COMMISSION REGULATION (EEC) No 1979/76

of 6 August 1976

concerning the issue of an invitation to tender for the supply, as food aid, of vitaminized skimmed-milk powder to be purchased on the Community market and addressed to the International Committee of the Red Cross for the benefit of Bolivia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 559/76 (2), and in particular Articles 7 (5) and 28 thereof,

Having regard to Council Regulation (EEC) No 1826/74 of 11 July 1974 laying down the general rules for the supply of skimmed-milk powder as food aid to certain developing countries and international organizations (3), and in particular Article 6 thereof,

Whereas Council Regulation (EEC) No 1827/74 of 11 July 1974 on the supply of skimmed-milk powder as food aid to certain developing countries and international organizations (4), provides *inter alia* for the supply of 3 000 metric tons of skimmed-milk powder to the International Committee of the Red Cross (ICRC); whereas ICRC has requested the supply of 240 metric tons of vitaminized skimmed-milk powder for Bolivia;

Whereas Article 2 (2) of Regulation (EEC) No 1826/74 provides that if there is not enough skimmed-milk powder available in public stocks with the characteristics necessary for the particular destination where this requires, in particular, the addition of vitamins, supplies shall be obtained by purchase on the Community market;

Whereas Article 5 of Regulation (EEC) No 1826/74 provides that for the purposes of the supply and shipment of skimmed-milk powder invitations to tender are to be issued;

Whereas the procedure to be adopted for this tendering should in the main be the procedure used hitherto in similar cases;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. Tenders shall be invited in accordance with Regulations (EEC) No 1826/74 and (EEC) No 1827/74 for the cost of supplying to ICRC a lot of 240 metric tons of skimmed-milk powder for the benefit of Bolivia.

Delivery shall be carried out 'to the place of destination, La Paz (Bolivia)' via Arica (Chile).

2. The skimmed-milk powder shall meet the requirements as to quality and packaging set out in the Annex to this Regulation.

3. Loading shall take place as soon as possible and at all events by 25 September 1976.

Article 2

1. The intervention agencies shall frame a notice of invitation to tender which shall be published in the *Official Journal of the European Communities* not less than 10 days before the closing date for the submission of tenders.

2. The closing date for the submission of tenders shall be 24 August 1976 at 12 noon.

Article 3

1. Tenders, which shall be in writing, shall be submitted either by delivery by hand to an intervention agency against acknowledgement of receipt or by registered letter addressed to an intervention agency. Intervention agencies may also authorize the use of telex.

2. The tender shall indicate *inter alia*:

(a) the name and address of the tenderer;

(b) the port or ports of loading, chosen from among Community ports;

(c) the price, exclusive of taxes, expressed in the currency of the Member State in which the tender is presented, at which the tenderer undertakes to supply, in accordance with the specifications laid down in the Annex, the entire quantity of skimmed-milk powder to which the invitation to tender relates.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 67, 15. 3. 1976, p. 9.
(3) OJ No L 190, 13. 7. 1974, p. 20.
(4) OJ No L 190, 13. 7. 1974, p. 22.

Such price shall be inclusive of transport insurance costs to the stage of delivery stipulated in Article 1 (1).

3. A tender shall be valid only if :

(a) it relates to the entire quantity put out to tender ;

(b) proof is given before expiry of the period set for the submission of tenders that the security referred to in Article 4 has been provided.

4. No tender may be withdrawn.

Article 4

1. The tendering security shall be 20 units of account per metric ton of skimmed-milk powder.

2. It shall take the form, at the discretion of the Member State concerned, either of a cheque made out in favour of the intervention agency, or of a bank guarantee which satisfies the criteria fixed by the Member State.

Article 5

In the light of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 a maximum price, expressed in units of account, shall be fixed or alternatively a decision shall be taken to make no award.

Article 6

1. A tender shall be refused if the price proposed, converted into units of account, is more than the maximum price fixed for the purposes of the invitation to tender.

2. Subject as provided in paragraph 1, the successful tenderer shall be the one whose offer, converted into units of account, is the lowest. Where two or more valid offers specifying identical amounts, as converted into units of account, are received by a given intervention agency, the award shall be made by drawing lots. Where such offers are made to different intervention agencies the award shall be made by the intervention agency selected in accordance with the procedure referred to in Article 5.

3. The intervention agency shall immediately inform each tenderer whether he has been awarded the contract.

4. Rights and obligations arising in connection with the invitation to tender shall not be transferable.

5. The intervention agencies shall immediately inform the Commission of the name and address of the successful tenderer.

Article 7

1. The successful tenderer, acting in accordance with the provisions of Article 1, shall deliver a quantity of skimmed-milk powder as specified in the contract awarded.

The successful tenderer shall also supply a further 5 % of empty bags identical to those containing the goods. He shall undertake to have these bags mentioned in the bill of lading.

2. Delivery 'delivered to the place of destination' shall be completed once the goods actually reach the place of destination.

3. The recipient body shall bear all costs subsequent to delivery including acceptance costs and costs of unloading.

Article 8

Any costs resulting from delays in taking delivery of the goods which are attributable to the recipient body shall be borne by that body.

