COMMISSION REGULATION (EEC) No 1728/78

of 24 July 1978

opening an invitation to tender for the mobilization of milled long grain rice as food aid for Togo

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice [1], as last amended by Regulation (EEC) No 1260/78 [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 it proposed, by way of Community action, to grant 517 tonnes of milled long grain rice to Togo 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 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 in the rice sector ; 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 to 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 to guarantee fulfilment of the obligations arising by virtue of participation in the invitation to tender ;

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 ;

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 Togo by way of Community food-aid action of 517 tonnes of milled long grain rice.

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 product referred to in paragraph 1 is to be delivered in new jute sacks of a net capacity of 50 kilograms to the port of shipment in the vicinity of the vessel. The goods must be set down at 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.

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(1) OJ No L 166, 25. 6. 1976, p. 1.
(2) OJ No L 156, 14. 6. 1978, p. 11.
(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.

Minimum weight of the sacks shall be 600 grams. The following shall be printed on the sacks :

'Riz blanchi / Don de la Communauté économique européenne au Togo / Distribution gratuite'.

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 7 August 1978.

2. The closing date for the submission of tenders shall be 7 August 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 the 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 tenders.

Article 4

The contract shall be awarded to the tenderer offering the best terms.

However, if the tenders submitted do not appear to correspond to 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 successful tenderer shall give security of a value of 10 units of account per tonne, the security is intended to guarantee that the operations specified in Article 1 are duly completed. The security shall be forfeit if those operations are not carried out within the prescribed time limit, save as regards quantities not delivered owing to *force majeure.*

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

Article 7

1. The milled long grain rice referred to in Article 1 to be supplied to Togo must meet the following requirements :

— moisture : 15 % ;
— broken rice : 5 % maximum ;
— chalky grains : 5 % maximum ;
— grains striated with red : 3 % maximum ;
— spotted grains : 1·5 % maximum ;
— stained grains : 1 % maximum ;
— yellow grains : 0·050 % maximum ;
— amber grains : 0·20 % maximum.

Rice not meeting these requirements shall be refused.

2. Tenders for supply to Togo of the long grain milled rice referred to in Article 1 must relate to a product with the following characteristics :

— moisture : 15 % ;
— broken rice : 5 % maximum ;
— chalky grains : 5 % maximum ;
— grains striated with red : 3 % maximum ;
— spotted grains : 1·5 % maximum ;
— stained grains : 1 % maximum ;
— yellow grains : 0·050 % maximum ;
— amber grains : 0·20 % maximum.

Article 8

1. The Italian intervention agency shall be responsible for the operations relating to 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 (2) 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 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, 24 July 1978.

For the Commission

Finn GUNDELACH

Vice-President