5400026161

John,

What is the process for a protest? Is there anything I need to do?

Best Regards,
Mallory Smith
O: 864-574-1225 | www.EatBBQRibs.com



Spartanburg Meat Processing Co., Inc.
3003 N. Blackstock Road
Spartanburg, SC 29301

From: White, John <jwhite@mmo.sc.gov>
Sent: Thursday, January 4, 2024 8:45 AM
To: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>; Adams, Stacy <sadams@mmo.sc.gov>
Subject: RE: [External] Solicitation 5400026161

Mallory,

I apologize, I should have looked at your email more closely. I thought I was responding to a question from the Department of Corrections. At this time, I do not need anything more from Spartanburg Meat Processing.

Sincerely,

John White



John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-0768 |

From: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Sent: Wednesday, January 3, 2024 5:28 PM
To: White, John <jwhite@mmo.sc.gov>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>; Adams, Stacy <sadams@mmo.sc.gov>
Subject: Re: [External] Solicitation 5400026161

John,

I am not sure what you are asking. I would like to protest the award to Clark's trading company for ground turkey.

Mallory Smith

Business Development

O: 864-574-1225 <https://link.edgepilot.com/s/5bf65257/Rs6FQaefzE2llbBH7ANhfw?u=http://www.eatbbqribs.com/>

Spartanburg Meat Processing Co., Inc.
3003 N. Blackstock Road
Spartanburg, SC 29301

On Jan 2, 2024, at 4:58 PM, White, John <jswhite@mmo.sc.gov> wrote:

Mallory,

Does DOC wish to make a response to this and the protest of Robbins Sales?

John White

<image004.png>

John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-0768 |

From: Mallory Smith <msmith@spartanburgmeatprocessing.com>

Sent: Wednesday, December 20, 2023 2:08 PM

To: White, John <jswhite@mmo.sc.gov>

Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>

Subject: RE: [External] Solicitation 5400026161

Is there anything I need to do to for this protest?

Best Regards,

Mallory Smith

O: 864-574-1225 | <https://link.edgepilot.com/s/64a6ce98/urF6yI0pq0Wm1e5Bi5D5Rw?u=http://www.eatbbqribs.com/>

<image001.png>

<image002.png>

Spartanburg Meat Processing Co., Inc.
3003 N. Blackstock Road

Spartanburg, SC 29301

From: Mallory Smith
Sent: Tuesday, December 19, 2023 1:00 PM
To: White, John <jwhite@mmo.sc.gov>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>
Subject: RE: [External] Solicitation 5400026161

Please see attached photo of the case with USDA stamp.

<image003.png>

Best Regards,
Mallory Smith
O: 864-574-1225 | <https://link.edgepilot.com/s/64a6ce98/urF6yI0pq0Wm1e5Bi5D5Rw?u=http://www.eatbbqribs.com/>
<image001.png>

<image002.png>

Spartanburg Meat Processing Co., Inc.
3003 N. Blackstock Road
Spartanburg, SC 29301

From: White, John <jwhite@mmo.sc.gov>
Sent: Tuesday, December 19, 2023 11:27 AM
To: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>
Subject: RE: [External] Solicitation 5400026161

Ms. Smith,

Because you never use the word protest, I want to clarify your intent. Are you protesting DOC's award of the contract to another vendor?

John White

<image004.png>

John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-0768 |

From: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Sent: Tuesday, December 19, 2023 11:02 AM
To: White, John <jswhite@mmo.sc.gov>
Cc: Ruthie Bishop (C045688) <Bishop.Ruthie@doc.sc.gov>; Monica Briseno (C062794) <Briseno.Monica@doc.sc.gov>
Subject: Re: [External] Solicitation 5400026161

Thank you, John!

I spoke with Monica and she said it was because the spec sheet didn't have USDA plant on it. All meat producers for commercial use must be USDA certified. I have all the documentation to prove Butterball is a USDA inspected plant.

Please let me know if you need additional info.

