COMMISSION REGULATION (EEC) No 1204/78

of 2 June 1978

opening an invitation to tender for the mobilization of common wheat flour as food aid for the Republic of Sri Lanka

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 last amended by Regulation (EEC) No 1125/78 (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 30 January 1978 the Council of the European Communities declared that by way of Community action it proposed to grant the Republic of Sri Lanka the equivalent of 27 000 tonnes of common wheat, in the form of flour, i.e. 17 881 tonnes of common wheat flour, under its 1977/78 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 tenders should be invited for the supply of the product to the port of shipment in the vicinity of the vessel, the goods to be set down at the place nominated by the recipient or its agent ;

Whereas tenders may be submitted by tenderers established in any Member State of the Community and may relate to products mobilized anywhere within those Member States ; whereas, in view of the currency situation in the Member States and in order to ensure that the tenders are as comparable as possible, account should be taken of the effect on each tender of the currency situation in the Member State in which the customs export formalities will be completed ;

Whereas the contract should be awarded to the tenderer offering the best terms ;

Whereas in case it should be impossible for reasons of *force majeure* to complete the operation in question within the set time limits, it must be made clear who is to bear any costs resulting therefrom ;

Whereas provision should be made for security to be given to guarantee fulfilment of the obligations arising by virtue of participation in the invitation to tender for the supply of goods to the Republic of Sri Lanka ;

Whereas the French intervention agency should be made responsible for the tendering procedure in question ;

Whereas the Commission must be informed quickly of the tenders submitted in response to the invitation and of those accepted by the intervention 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. An invitation to tender shall be issued in respect of the supply of 17 881 tonnes of common wheat flour to the Republic of Sri Lanka by way of Community food-aid action.

2. The tendering procedure shall take place in France 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 product referred to in paragraph 1' is to be delivered in new jute sacks with a maximum gross weight of 68·058 kilograms (minimum weight of sack being 910 grams) to the port of shipment in the vicinity of the vessel. The goods must be set down at

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 142, 30. 5. 1978, p. 21.
(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.

the place nominated by the recipient country or its agent, the timing of delivery being settled by the tenderer and the recipient country's agent.

4. The following shall be printed on the sacks :

'Wheat flour / Gift of the European Economic Community to Sri Lanka'.

To allow for the possibility of re-bagging, the successful tenderer shall supply 2 % of new empty sacks, of the same quality as those containing the goods but with the printing followed by a capital letter 'R'.

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 16 June 1978.

2. The closing date for submission of tenders shall be 16 June 1978 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. Tenders must in particular mention the Member State in which the tenderer, in the event of his being declared successful, expects to complete the customs export formalities for the products concerned.

3. For the purpose of rendering the tenders comparable, the prices shall, where appropriate, be corrected by the monetary compensatory amount applicable on the closing date for submission of tenders to exports from the Member State mentioned in the tender pursuant to paragraph 2.

Such correction shall be made by :

— increasing prices which mention a Member State whose currency has depreciated or a new Member State,

— reducing prices which mention a Member State whose currency has been revalued.

The monetary compensatory amount shall, where appropriate, be converted into the currency of the Member State in which the invitation to tender is issued using :

— in the case when the currencies concerned are kept at any given moment within a band of 2·25 %, a conversion rate resulting from their central rate,

— in the other cases, the average of the spot rates of the currencies concerned recorded in the Member State in which the invitation to tender is issued during a period from the Wednesday of one week to the Tuesday of the following week being the period immediately preceding the closing date for submission of tenders.

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

If the tenderer is unable to deliver the goods in compliance with Article 1 (3) on the date given in the notice of invitation to tender as a result of the late availability of the vessels to be used for sea transportation, the resulting costs shall be borne by the intervention agency.

Article 6

1. The tenderer shall give security of a value of 10 units of account per tonne 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 criteria laid down by each Member State.

Article 7

1. The goods referred to in Article 1 which are to be supplied to the Republic of Sri Lanka must meet the following requirements :

— moisture : 14 % maximum,

— protein content : 10·5 % minimum (N × 6·25 on dry matter),

— ash content : 0·52 % maximum referred to dry matter.

If the goods referred to in Article 1 do not meet the foregoing requirements they shall be rejected and the successful tenderer shall be owner thereof.

2. Tenders for supply to the Republic of Sri Lanka of the goods referred to in Article 1 must relate to products with the following characteristics :

— moisture : 14 % maximum,
— protein content : 10·5 % minimum (N × 6·25 on dry matter),
— ash content : 0·52 % maximum referred to dry matter.

Article 8

1. The French 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 this 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 request the successful tenderer to supply the following information :

(a) after each shipment, a certificate showing the quantities dispatched and the quality of the products ;
(b) the date of departure of the vessels.

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 9

On delivery of the goods at the port of shipment, a handing-over certificate shall be supplied to the successful tenderer, acting as agent for the Community, by the agent of the recipient country, or, in the absence of the latter, by the intervention agency of the Member State in whose territory the port of shipment is situated.

Article 10

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, 2 June 1978.

For the Commission

Finn GUNDELACH

Vice-President