COMMISSION REGULATION (EEC) No 717/76

of 29 March 1976

concerning the issue of an invitation to tender for the supply to the World Food Programme for use as food aid of vitaminized skimmed-milk powder to be purchased on the Community market, for the benefit of the Islamic Republic of Pakistan

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 Article 7 (5) thereof,

Having regard to Council Regulation (EEC) No 1347/75 of 26 May 1975 laying down the general rules for the supply of skimmed-milk powder under the 1975 food-aid programme to certain developing countries and certain international organizations (3), and in particular Article 6 thereof,

Whereas Council Regulation (EEC) No 1348/75 of 26 May 1975 on the supply of skimmed-milk powder under the 1975 food-aid programme to certain developing countries and certain international organizations (4), provides *inter alia* for 20 000 metric tons of skimmed-milk powder to be made available to the World Food Programme (WFP); whereas the WFP has requested the supply of 3 744 metric tons of vitaminized skimmed-milk powder for the Islamic Republic of Pakistan;

Whereas Article 2 (2) of Regulation (EEC) No 1347/75 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 1348/75 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 1347/75 and (EEC) No 1348/75, for the costs of supplying to the WFP 3 744 metric tons of vitaminized skimmed-milk powder for the Islamic Republic of Pakistan, divided into three lots of 1 248 metric tons each.

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

Article 2

1. The port of embarkation to be specified in the tender shall be chosen from among Community ports accessible for ocean-going ships having regular lines to the country of destination.

2. The delivery at the port of embarkation shall take place on a date fixed by the intervention agency concerned and which shall be after 15 and before 30 May 1976.

3. The time limit for the submission of tenders expires on 13 April 1976 at 12 noon.

Article 3

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. 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.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 67, 15. 3. 1976, p. 9.
(3) OJ No L 138, 29. 5. 1975, p. 1.
(4) OJ No L 138, 29. 5. 1975, p. 3.

3. The tenderer shall specify for how many lots his tender is valid.

4. The tender shall indicate *inter alia:*

(a) the name and address of the tenderer;

(b) the port or ports of loading, chosen from among ports specified in Article 2 (1);

(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 specification laid down in the Annex, the lot or lots subject to the tender.

Such price shall be inclusive of transport insurance costs to the stage referred to in Article 7 for delivery.

5. A tender shall be valid only if:

(a) it relates to an entire lot or several of the lots 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.

6. 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 amount, 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 lot in question.

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 communicate to the Commission the tenderers' names and addresses.

Article 7

The successful tenderer shall, on the date fixed by the WFP, deliver at the port specified in the tender a quantity of skimmed-milk powder equal to the quantity there specified. Any schedule for instalment deliveries shall be agreed between the successful tenderer and the agent of the WFP.

The goods shall be regarded as delivered when they are deposited at the place of exportation at the point designated by the WFP or its agent.

Article 8

Upon delivery of the goods at the port of embarkation, the WFP agent shall hand to the successful tenderer acting as agent for the Community a letter of acceptance.

Article 9

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 provide the successful tenderer with a certificate to that effect.

3. On delivery 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 7.

Article 10

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 9 (2) and (3).

2. Release of the security shall take place immediately.

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

Article 11

The amount referred to in Article 3 (4) (c) shall be paid only on production of the certificate provided for in Article 9 (2) and (3).

Article 12

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 at the place and in due time, the WFP having enabled the delivery at the place and by the time appointed.

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 concerned.

Article 13

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

Article 14

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, 29 March 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	
(aa) vitamin A :	5 000 i.u. per 100 g
(bb) vitamin D :	500 i.u. per 100 g.

II. Packing

(a) New bags of a net weight content of 25 kg.

(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) The following marking to appear on the packaging in letters at least 1 cm high :

'Fortified skimmed-milk powder — Gift of the European Economic Community — World Food Programme', followed by the name of the port of unloading 'Karachi' and the code identification of the manufacturing undertaking.