COMMISSION REGULATION (EEC) No 246/79

of 9 February 1979

opening an invitation to tender for the mobilization of rolled oats as food aid for Caritas

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 1254/78 (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,

Having regard to the opinion of the Monetary Committee,

Whereas on 25 March 1976 the Council of the European Communities declared that it proposed, by way of Community action, to grant the equivalent of 405 tonnes of oats, in the form of 202·5 tonnes of rolled oats, to Caritas under its 1975/76 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 States in which the customs export formalities will be completed ;

Whereas the award under the invitation to tender must be made in favour of 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 Dutch intervention agency should be made responsible for organizing the invitation to tender ;

Whereas it is important that the Commission be informed without delay of the tenders submitted in response to the invitation and of those accepted by the intervention agency ;

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 202·5 tonnes of rolled oats to Caritas by way of Community food-aid action.

2. The tendering procedure shall take place in the Netherlands in one lot. The product shall be mobilized on the Community market. The product shall be loaded for departure from a Community port.

3. The product referred to in paragraph 1 is to be delivered 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.

4. The successful tenderer shall deliver the products specified in paragraph 1 in sacks of 25 kilograms net according to the conditions laid down in the Annex hereto.

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 23 February 1979.

2. The closing date for submission of tenders shall be 23 February 1979 at 12 noon.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 156, 14. 6. 1978, p. 1.
(3) OJ No L 281, 1. 11. 1975, p. 89.

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,

— 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 in an amount 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 rolled oats referred to in Article 1 to be supplied to Caritas must meet the requirements contained in the Annex hereto.

Oats not meeting these requirements shall be refused.

2. Tenders for supply to Caritas of the rolled oats referred to in Article 1 must relate to a product with the characteristics contained in the Annex hereto.

Article 8

1. The Dutch intervention agency shall be responsible for 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 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 vessels, the expected 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 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, 9 February 1979.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

SPECIFICATIONS

Production of quick-cooking oat flakes :

Raw oats : First quality high-density oats.

Cleaning and preparation : Oats to be cleaned of extraneous matter, debittered and stabilized by treatment with steam.

Hulling : Oats to be size-classified and hulled. After separation of husks, oat kernels to be scoured and polished.

Groats : Oat kernels to be cut, sorted and air-cleaned. Groats dampened and pre-cooked with steam, then rolled to flakes.

Oat flakes : To be packaged in 25 kg bags (2 % empty bags).

Bag composition :

— four bags of Kraft paper, of a strength corresponding to a weight of at least 70 g/m² ;
— one interposed bag made of tarred paper of a strength corresponding to a weight of at least 140 g/m² ;
— one double-bound polyethylene internal pocket at least 0·06 mm thick ;
— top and bottom seals of bag to be pasted ;
— insect repellent to be applied to outside of bag.

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'.

Quality of oat-flakes :

Humidity : less than 12 %.
Ash content : less than 2·3 % of dry matter.
Crude fibre : less than 1·5 % of dry matter.
Husk content : less than 0·10 % of dry matter.
Protein content : not less than 14 % of dry matter.

No of lot	Tonnage fas	Loading period	Inscription on the sacks
1	202·5	1 to 30. 3. 1979	Flocons d'avoine / Don de la Communauté économique européenne / Action de Caritas / Pour distribution gratuite / Haïti