Mallory Smith

Business Development

O: 864-574-1225 [https://link.edgepilot.com/s/2c7385e0/jvYIRCLC3kSZaHmBFENTj2Q?
u=http://www.eatbbqribs.com/](https://link.edgepilot.com/s/2c7385e0/jvYIRCLC3kSZaHmBFENTj2Q?u=http://www.eatbbqribs.com/)

Spartanburg Meat Processing Co., Inc.

3003 N. Blackstock Road

Spartanburg, SC 29301

On Dec 19, 2023, at 10:59 AM, White, John <jswhite@mmo.sc.gov>
wrote:

Ms. Smith,

I am forwarding your question to the Department of Corrections,
which conducted this procurement, for them to respond to your
question.

John White

<image001.png>

**John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability
Authority**

**1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-
0768 |**

From: Mallory Smith <msmith@spartanburgmeatprocessing.com>
Sent: Monday, December 18, 2023 4:26 PM
To: Protest-MMO <protest-mmo@mmo.state.sc.us>
Subject: [External] Solicitation 5400026161

Hi!

We are an instate, woman owned supplier bid on the ground turkey at \$1.31/lb. Can you please help me understand why we lost this bid to an out of state supplier at a higher price?

Thank you,

Mallory Smith

Business Development

O: 864-574-

1225 <https://link.edgepilot.com/s/573c695c/HxmjcfVmpEycVTrpSRJEsQ?u=http://www.eatbbqribs.com/>

Spartanburg Meat Processing Co., Inc.

3003 N. Blackstock Road

Spartanburg, SC 29301

Links contained in this email have been replaced. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

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above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

Exhibit B

Robbins Sales Co, Inc.

Robbins Sales Co. Inc.
P.O. Box 251
Syosset, New York 11791

19th, December 2023

Chief Procurement Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, SC 29201

To Whom It May Concern,

Please let this letter serve as an official notice of protest for Sol# 5400026161. There was a requirement listed on the bid for Line Number 0001 stating, "Must be USDA certified". When directly applied to Meat this requirement by definition means that the product must be produced within a plant that is USDA certified/inspected and thus has a USDA Plant Number. All commercial domestic meat processors are USDA certified/inspected, the direct proof of which is their USDA Plant Number. If they did not have a USDA plant number they would be operating illegally. All product that is product within a plant that is USDA certified/inspected will have a USDA inspection seal on the product and in that seal will be their Plant Number listed on it. Therefore, if you have a bid requirement where product, "Must be USDA certified" then it's fair to expect your agency to have complete understanding of what it is you're actually requesting and what information/data you would need to confirm that. The specification sheet submitted with our bid listed our suppliers plant number as 5067 which is their USDA Plant Number. This is the same plant number that will be on the USDA inspection seal.

As explained above if a producer has a USDA plant number and we provide a specification sheet with the bid that has the plant number listed in the header then by definition it shows and proves that the product we are offering meets your bids requirement that product, "Must be USDA certified". If everything a domestic commercial meat processor produces has to have a USDA Shield on it then logically any case we would supply that is produced and or delivered to your as a result of the contract will have the USDA Shield on it. That alone is proof and confirmation that our item meets specifications as submitted. There should be no need for any additional clarification required from your agency or us to determine if our item meets specifications. It's imperative to have an understanding and awareness of the commodity being procured. In this instance we believe the agency has demonstrated a lack of understanding of what your requirement, "Must be USDA certified" actually meant or how it can be affirmed.

This will result in a contract that is unfavorable to your agency and tax payers. We would point out that our bid for this product was \$1.38/lb, and Clarks Trading Company who you Intend to Award bid \$1.68/lb for the same product. There is a difference of \$132,000.00 on the total contract value i.e. your agencies/public funds expenditure. This is a very large sum of money and we believe should be treated very intentionally and with due diligence. If we have clearly demonstrated and proved that our bid as submitted including the spec sheet listing the USDA Plant Number conformed and met your bids

Robbins Sales Co, Inc.

requirement then we believe there is rightful grounds for reversal/amendment of the Intent to Award as provided to Clarks Trading Company to us Robbins Sales Company Inc. Any justification to ignore or dismiss that the product we bid meets your specification and will save your agencies/public funds expenditure by \$132,000.00 would be unfavorable and disadvantageous to the constituents who pay into public funds. This is why a protest is appropriate in this situation.

