COMMISSION REGULATION (EEC) No 316/76

of 13 February 1976

opening an invitation to tender for the mobilization of durum wheat as food aid for the Democratic Republic of Somalia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (1), as amended by Regulation (EEC) No 3058/75 (2),

Having regard to Council Regulation (EEC) No 2750/75 of 29 October 1975 laying down the conditions for the mobilization of cereals as food aid (3), and in particular Article 6 thereof,

Whereas on 17 February 1975 the Council of the European Communities declared that it proposed, by way of Community action, to grant 2 000 metric tons of durum wheat to the Democratic Republic of Somalia under its 1974/75 food-aid programme ;

Whereas pursuant to Article 3 (3) of Council Regulation (EEC) No 2750/75 the goods may be purchased anywhere on the Community market ;

Whereas the proposed invitation to tender should be for supply of the products delivered cif, that is at the moment when the goods are actually placed in lighter at the port of unloading ;

Whereas in view of the different monetary circumstances in the Member States, the observation of these conditions is not guaranteed by the application of exchange rates applicable in the framework of the common agricultural policy since monetary compensatory amounts do not apply for durum wheat ; whereas it is advisable to take account of the monetary situation as regards different offers ;

Whereas the award under the invitation to tender must be made in favour of the tenderer offering the best terms ;

Whereas, should *force majeure* make it impossible to complete the operation in question within the time limits specified, it must be made clear who is to bear the liability for any resulting costs ;

Whereas provision should be made for security to be given for the purpose of guaranteeing that the obligations arising by virtue of guaranteeing that the obligations arising by virtue of participation in the invitation to tender for supplies to the Democratic Republic of Somalia will be fulfilled ;

Whereas the Italian intervention agency should be made responsible for the tendering procedure ;

Whereas the Commission must be informed quickly of the tenders submitted in response to the invitation and of those accepted by the intervention agency agency ;

Whereas the Monetary Committee will be consulted ; whereas, in view of the urgency, the measures envisaged should be adopted in accordance with the conditions laid down in Article 3 (2) of Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy (4), as last amended by Regulation (EEC) No 2543/73 (5), and in particular Article 3 thereof ;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. Tenders are hereby invited for the supply to the Democratic Republic of Somalia, by way of Community food-aid action, of 2 000 metric tons of durum wheat.

2. The tendering procedure shall take place in Italy in one lot. The product shall be mobilized on the Community market. The product shall be loaded for departure from any Community port.

3. The invitation to tender provided, for in paragraph 1 is for supply of products delivered cif that is to say, actually placed in lighter of the port of Mogadiscio.

4. The successful tenderer shall deliver the product specified in paragraph 1 in new jute sacks of a net capacity of 50 kilogrammes. The following shall be printed on the sacks :

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 306, 26. 11. 1975, p. 3.
(3) OJ No L 281, 1. 11. 1975, p. 89.
(4) OJ No 106, 30. 10. 1962, p. 2553/62.
(5) OJ No L 263, 19. 9. 1973, p. 1.

'Durum Wheat — gift of the European Community — to be distributed free of charge.'

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 1 March 1976.

2. The closing date for the receipt of tenders shall be 1 March 1976 at 12 noon.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* not less than nine days before the closing date for submission of tenders.

Article 3

1. The prices offered must be expressed in the currency of the Member State in which the invitation to tender was issued.

2. The rates used for converting into units of account those offers made in national currencies shall be :

— the central rate in cases where the relevant currency is held at any given moment within a band of 2·25 %,

— in other cases the average spot exchange rate during the period from Wednesday of one week to Tuesday of the following week and which immediately precedes the time limit for the submission of offers.

Article 4

The contract shall be awarded to the tenderer offering the best terms, taking into consideration the adjustment referred to in Article 3 (3).

However, if the tenders submitted do not appear to reflect normal market prices and costs, the intervention agency may cancel the invitation to tender.

Article 5

1. The tenderer shall give security in an amount of five units of account per metric ton of goods.

It shall be released :

— in the case of all tenderers whose tenders are unsuccessful or are not accepted,

— in the case of the successful tenderer, when the operations concerned have been carried out within the prescribed time limit and on submission of the original export licence duly granted and endorsed by the competent authorities of the Member State mentioned in the tender pursuant to Article 3 (2),

— in the case of the successful tenderer for quantities not supplied by reason of *force majeure.*

2. The security required under paragraph 1 may be provided in the form of a cash deposit or of a guarantee issued by a credit institution conforming to the criteria laid down by each Member State.

Article 6

The product referred to in Article 1 which is to be supplied for human consumption to the Democratic Republic of Somalia must be of fair and sound merchantable quality, be free from odour, and correspond at least to the standard quality for which the intervention price is fixed.

Article 7

1. The Italian intervention agency shall be responsible for organizing the invitation to tender provided for by this Regulation.

2. It shall forthwith communicate to the Commission the list of firms which have responded to the invitation to tender, specifying the terms of each tender, together with the name and business name of the successful tenderer.

3. Where the customs export formalities for the mobilized product are completed in a Member State other than that in which the invitation to tender is issued, the intervention agency of the latter Member State shall be responsible for the operations following tendering, including payment to the successful tenderer.

In such case, the intervention agency choosing the successful tenderer shall immediately inform the intervention agency of the Member State concerned and shall supply it with all the information which it may require.

Furthermore, the amount of the successful tender shall be paid after it has been converted using the average of the spot rates referred to in the second subparagraph of Article 3 (3) to the tenderer in the currency of the Member State in which the operations relating to the tendering are completed.

4. The intervention agency shall ask that the tenderer specifies the following information :

(a) after each shipment, a statement giving details of the quantities loaded, the quality of the products and the type of packing ;

(b) the date of the departure of the ships, the estimated date of arrival of the products at their destination ;

(c) all possible contingencies which might occur during transportation of the products.

The information indicated above shall be forwarded by the intervention agency to the Commission immediately upon receipt.

5. When the intervention agency responsible for the operations relating to tendering is not the intervention agency which appoints the successful tenderer, it shall send as soon as possible to the latter the information necessary for releasing the security.

Article 8

This Regulation shall enter into force on the day of 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, 13 February 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission