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REGULATION (EEC) No 1560/72 OF THE COMMISSION

of 20 July 1972

on a standing invitation to tender for the mobilization of white sugar to be supplied to UNRWA as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1475/72[1] of 10 July 1972 on the supply of sugar as food aid to UNRWA, and in particular Article 1 (3) thereof;

Whereas Article 1 of Regulation (EEC) No 1475/72 provides for 4 000 metric tons of white sugar produced and put into free circulation within the Community to be made available as food aid to the United Nations Relief and Works Agency for Palestine refugees (UNRWA); whereas the supply arrangements must conform with the agreement to be concluded on this matter between the EEC and UNRWA; whereas, in view of its destination, this sugar should be of Grade I quality as defined by Commission Regulation (EEC) No 1280/71[2] laying down detailed rules for the buying-in of sugar by intervention agencies, as last amended by Regulation (EEC) No 2417/71[3];

Whereas Article 2 of Regulation (EEC) No 1475/72 provides in particular that the Community shall pay the value of the sugar cif and, exceptionally the cost of delivery to the destination and the distribution costs;

Whereas, since the mobilization of the goods cif port of unloading is effected by means of a tendering procedure the rules applicable to tendering for intervention sales or for exports should be applied as appropriate under the common organization of the market in sugar;

Whereas, for the avoidance of doubt, it should be made clear that the system of compensatory amounts for exports to third countries does not apply to the present invitation to tender;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. Member States shall issue a standing invitation to tender for the supply of white sugar as food aid to UNRWA and, during the period of validity of the standing invitation, they shall invite partial tenders.

2. The invitation to tender shall relate to the price for 4 000 metric tons of Grade I white sugar as defined in Article 11 (1) of Regulation (EEC) No 1280/71 to be supplied cif to the ports of unloading in Lebanon or Israel specified in Article 9.

3. There shall be no export refund on the quantity specified in paragraph 2.

Article 2

The standing invitation to tender and the partial tendering shall take place in accordance with the following provisions.

Article 3

The standing invitation to tender shall remain open until a date to be determined later.

Article 4

1. The period during which the first round of partial tenders may be submitted:

(a) shall begin at 9.30 a.m. on 26 July 1972;

(b) shall end at 9.30 a.m. on 2 August 1972.

2. The period during which the second and subsequent rounds of partial tenders may be submitted:

(a) shall begin on the first working day following the end of the previous period, and

(b) shall end at 9.30 a.m. on the Wednesday of the following week.

[1] OJ No L 157, 31.7.1972, p. 3.
[2] OJ No L 133, 19.6.1971, p. 34.
[3] OJ No L 250 11.11.1971, p. 30.

3. The times laid down in this Article shall be one hour later in Italy.

Article 5

1. Member States shall draw up an invitation to tender. This invitation shall be published in the *Official Journal of the European Communities*. Member States may also publish the invitation to tender, or have it published, elsewhere.

2. The standing invitation to tender shall be published only for the purpose of opening it. The invitation may be amended during its period of validity. It shall be amended if the terms of the invitation to tender are changed during that period of validity.

3. The invitation to tender shall indicate:

(a) the name and address of the competent body responsible for the invitation to tender;

(b) the terms of the invitation to tender;

(c) the period within which tenders must be submitted.

Article 6

1. Tenderers shall either hand in the tender in writing, against a receipt, to the competent authority, or address the tender to that authority by registered letter, telex or telegram.

The tender must be submitted in the Member State from which the goods are to be exported.

2. The tender shall indicate:

(a) the reference number of the invitation to which the tender relates;

(b) the name and address of the tenderer;

(c) the price offered, expressed in the currency of the Member State to whose competent authority the tender is submitted.

3. A tender shall be valid only if:

(a) it relates to the price for 4 00 metric tons of Grade I white sugar;

(b) proof is furnished before the time limit for the submission of tenders expires that the tenderer has provided the security required for the tender;

(c) it includes a declaration by the tenderer that, if his tender is successful, he will deliver the sugar under the conditions laid down in this Regulation.

4. A tender which is not submitted in accordance with the provisions of this Article, or which contains terms other than those indicated in the invitation to tender, shall not be taken into consideration.

5. Once a tender has been submitted it may not be withdrawn.

Article 7

1. The security required for the tender shall be 40 000 units of account.

2. The tenderer may provide the security either in cash or in the form of a guarantee by an establishment complying with criteria laid down by the Member State in which the tender is made.

3. Except in cases of *force majeure,* the security shall only be released if:

(a) the successful tenderer has delivered the sugar in accordance with the terms stipulated;

(b) the tender is not successful.

The security shall be released immediately. In the cases of *force majeure,* the competent authority in question shall determine what measures are necessary in the light of the circumstances invoked by the tenderer.

Article 8

1. Tenders shall be examined in private session by by the competent authority concerned. Persons present at the examination shall be sworn to secrecy.

2. Tenders shall be notified to the Commission immediately.

Article 9

1. The price shall cover cif alongside ship in respect of 2 400 metric tons at Beirut and 1 600 metric tons at Ashdod.

2. The sugar shall be delivered in new jute sacks of a net capacity of 50 kilogrammes, with or without polythene lining bag as the tenderer prefers.

The following shall be printed on the sacks:

'White sugar – Gift of the European Community.'

3. The sugar must have been produced and put into free circulation in the Community.

4. The sugar shall be delivered cif alongside ship before 15 September 1972.

5. The costs of weighing and checking at the port of loading shall be included in the tender.

Article 10

1. The Member State concerned shall pay the successful tenderer the price indicated in his tender once he has made delivery and within 60 days at most following that delivery.

2. The compensatory amount payable on exports to third countries shall not apply.

Article 11

The maximum price for the delivery shall be fixed after the tenders have been examined, in accordance with the procedure laid down in Article 40 of Regulation No 1009/67[1].

However, a decision may be taken to withdraw the invitation to tender.

Article 12

1. Except where a decision is taken to withdraw the invitation for a partial tender and without prejudice to the provisions of paragraph 2, the award shall be made to the lowest tender.

2. When several tenders are made at the same price and that price is chosen by the competent authority concerned, the award shall be made by balloting.

Article 13

1. An award shall:

(a) confer the right to the issue, in respect of the quantity in question, of an export licence indicating that the compensatory amounts for exports to third countries do not apply and bearing the words: 'for export without refund';

(b) entail the obligation to apply for an export licence for Grade I sugar and to deliver that sugar according to the terms indicated in the invitation to tender.

2. Rights and obligations arising from the award of the tender shall not be transferable.

Article 14

1. The competent authorities shall immediately notify all tenderers of the result of their tenders. The authority concerned shall also send a statement of the award to the successful tenderer.

2. The statement of award shall include mention of:

(a) the reference number of the invitation to tender;

(b) the price which has been accepted.

Article 15

1. The competent authority of the Member State from whose territory the sugar in question is shipped, shall check whether the terms governing delivery are fulfilled.

2. Notwithstanding the provisions of Article 7 (3), the price which has been accepted shall be reduced by:

(a) 1·00 u.a. per 100 kilogrammes of sugar, if the sugar is of Grade II quality;

(b) 0·10 u.a. per 100 kilogrammes of sugar per day if the sugar is delivered after 15 September 1972, unless the delay is due to a case of *force majeure* recognized by the competent authority.

3. If the sugar is of a grade lower than that indicated in paragraph 2 (a) it shall be refused.

Article 16

This Regulation shall enter into force on 21 July 1972.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 July 1972.

For the Commission

The President

S. L. MANSHOLT

[1] OJ No 308, 18.12.1967, p. 1.