There are many resources that can be referenced to corroborate what I have said in this letter including, the attached, "FSIS Meat, Poultry and Egg Product Inspection Directory" which lists all it clearly shows that plant M5067+P5057 are USDA approved/inspected for meat processing, poultry processing. Additionally, you will see the company name tied to these plant numbers is, "Kingsland Meat Distributors Inc." located at 10 Squirrel wood Road Woodland Park, NJ 07424. This matches the company name on our spec and the address as listed.

We look forward to an amicable resolution to this matter. If you have any additional questions, comments, or concerns please feel free to reach out to me at Mitch@Robbinssales.com or by calling at (215)498-1407. Thank you for your review.

Best Regards,

Mitch C.
Director of Bid Sales,
Robbins Sales Co, Inc.
(215)498-1407
Mitch@Robbinssales.com



South Carolina Department of Corrections
Memo for Record
Written Determination for Non-Responsive Offer

Solicitation Number: **5400026161**
Solicitation Description: **Beans, Corn and Ground Turkey**
Offer Submitted By: **Spartanburg Meat Processing Co., Inc.**

The following excerpts are from the original Solicitation Document relevant to the determination of a Non-Responsive Offer for **Line 0001 - Turkey, Ground**

Page 8 states:

RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R. 19-445.2070 and Section 11-35-1520(13)]

The solicitation specification states:

Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.

Must be USDA certified.

The cut sheet submitted by the vendor did not show that their offer conformed to the specifications. No USDA certification was shown.

Per Regulation 19-445.2077, Spartanburg Meat Processing Co., Inc., has been deemed non-responsive.

Regulation 19-445.2077 (A), any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected. (B) Any bid which does not conform to the specifications contained or referenced in the invitation for bid may be rejected.

Monica Briseno

12/13/2023

Monica Briseno
Procurement -SC Department of Corrections

Date

Ruthie H. Bishop

12/10/2023

FOR
Ruthie H. Bishop, CPPB
Division Director of Procurement Services
SC Department of Corrections

Date

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

BIDDING SCHEDULE (NOV 2007)

THIS SOLICITATION IS OPEN FOR BRAND SUBMISSIONS.

BRAND OFFERING—STATE BRAND YOU ARE OFFERING IN THE BIDDING SCHEDULE AND INCLUDE MANUFACTURERS CUT SHEET WITH SIZE AND NUTRITIONAL INFORMATION – PACKAGING MUST BE PER SPECIFICATIONS STATED IN THE BIDDING SCHEDULE.

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound	\$ 1.31	\$576,400.00
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Must be USDA certified.				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				
Internal Item Number: 1				
Question	Mandatory / Optional	Multiple Responses Accepted?	Response	
TO SUBMIT A BRAND FOR REVIEW YOU MUST STATE THE BRAND NAME - YOU ALSO ARE REQUIRED TO INCLUDE THE MANUFACTURERS CUT SHEET WHICH INCLUDES SIZE AND NUTRITIONAL CONTENT - PACKAGING MUST BE AS STATED IN SOLICITATION	Mandatory	No	STATE BRAND BEING OFFERED: Butterball	
US End-Product Pref. Section 11-35-1524, (B)(1). Select US End Product if product is made, manufactured or grown in the US. Select No, if not claiming a preference.	Mandatory	No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are you requesting the SC Resident Vendor Preference? See the SC Procurement Code, Section 11-35-1524(C)(1)(I)&(II) and Section IIB of this solicitation for more information. For a FAQ on these preferences, please see www.procurement.sc/preferences	Mandatory	No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
SC End-Product Pref. Section 11-35-1524 (B)(2). Select SC End Product Preference if product is made, manufactured or grown in SC. Select No, if not claiming a preference.	Mandatory	No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	



NUTRITION FACTS

80 servings per container	
Serving size	4 oz
Amount per serving	
Calories	220
Calories from fat	140
% Daily Value *	
Total Fat 16g	25%
Saturated Fat 5g	25%
Cholesterol 75mg	25%
Sodium 80mg	3%
Total Carbohydrate 0g	0%
Dietary Fiber 0g	0%
Sugars 0g	
Protein 20g	
Vitamin A	0%
Vitamin C	0%
Calcium	2%
Iron	8%

* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.

