REGULATION (EEC) No 1071/75 OF THE COMMISSION

of 24 April 1975

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1052/73 (1) of 17 April 1973 on the supply of sugar to UNRWA as food aid pursuant to the Agreement with that agency of 18 December 1972, as amended by Regulation (EEC) No 611/75 (2), and in particular Article 1 (3) thereof;

Whereas the quantity of white sugar referred to in Article II (1) of the Agreement (3) between the European Economic Community and the United Nations Relief and Works Agency for Palestine Refugees in the Near East concerning assistance to refugees from the countries of the Middle East, hereinafter called the 'Agreement', has been changed following an exchange of letters pursuant to the Council Decision of 2 October 1974 (4); whereas it is consequently provided that 6 094 metric tons of white sugar produced and in free circulation in the Community be placed at the disposal of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) as food aid for the sugar marketing year 1974/75; whereas Article 1 (1) (c) of Regulation (EEC) No 1052/73 provides that, if white sugar is not available on the Community market on the normal terms, it may be obtained by purchase on the world market; whereas, therefore, in view of the state of supply and prices in the Community and prices on the world market, it is necessary to have recourse to purchase of white sugar on the world market; whereas, in view of its destination, this sugar must be of sound and fair marketable quality, dry, in homogeneously granulated crystals, free flowing, and with a minimum degree of polarization of 99·7° S;

Whereas Article 2 of Regulation (EEC) No 1052/73 provides in particular that the Community shall finance the cif value of the sugar;

Whereas, if mobilization is to be by tender, it would seem desirable to apply, in an appropriate form, the rules governing tenders within the framework of the common organization of the market in sugar;

whereas, in order *inter alia* to simplify administrative procedures, Denmark should be entrusted with the issue of this standing 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. Denmark shall issue a standing invitation to tender for the supply of a total quantity of 6 094 metric tons of white sugar purchased on the world market as food aid to UNRWA and, during the period of validity of the standing invitation, it shall issue partial invitations to tender.

This quantity shall be made up in lots A, B, C, D and E.

2. The standing invitation to tender shall be for the supply cif on quay at the port of discharge of each of lots A, B, C, D and E, such lots being made up as indicated in the Annex. The sugar shall be of sound and fair marketable quality, dry, in homogeneously granulated crystals, free flowing, and with a minimum degree of polarization of 99·7° S.

Article 2

Partial invitations to tender issued during the period of validity of the standing invitation to tender shall be organized in accordance with Regulation (EEC) No 1052/73 and with the following provisions.

Article 3

The standing invitation to tender shall remain valid until a date subsequently to be determined.

Article 4

1. The period for the submission of tenders in response to the first partial invitation concerning:

(a) lots A and B shall begin on the day of publication of the standing invitation to tender in the *Official Journal of the European Communities* and expire at 10 a.m. on 29 April 1975;

(1) OJ No L 195, 20. 4. 1973, p. 1.
(2) OJ No L 64, 11. 3. 1975, p. 1.
(3) OJ No L 304, 31. 12. 1972, p. 24.
(4) OJ No L 328, 7. 12. 1974, p. 41.

(b) lots C and D shall begin on 21 May 1975 and expire at 10 a.m. on 28 May 1975;

(c) lot E shall begin on 11 June 1975 and expire at 10 a.m. on 18 June 1975.

2. The period for the submission of tenders concerning each of the lots for the second and subsequent partial invitations shall:

(a) begin on the first working day following the end of the preceding period,

(b) expire at 10 a.m. on the Wednesday of the following week.

Article 5

1. Denmark shall draw up a notice of invitation to tender. This notice shall be published in the *Official Journal of the European Communities.*

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

3. The notice shall indicate in particular the terms of the invitation to tender.

Article 6

1. Tenderers shall either deliver written tenders to the competent body in Denmark against a receipt, or address tenders to that body by registered letter, telex or telegram.

2. Tenders shall indicate:

(a) the invitation to which the tender relates;

(b) the lot concerned;

(c) the name and address of the tenderer;

(d) the price in Danish kroner proposed for the lot in question.

3. A tender shall be valid only if:

(a) it relates to a supply as specified in Article 1 (2);

(b) proof is furnished before the period for the submission of tenders expires that the security for tender referred to in Article 7 has been provided;

(c) it includes a declaration by the tenderer that he will, if awarded the contract, supply the sugar in accordance with the provisions of 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 invitation to tender shall be 10 units of account per metric ton of white sugar.

2. The security shall be provided, at the option of the tenderer, either in cash or in the form of a guarantee by an establishment complying with the criteria laid down by Denmark.

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

(a) the successful tenderer supplies the sugar on the prescribed terms;

or

(b) the tender is not accepted.