Article 9

1. The intervention agency concerned shall as soon as possible notify the recipient body of the name of the vessel, the date of loading, the quantity and the quality of the goods as recorded at time at loading, the port of unloading, the daily rate of unloading at the port, the place of delivery and the method or methods of transportation used for bringing the goods to the place of destination.

2. The successful tenderer shall inform without delay the recipient body of the date on which the goods will arrive at the port of unloading and shall in any case notify the body 10 clear days in advance of the estimated date of arrival at the place of destination.

Article 10

1. The competent agency of the Member State in which the contract is awarded shall check that the skimmed-milk powder in question satisfies the requirements as to quality and packaging laid down in the Annex.

2. If the goods are found to satisfy those requirements, the agency shall, before completion of the customs formalities referred to in Article 11 (1), provide the successful tenderer with a certificate to that effect.

3. On delivery of the quantity to the recipient country in question, the recipient shall issue a certificate stating that delivery of that quantity of skimmed-milk powder has been taken at the stage specified in Article 1 (1)

Article 11

1. Customs export formalities shall be carried out in the Member State in which the award of contract is made.

2. If the port of loading specified in the tender is situated in a Member State other than that in which the customs export formalities are carried out, the goods shall, on completion of such formalities, be placed under customs control with the object of ensuring that they are loaded at the port specified in the tender.

Proof of loading can be furnished only by production of the control copy referred to in Article 1 of Regulation (EEC) No 2315/69.

Sections 101, 103 and 104 of the control copy shall be completed. Section 104 shall be completed by deleting as necessary and entering against the second indent one of the following endorsements :

— 'Delivery of skimmed-milk powder as food aid (Regulation (EEC) No 1979/76) to be shipped from the port of .....';
— 'Livraison de lait écrémé en poudre à titre d'aide alimentaire (règlement (CEE) n° 1979/76) destinée à être embarquée au port de .....';
— 'Lieferung von Magermilchpulver als Nahrungsmittelhilfe (Verordnung (EWG) Nr. 1979/76) zur Verschiffung im Hafen von ..... bestimmt';
— 'Fornitura di latte scremato in polvere a titolo di aiuto alimentare (regolamento (CEE) n. 1979/76) destinata ad essere imbarcata nel porto di .....';
— 'Levering van magere-melkpoeder als voedselhulp (Verordening (EEG) nr. 1979/76) bestemd om te worden verscheept in de haven van .....';
— 'Levering af skummetmælkspulver som fødevarehjælp (forordning (EØF) nr. 1979/76) bestemt til lastning i havnen i .....'

Article 12

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

(a) the tender has not been accepted ;
(b) the tenderer :
  — has not withdrawn his tender before the contract is awarded,
  — has furnished the certificates provided for in Article 10 (2) and (3).

2. Release of the security shall take place immediately.

Article 13

In cases of *force majeure*, the intervention agency shall decide on the measures to be taken having regard to the circumstances invoked.

Article 14

The amount referred to in Article 3 (2) (c) shall be paid only on production of the certificates provided for in Article 10 (2) and (3).

Article 15

Except in cases of *force majeure*, the successful tenderer shall accept all financial liability devolving upon the Community by reason of failure to load the skimmed-milk powder by the date specified in Article 1 (3).

Costs incurred by reason of failure to deliver the skimmed-milk powder as a result of *force majeure* shall be borne by the competent agency of the Member State in which the award of contract is made.

Article 16

No refund or compensatory amount (whether monetary or accession) shall be applicable in respect of skimmed-milk powder supplied under this Regulation.

Article 17

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 6 August 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

I. Skimmed-milk powder requirements

(a) fat content :	1·5 % maximum
(b) water content :	4·0 % maximum
(c) total acidity in lactic acid :	0·15 % (18° Dornic)
(d) test for neutralization agents :	negative
(e) authorized additives :	none
(f) phosphatase test :	negative
(g) solubility :	0·5 ml maximum (99 %) minimum)
(h) degree of purity :	disc B (15·0 mg minimum)
(i) germ content :	50 000 per g maximum
(k) colon bacillus titer :	negative in 0·1 g
(l) taste and smell :	clean
(m) appearance :	white or slightly yellowish colour, free from impurities or coloured particles
(n) vitamin enrichment : vitamin A :	level of enrichment : 5 000 i.u. per 100 g.

II. Packing

(a) New bags of a net weight content of 25 kg. (A supplement of 5 % of empty bags).

(b) Composition :

— four Kraft paper bags of a strength representing at least 70 g/m² ;

— one interposed tar-lined paper bag, of a strength representing at least 140 g/m² or one Kraft paper bag with polyethylene layer, of a strength representing at least 70 g + 15 g/m² ;

— one polyethylene inner bag at least 0·08 mm thick double bound.

(c) Marking to appear on the packaging :

The packaging shall bear a red cross 10 × 10 cm and shall have in letters at least 1 cm high, the following inscription :

'Leche desnatada en polvo con vitaminas A (5 000 u.i./100 g) — Donaciòn de las Comunidades Europeas — Acciòn del Comite Internacional de la Cruz Roja — Por distribuciòn gratuita.'