Ingredients

Ground Turkey.

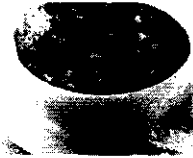
Packaging Details

GTIN	90022655700121
Item UPC	022655700128
Unit Quantity	2
Unit Size	10 LB
Case Gross Weight	21.3500 LB
Case Net Weight	20.0000 LB
Case LxWxH	16.625 IN x 9.625 IN x 7.000 IN
Case Cube Feet	0.65 CF
Pallet Tie	10
Pallet High	5



All Natural* 85/15 Ground Turkey

Ground Turkey Product # 22655 70012



Add variety with this classic ground turkey, made from high quality meat. A low-fat, high protein alternative in comparison to our red meat counterparts.

Features & Benefits



Gluten Free All Natural

This all natural product is low in fat and high in protein, serving as an excellent alternative to beef. Bring variety to the menu with delicious ground turkey tacos or hand pattied turkey burgers.

Preparation & Cooking Instructions

Add variety with this classic ground turkey, made from high quality meat. A low-fat, high protein alternative in comparison to our red meat counterparts.

South Carolina Department of Corrections
Memo for Record
Written Determination for Non-Responsive Offer

Solicitation Number: **5400026161**
Solicitation Description: **Beans, Corn and Ground Turkey**
Offer Submitted By: **Robbins Sales Co., Inc.**

The following excerpts are from the original Solicitation Document relevant to the determination of a Non-Responsive Offer for **Line 0001 - Turkey, Ground**

Page 8 states:

RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

The solicitation specification states:

Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.

Must be USDA certified.

The cut sheet submitted by the vendor did not show that their offer conformed to the specifications. No USDA certification was shown.

Per Regulation 19-445.2077, Robbins Sales Co., Inc., has been deemed non-responsive.

Regulation 19-445.2077 (A), any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected. (B)Any bid which does not conform to the specifications contained or referenced in the invitation for bid may be rejected.

Monica Briseno

12/13/2023

Monica Briseno
Procurement -SC Department of Corrections

Date

Ruthie H. Bishop
FOR

12/10/2023

Ruthie H. Bishop, CPPB
Division Director of Procurement Services
SC Department of Corrections

Date

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

BIDDING SCHEDULE (NOV 2007)

THIS SOLICITATION IS OPEN FOR BRAND SUBMISSIONS.

BRAND OFFERING—STATE BRAND YOU ARE OFFERING IN THE BIDDING SCHEDULE AND INCLUDE MANUFACTURERS CUT SHEET WITH SIZE AND NUTRITIONAL INFORMATION – PACKAGING MUST BE PER SPECIFICATIONS STATED IN THE BIDDING SCHEDULE.

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound	1.38	607,200.00
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				
Internal Item Number: 1				
Question	Mandatory / Optional	Multiple Responses Accepted?	Response	
TO SUBMIT A BRAND FOR REVIEW YOU MUST STATE THE BRAND NAME - YOU ALSO ARE REQUIRED TO INCLUDE THE MANUFACTURERS CUT SHEET WHICH INCLUDES SIZE AND NUTRITIONAL CONTENT - PACKAGING MUST BE AS STATED IN SOLICITATION	Mandatory	No	STATE BRAND BEING OFFERED: Kingsland Prime meats GT1	
US End-Product Pref. Section 11-35-1524, (B)(1). Select US End Product if product is made, manufactured or grown in the US. Select No, if not claiming a preference.	Mandatory	No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are you requesting the SC Resident Vendor Preference? See the SC Procurement Code, Section 11-35-1524(C)(1)(I)&(II) and Section IIB of this solicitation for more information. For a FAQ on these preferences, please see www.procurement.sc/preferences	Mandatory	No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
SC End-Product Pref. Section 11-35-1524 (B)(2). Select SC End Product Preference if product is made, manufactured or grown in SC. Select No, if not claiming a preference.	Mandatory	No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	



