

REGULATION (EEC) No 1885/73 OF THE COMMISSION

of 12 July 1973

concerning invitations to tender for the costs of delivery, as food-aid, of skimmed-milk powder held by the intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 804/68⁽¹⁾ of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by the Act⁽²⁾ concerning the Conditions of Accession and the Adjustments to the Treaties, and in particular Article 7(5) thereof;

Whereas Council Regulation (EEC) No 2721/72⁽³⁾ of 19 December 1972 on the supply of skimmed-milk powder as food aid provides that skimmed-milk powder may, depending on the amounts available in the Community, be supplied by drawing on stocks held by the intervention agencies and that delivery costs shall, as a general rule, be determined by the tendering procedure;

Whereas, in determining the rules which, under this invitation to tender, should apply to deliveries of skimmed-milk powder, the procedure hitherto followed for the supply of butteroil as food aid should, in the main, be adopted;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Milk and Milk Products;

HAS ADOPTED THIS REGULATION:

Article 1

1. In cases where, by virtue of Regulation (EEC) No 2721/72, it is decided to make a delivery of skimmed-milk powder as food aid, bought by the intervention agencies by virtue of Article 7(1) of Regulation (EEC) No 804/68, the rules set out in this Regulation shall apply.

2. At the time it is withdrawn from stock, the skimmed-milk powder shall, as to quality and packing, satisfy the requirements laid down in Annex

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 73, 27. 3. 1972, p. 14.

⁽³⁾ OJ No L 291, 28. 12. 1972, p. 28.

I to Commission Regulation (EEC) No 1108/68⁽⁴⁾ of 27 July 1968 on detailed rules of application for public storage of skimmed-milk powder, as last amended by Regulation (EEC) No 454/73⁽⁵⁾.

Article 2

1. Delivery shall be made by a date to be fixed, whether fob, cif or to a specified place of destination, according to the agreements concluded with the recipient countries or agencies.

2. The skimmed-milk powder shall be removed from the storage depots listed by the intervention agency concerned and referred to in the tender.

Article 3

The delivery costs of the skimmed-milk powder after its removal from the storage depots of the intervention agency and until its acceptance by the recipient country or agency shall be determined by a tendering procedure.

Article 4

1. The competent authority of the Member State concerned shall for each individual delivery issue an invitation to tender.

2. The intervention agency shall draw up a notice of invitation to tender which shall specify in particular:

- the location of the stored skimmed-milk powder,
- the quantities of skimmed-milk powder to be transported,
- the destination,
- the time-limit within which, and the place where, tenders must be submitted,
- the date on which delivery must be made.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* at least ten days before the closing date for tenders.

⁽⁴⁾ OJ No L 184, 29. 7. 1968, p. 34.

⁽⁵⁾ OJ No L 53, 26. 2. 1973, p. 7.

Article 5

1. Tenderers responding to a partial invitation to tender shall submit their tenders to the intervention agency, in writing, either by delivery by hand, against receipt, or by registered letter addressed to the intervention agency. The intervention agency may also authorize the use of telex.

2. Where the invitation to tender relates to several lots, each tender shall relate only to one lot.

3. The tender shall specify in particular :

- (a) the name and address of the tenderer,
- (b) the port of loading which shall be one of the ports of the EEC where sea transport, is concerned,
- (c) the amount tendered, exclusive of taxes, expressed in the currency of the Member State in which the tender is submitted and to which the tenderer undertakes that he will effect delivery of the goods to which the invitation to tender refers in accordance with the stipulated conditions. Transport shall be achieved in such a way that the quality and packing should be safeguarded.

The amount tendered shall include the insurance costs of transport from the storage depot to the agreed stage of delivery.

4. The tender shall not be valid unless :

- (a) it relates to the whole of a lot to which the invitation to tender relates,
- (b) proof is furnished that before expiry of the time limit for submission of tenders, the tenderer has given the security fixed in Article 6.

5. The tender may not be withdrawn.

Article 6

1. The tendering security shall be 2 units of account per metric ton of skimmed-milk powder.

2. It shall be paid, at the choice of the Member State, either by a cheque made out to the intervention agency, or in the form of a guarantee meeting the criteria laid down by the Member State concerned.

Article 7

In the light of the tenders received and in accordance with procedure laid down in Article 30 of Regulation (EEC) No 804/68, a maximum amount expressed in units of account shall be fixed or the tendering procedure shall be cancelled.

Article 8

1. The tender shall be rejected if the amount proposed, converted into units of account, is more

than the maximum amount valid for the delivery in question.

2. Without prejudice to paragraph 1, the successful tenderer shall be the person who submitted the lowest tender in terms of units of account. Where several tenders in the same amount when converted into units of account are to be taken into consideration, the contract shall be awarded by drawing lots.

3. Each tenderer shall be immediately informed by the intervention agency of the result of his participation in the tender.

4. Rights and obligations arising out of the invitation to tender shall not be transferable.

Article 9

When the successful tenderer takes delivery of the skimmed-milk powder, he shall ensure that the quantity handed over corresponds to the quantity to be delivered.

Furthermore, he shall ensure that the packing of the skimmed-milk powder satisfies the requirements laid down in Article 1 (2).

Article 10

Within the prescribed time-limits, the successful tenderer shall furnish to the intervention agency and to the recipient country or agency the information required of him under the notice of invitation to tender.

Article 11

1. Save in the case of *force majeure*, the tendering security shall be released only if :

- (a) the tender has not been accepted ;
- (b) the tenderer
 - has not withdrawn his tender before the decision awarding the tender,
 - has furnished the certificate provided for in Article 12.

2. The security shall be released immediately.

Article 12

The intervention agency shall pay to the successful tenderer the amount stated in his tender on presentation of a declaration drawn up by the recipient country or agency certifying that the quantities for which delivery has been taken from the intervention agency were received within the prescribed time-limits.

Article 13

In the event of *force majeure*, the intervention agency shall determine the measures it considers necessary in view of the circumstance which has arisen.

Article 14

No refund or monetary compensatory amount or compensatory amount provided for in the Act

annexed to the Treaty of Accession shall be granted in respect of skimmed-milk powder delivered pursuant to this Regulation.

Article 15

This Regulation shall enter into force on the day following 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, 12 July 1973.

For the Commission

The President

François-Xavier ORTOLI
