COMMISSION REGULATION (EEC) No 2638/78

of 10 November 1978

opening an invitation to tender for the mobilization of milled rice as food aid for the United Nations Relief and Works Agency for Palestine Refugees (UNRWA)

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 the equivalent of 65 tonnes of husked rice (in other words 50 tonnes of round grain milled rice) to UNRWA 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 the proposed invitation to tender should be for supply of the products to the dock or in the lighter where applicable 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 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 for the purpose of guaranteeing that the obligation arising by virtue of participation in the invitation to tender for supplies to UNRWA 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 ;

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 UNRWA by way of Community food-aid action, of 50 tonnes of round grain milled 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 invitation to tender provided for in paragraph 1 is for supply of products to the dock, or in the lighter where applicable in one of the ports of Lattakia, Tartous, Beyrouth or Tripoli.

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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.

4. The successful tenderer shall deliver the product specified in paragraph 1 in new jute sacks of a net capacity of 50 kilograms.

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

'Milled rice / Gift of the European Economic Community to UNRWA / For free distribution to Palestine refugees.'

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 27 November 1978.

2. The closing date for submission of tenders shall be 27 November 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. The rates used for converting into units of account those offers made in national currencies shall be :

— 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 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.

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 of a value of 10 units of account per tonne of the product ; for the successful tenderer the security is intended to guarantee that the operations specified in Article 1 are duly completed. The security shall be forfeited if those operations are not carried out within the prescribed time limit, save as regard quantities not delivered owing to *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 cirteria laid down by each Member State.

Article 6

1. The round grain milled rice referred to in Article 1 to be supplied to UNRWA 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 UNRWA of the round 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 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 (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 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

As regards this tender the intervention agency is authorized to make an initial payment of 80 % of the value of the quantity given in the bill of lading, on presentation of that document and subject to the taking of a security for an amount equal to the initial payment.

Article 9

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, 10 November 1978.

For the Commission

Finn GUNDELACH

Vice-President