10 Squirrelwood Road
Woodland Park NJ, 07424

Tel: 862 239-9401

Fax: 862 239-9403

Kingslandprimemeats@gmail.com

Plant Number: 5067

11/20/23

Raw Ground Turkey – 10 Lb. Vacuum Sealed Chub

Nutrition Facts	
Serving Size 4 oz (112g)	
Servings Per Container 40	
Amount Per Serving	
Calories 190 Calories from Fat 100	
% Daily Value*	
Total Fat 11g	17%
Saturated Fat 3g	15%
Trans Fat 0g	
Cholesterol 95mg	32%
Sodium 75mg	3%
Total Carbohydrate 0g	0%
Dietary Fiber 0g	0%
Sugars 0g	
Protein 20g	
Vitamin A 2%	Vitamin C 0%
Calcium 2%	Iron 6%
<small>*Percent Daily Values are based on a 2,000 calorie diet.</small>	

- All natural, gluten free
- Lean – 85%
- Traditional Grind
- No added hormones or steroids

Product Code – GT1

Product shipped frozen

Packing – 2 x 10-pound Vacuum Sealed chubs, 20 pound box

Palletization – 100 boxes per 40 x 48 pallet

Frozen Shelf Life – 300 days, Store at 0 degrees or colder

Product Description: Raw Ground Turkey Consisting of White Meat, Dark Meat

Ingredients: Turkey



Exhibit E

South Carolina Department of Corrections
 4530 Broad River Road
 Columbia, SC 29210

Bidder's right to protest as listed in section 11-35-4210 in the South Carolina Consolidated Procurement Code applies to this award. THIS IS A STATEMENT OF INTENT TO AWARD A CONTRACT AND BECOMES THE OFFICIAL STATEMENT OF AWARD ON 1/3/2024. MAY BE FILED WITH:

Chief Procurement Officer -Materials Management Office -1201 Main Street, Suite 600 -Columbia, SC 29201
 Facsimile: 803-737-0639
 E-mail: protest-mmo@mmo.state.sc.us

Intent to Award

Posting Date: 12/18/2023

Initial Contract Dates: 1/03/2024 – 6/30/2024
Potential Contract Dates: 1/03/2024 – 6/30/2024
Total Potential Contract Amount: \$1,007,711.60

Solicitation : 5400026161
Issue Date : 11/1/2023
Opening Date : 12/5/2023
Description : Beans, Corn and Ground Turkey

LINES 2 & 4 NOT AWARDED

Line 1

Awarded to: Clarks Trading Company
 P.O. Box 328 Wales, WI 53183
 Phone # (262)968-5598
sales@clarkstrading.com
 Vendor #: 7000024397

Evaluated Amount: \$739,200.00
Awarded Amount: \$739,200.00
Total Potential Contract Amount: \$739,200.00

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound	\$1.68	\$739,200.00
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Must be USDA certified.				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				
Awarded Brand: Southeast Protein Purveyors Plant # 18506				

Line 3

Awarded to: Atlantic Beverage Company, Inc.
3775 Park Ave, Unit 12
Edison, NJ 08820
Phone # (912)550-9227
Heather.chatham@aifg.net
Vendor #: 7000101143

Evaluated Amount: \$101,435.60
Awarded Amount: \$101,435.60
Total Potential Contract Amount: \$101,435.60

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0003	4,760	Case	\$21.31	\$101,435.60
Product Catg.: 39386 - Vegetables Canned (Incl. Canned Salads)				
Item Description: Corn, Whole Kernel, Canned				
Tendering Text: Corn, Whole Kernel, Canned, US grade B or better, sodium 140 mg per serving or less, 6/#10 cans per case, 71 Oz or better drained weight.				
Estimated delivery dates: 952 cases on 2/15/2024, 3/15/2024, 4/15/2024, 5/15/2024 & 6/24/2024				
Awarded Brand: Sunfield				
Internal Item Number: 3				

