# COMMISSION REGULATION (EEC) No 807/78

## of 21 April 1978

## opening an invitation to tender for the mobilization of maize as food aid for the Republic of Upper Volta

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 2560/77 [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 Upper Volta of 8 500 tonnes of maize 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 delivered to Ouagadougou ;

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 ;

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. Tenders are hereby invited for the supply, by way of Community food-aid action, to the Republic of Upper Volta of 8 500 tonnes of maize.

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 invitation to tender provided for in paragraph 1 is for supply of the products delivered to Ouagadougou.

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 :

Maïs / Don de la Communauté économique européenne à la Haute Volta'.

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'.

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(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 303, 28. 11. 1977, p. 1.
(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.

*Article 2*

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 5 May 1978.

2. The closing date for submission of tenders shall be 5 May 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*

1. The tenderer shall give security of a value of five 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 6*

The product referred to in Article 1 must be of fair and sound merchantable quality and correspond at least to the standard quality for which the intervention price is fixed.

If the product does not meet these requirements it shall be refused.

*Article 7*

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 the departure of the ships ; the expected date of arrival of the products at their destination ;
(c) all possible contingencies which might occur during transportation of the products.

The intervention agency shall transmit the information provided for to the Commission as soon as it is received.

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, 21 April 1978.

*For the Commission*

Finn GUNDELACH

*Vice-President*