4. In cases of *force majeure,* the competent body shall determine the measures necessary in the light of the circumstances invoked by the tenderer.

5. In the case provided for in paragraph 3 (a) the security shall be released when final payment is made as provided in Article 10 (1); in the case provided for in paragraph 3 (b) the security shall be released immediately.

Article 8

1. Tenders shall be examined in private session by the competent body. Subject as provided in paragraph 2, persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. The tenders submitted shall be communicated, without names attached, to the Commission without delay.

Article 9

1. The price shall be for delivery cif on quay at the port indicated in the Annex in respect of the lot concerned.

2. The sugar shall be supplied in new jute sacks containing a net quantity of 50 or 100 kilogrammes.

3. The sugar shall be delivered cif on quay by the date and to the port as indicated in the Annex.

If in respect of any lot no contract is awarded at the first partial invitation to tender, the date of delivery shall be postponed for a period equal to that between the first partial invitation to tender relating to that lot and the partial invitation at which a contract for the said lot is awarded.

4. Verification of quality and weight at time of discharge shall be effected by the competent authorities designated by UNRWA. The costs in respect of such verification shall be paid to UNRWA on the Community's behalf by Denmark upon presentation of accounts.

Article 10

Without prejudice to Article 15 (2), the competent body shall pay the successful tenderer a provisional sum equal to 90 % of the price quoted in his tender, on presentation by the tenderer of proof that the lot of sugar in question has been discharged at the stipulated port of destination. This proof shall consist of a copy of the port document drawn up by the country of destination and bearing the official stamp of UNRWA or by a certificate from an international control and surveillance agency approved by UNRWA for purposes of verification as referred to in Article 9 (4). In addition, the tenderer shall submit to the abovementioned competent body a copy of the shipping document.

Final payment shall be made as soon as the competent Danish body receives the documents drawn up by UNRWA certifying that the sugar has been delivered on the prescribed terms. These documents shall be sent directly by UNRWA to the said body at latest during the month following the end of the period provided for in Article VI of the Agreement.

Article 11

The maximum price for supplying each one of the lots of sugar shall be fixed, after examination of the tenders, in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC (1), as last amended by Regulation (EEC) No 2476/74 (2).

However, a decision may be taken to make no award.

Article 12

1. Except where a decision is taken to make no award in respect of a partial invitation to tender, and without prejudice to the provisions of paragraph 2, the contract shall be awarded to the tenderer whose tender, converted into units of account, is the lowest for the lot in question.

2. If several tenderers tender at the same price and that price is accepted, the successful tenderer shall be chosen by drawing lots.

(1) OJ No 308, 18. 12. 1967, p. 1.
(2) OJ No L 264, 1. 10. 1974, p. 70.

Article 13

1. The successful tenderer shall be :

(a) entitled, without prejudice to the other provisions of this Regulation, to payment of the price quoted in the tender for the lot in question,

(b) obliged to supply the sugar in question in accordance with the terms of the notice of the invitation to tender.

2. The obligations arising from awards shall not be transferable.

Article 14

1. The competent body shall immediately notify all tenderers of the outcome of their participation in the invitation to tender. The body concerned shall also send a statement of award to the successful tenderer.

2. Statements of award shall indicate at least :

(a) the invitation to which the award relates ;

(b) the lot concerned ;

(c) the price accepted.

Article 15

1. The successful tenderer shall be responsible for all operations arising from the award of a contract pursuant to this Regulation, and in particular for supplying to the competent body in Denmark the information provided for in Articles 2 and 3 of Annex II to the Agreement. Denmark shall forward this information as soon as possible to the Commission.

2. Without prejudice to Article 7 (3), the price accepted shall be reduced by 0·10 unit of account per 100 kilogrammes of sugar per day if the sugar is delivered after the prescribed date, save where the delay is due to a case of *force majeure* recognized as such by the competent body.

3. If the sugar does not meet the specifications laid down in Article 1 (2) it shall be rejected and any consequent loss shall be borne by the successful tenderer.

Article 16

The standing invitation to tender referred to in Regulation (EEC) No 2120/74 (3) is hereby closed.

Article 17

This Regulation shall enter into force on 25 April 1975.

(3) OJ No L 222, 11. 8. 1974, p. 6.

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

Done at Brussels, 24 April 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Lot	Quantity in metric tons	Port of dischrage	Latest date for delivery (1)
A	1 000	Beirut (Lebanon)	29 May 1975
B	1 000	Ashdod (Israel)	29 May 1975
C	1 500	Beirut (Lebanon)	28 June 1975
D	500	Ashdod (Israel)	28 June 1975
E	2 094	Beirut (Lebanon)	18 July 1975

(1) Subject as provided in the second subparagraph of Article 9 (3).