Line 5

Awarded to: McCall Farms, Inc.
6615 South Irby Street
Effingham SC 29541
Phone # (262)968-5598
hposton@mccallfarms.com
Vendor #: 7000025428

Evaluated Amount: \$167,076.00
Awarded Amount: \$167,076.00
Total Potential Contract Amount: \$167,076.00

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0005	8,568	Case	\$19.50	\$167,076.00
Product Catg.: 39386 - Vegetables Canned (Incl. Canned Salads)				
Item Description: Beans, Green, Cut,				
Tendering Text: Beans, Green, Cut, Canned, cut; US grade B or better, sodium 140 mg per serving or less, 6/#10 cans per case, 60 Oz or better drained weight.				
Estimated delivery dates: 952 cases on 1/15/2024, 2/10/2024, 3/10/2024, 4/10/2024, 4/20/2024, 5/10/2024, 5/20/2024, 6/10/2024 & 6/24/2024				
Awarded Brand: Margaret Holmes Mfg# 11072				

Buyer: Monica Briseno
Director of Purchasing: Ruthie H. Bishop, CPPB

Exhibit F

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

BIDDING SCHEDULE (NOV 2007)

THIS SOLICITATION IS OPEN FOR BRAND SUBMISSIONS.

BRAND OFFERING—STATE BRAND YOU ARE OFFERING IN THE BIDDING SCHEDULE AND INCLUDE MANUFACTURERS CUT SHEET WITH SIZE AND NUTRITIONAL INFORMATION – PACKAGING MUST BE PER SPECIFICATIONS STATED IN THE BIDDING SCHEDULE.

// behind this sheet

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound	1.68	\$ 739,200.00
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Must be USDA certified. <i>Please see the inspection circle on the label. Plant # 18506</i>				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				

Internal Item Number: 1

Question	Mandatory / Optional	Multiple Responses Accepted?	Response
TO SUBMIT A BRAND FOR REVIEW YOU MUST STATE THE BRAND NAME - YOU ALSO ARE REQUIRED TO INCLUDE THE MANUFACTURERS CUT SHEET WHICH INCLUDES SIZE AND NUTRITIONAL CONTENT - PACKAGING MUST BE AS STATED IN SOLICITATION	Mandatory	No	STATE BRAND BEING OFFERED: <i>Southeast Protein Purveyors plant # 18506</i>
US End-Product Pref. Section 11-35-1524, (B)(1). Select US End Product if product is made, manufactured or grown in the US. Select No, if not claiming a preference.	Mandatory	No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are you requesting the SC Resident Vendor Preference? See the SC Procurement Code, Section 11-35-1524(C)(1)(I)&(II) and Section IIB of this solicitation for more information. For a FAQ on these preferences, please see www.procurement.sc/preferences	Mandatory	No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
SC End-Product Pref. Section 11-35-1524 (B)(2). Select SC End Product Preference if product is made, manufactured or grown in SC. Select No, if not claiming a preference.	Mandatory	No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Southeast Protein Purveyors
Vender Product Specification Worksheet

Manufacturer: EST#18506

Product Name: Ground Turkey Product Code: FG-GT-2/10

Bulk: Patty: Size: _____ Pack Size: 2/10 lb chubs

Case Net Weight: 20 lbs Case Gross Weight: 20.88 lbs

Producing Establishment: PRIDE Food Products Est. Number: P-18506

Inspection Program: USDA/FSIS HACCP Approved Facility: Yes No

Pallet Tie: 10 Height: 10 Box Dimensions 20 L x 8 1/2 W x 4.5 H

KEEP FROZEN Shelf Life: 12 months

Product Ingredients: Turkey

Label as it appears on the box:

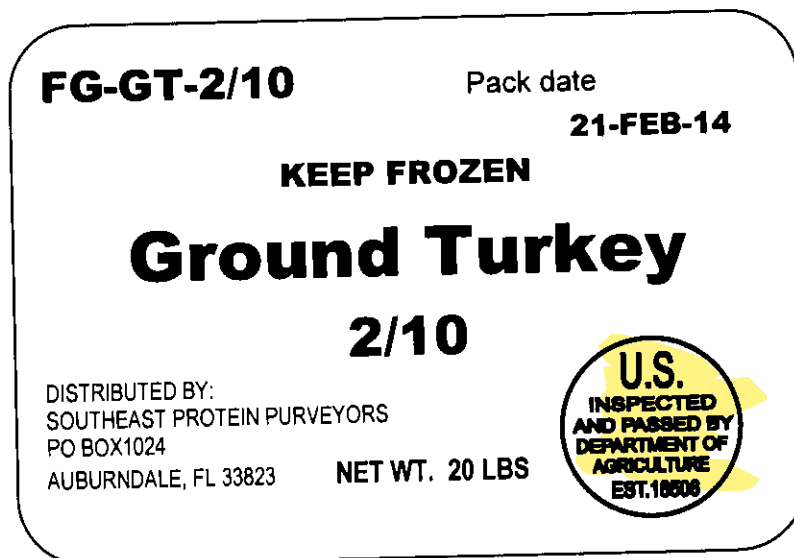


Exhibit G

01/10/2024

To: John White, CPO

SCDC Procurement Response to Protest 12-19-23 Robbins Sales Ground Turkey

The IFB 5400026161 was issued 11/01/2023 by Monica Briseno with the following requirements (*Attachment #1*)

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound		
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				

Vendors had until 11/09/2023 to submit questions. One question submitted read: (*Attachment #2*)

Monica,

Can you please confirm that these items are not USDA certified & stamped. Thank you,

The question along with others was sent to our Food Services Division along with the other questions for responses to be posted in an Amendment. The answer to this questions from Food Services was: (*Attachment #3*)

Answer: All meats must be USDA certified.

This information was then posted in Amendment 1 with the other questions and the bid requirements modified. (*Attachment #4*)

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	440,000	US pound		
Product Catg.: 39049 - Meat: Cured Fresh and Frozen				
Item Description: Turkey, Ground				
Tendering Text: Ground Turkey, raw, frozen. A mixture of dark and light turkey meat with remaining skin and visible fat processed together. Contain 20% fat or less. Coarse grind. Packed in 2-10 lb. chubs vacuum sealed per case.				
Must be USDA certified.				
Estimated delivery dates: 40,000 lbs. on 1/5/2024, 1/15/2024, 2/1/2024, 2/15/2024, 3/1/2024, 3/15/2024, 4/1/2024, 4/15/2024, 5/1/2024, 5/15/2024 & 6/1/2024				

The bids were opened on 12/05/2023 @ 10:00a.m. Robbins Sales and Spartanburg Meats Specification Sheets do not show the USDA requirement. The awarded vendors Specification sheet shows the USDA requirement and is also noted on their bid schedule. **(Attachments #5, 6 and 7)**

Robbins and Spartanburg's offer was deemed nonresponsive as the specification sheet submitted did not conform. The 2019 Amendment to SC Code 11-35-1520 removed the requirement of clarification. Robbins Sales Specification sheet did not clearly show the product met USDA requirement.

11-35- 1520(8) was removed by amendment in 2019 – reference the current SC Consolidated Procurement Code (8) is now Reserved and no longer in code – { “discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the invitation for bids.” }

While meats domestically produced must be processed in a plant that is USDA certified or inspected this is not so for foreign entities.

(Attachment #8) In the United States, FSIS regulates meat, poultry and egg products. However, all remaining foods are regulated by the Department of Health and Human Service's Food and Drug Administration (FDA). As such, there are different import requirements for different types of imported food.

SCDC has previously experienced a vendor shipping meat to SCDC that was not certified thru the USDA from Mexico.

This question being asked raised a red flag questioning could someone again possibly try to supply meat illegally.

Thank you,
Myrtle deWerd

Myrtle K. deWerd | Procurement Manager | Division of Procurement Services | SC Department of Corrections
4530 Broad River Rd. | Columbia, SC 29210 | Phone: 803-896-8582 | dewerd.myrle@doc.sc.gov