

COMMISSION REGULATION (EEC) No 2490/76

of 13 October 1976

on the issue of an invitation to tender for the supply to the Arab Republic of Egypt for use as food aid of vitaminized skimmed-milk powder to be bought on the Community market

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 559/76⁽²⁾, and in particular Article 7 (5) thereof,

Having regard to Council Regulation (EEC) No 1298/76 of 1 June 1976 laying down general rules for the supply of skimmed-milk powder as food aid to certain developing countries and international organizations under the 1976 programme⁽³⁾, as amended by Regulation (EEC) No 2017/76⁽⁴⁾, and in particular Article 6 thereof,

Whereas Council Regulation (EEC) No 2018/76 of 27 July 1976 on the additional supply of skimmed-milk powder as food aid to certain developing countries, international organizations and non-governmental organizations under the 1976 programme⁽⁵⁾, provides *inter alia* for 5 200 metric tons of skimmed-milk powder to be made available to the Arab Republic of Egypt;

Whereas the Arab Republic of Egypt has requested the delivery of 4 500 metric tons of vitaminized skimmed-milk powder;

Whereas Regulation (EEC) No 1298/76 provides in Article 2 (2) that, if the amounts of skimmed-milk powder in public stocks do not have the characteristics necessary for their particular destination where this requires, in particular, the addition of vitamins, supply shall be ensured by the buying-in of skimmed-milk powder on the Community market;

Whereas Article 5 of Regulation (EEC) No 1298/76 provides that for the purpose of the supply and shipment of skimmed-milk powder invitations to tender are to be issued;

Whereas the procedure to be adopted for this tendering should in the main be the procedure used hitherto in similar cases;

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. Tenders shall be invited in accordance with the provisions of Regulations (EEC) No 1298/76 and (EEC) No 2018/76, for the costs of supplying 4 500 metric tons of vitaminized skimmed-milk powder to the Arab Republic of Egypt and divided up into the following lots:

- lot A 1: 1 000 metric tons,
- lot A 2: 1 000 metric tons,
- lot A 3: 1 000 metric tons,
- lot A 4: 1 000 metric tons,
- lot B: 500 metric tons.

2. The skimmed-milk powder shall meet:

- as to quality, the prescriptions set out in the Annex to this Regulation,
- as to packaging, the prescriptions set out Annex I to Commission Regulation (EEC) No 1108/68 of 27 July 1968⁽⁶⁾, on detailed rules for public storage of skimmed-milk powder, as last amended by Regulation (EEC) No 1457/76⁽⁷⁾.

3. The successful tenderer shall deliver, as a supplement, 5 % empty bags similar to those containing the goods.

4. The packaging of the skimmed-milk powder shall bear the following inscription in letters at least 1 cm high:

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 67, 15. 3. 1976, p. 9.

⁽³⁾ OJ No L 146, 4. 6. 1976, p. 3.

⁽⁴⁾ OJ No L 224, 16. 8. 1976, p. 1.

⁽⁵⁾ OJ No L 224, 16. 8. 1976, p. 2.

⁽⁶⁾ OJ No L 184, 29. 7. 1968, p. 34.

⁽⁷⁾ OJ No L 145, 6. 6. 1975, p. 17.

'Skimmed-milk powder enriched with vitamins A and D / Gift of the European Economic Community to Egypt / For free distribution.'

Article 2

1. Delivery shall be effected from a port to be designated in the tender, chosen from among Community ports accessible for ocean-going ships and having a regular line to Alexandria.

2. Delivery at the port of shipment take place on a date fixed by the intervention agency concerned and which must be

- as regards Lots A 1 and A 2 :
after 6 and before 23 December 1976 ;
- as regards Lot A 3 :
after 6 and before 23 January 1977 ;
- as regards Lots A 4 and B :
after 6 and before 23 February 1977.

3. The time limit for the submission of tenders is 26 October 1976 at 12 noon.

Article 3

1. The intervention agencies shall frame a notice of invitation to tender which shall be published in the *Official Journal of the European Communities* not less than 10 days before the closing date for the submission of tenders.

2. Tenders, which shall be in writing, shall be submitted either by delivery by hand to an intervention agency against acknowledgement of receipt or by registered letter to an intervention agency. Intervention agencies may also authorize the use of telex.

3. The tender shall be introduced to the intervention agency of the Member State on the territory of which the manufacture and conditioning of vitaminized skimmed-milk powder have been done in accordance with Article 1 (2).

4. A tender shall be valid only if it relates to the entire quantity of a lot put out to tender.

Moreover, a tender shall relate only to lots designated by the same capital letter. The tenderer shall make clear in his tender as regards Lots A 1 to A 4 for how many lots — under these conditions — it is valid.

5. The tender shall indicate *inter alia* :

- (a) the name and address of the tenderer ;
- (b) the price, exclusive of taxes, expressed in the currency of the Member State in which the tender is presented, at which the tenderer undertakes to

supply, under the stipulated conditions, the total quantity to which his tender relates.

Such price shall be inclusive of transport insurance costs to the stage for delivery.

6. A tender shall be valid only if the proof is given before expiry of the period set for the submission of tenders that the security referred to in Article 4 has been provided.

7. No tender may be withdrawn.

Article 4

1. The tendering and delivery security shall be 20 units of account per metric ton of skimmed-milk powder.

2. It shall take the form, at the discretion of the Member State concerned, either of a cheque made out in favour of the intervention agency, or of a bank guarantee which satisfies the criteria fixed by the Member State.

Article 5

In the light of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 a maximum amount, expressed in units of account, shall be fixed or alternatively a decision shall be taken to make no award.

Article 6

1. A tender shall be refused if the price proposed, converted into units of account, is more than the maximum price fixed for the lot in question.

2. Subject as provided in paragraph 1, the successful tenderer shall be the one whose offer, converted into units of account, is the lowest. Where two or more valid offers specifying identical amounts, as converted into units of account, are received by a given intervention agency, the award shall be made by drawing lots. Where such offers are made to different intervention agencies, the award shall be made by the intervention agency selected in accordance with the procedure referred to in Article 5.

3. The intervention agency shall immediately inform each tenderer whether he has been awarded the contract.

4. Rights and obligations arising in connection with the invitation to tender shall not be transferable.

5. The intervention agencies shall immediately communicate to the Commission the tenderer's name and address.

Article 7

1. The successful tenderer shall deliver at the port designated in the tender and on the date fixed by the recipient country the quantity of skimmed-milk powder meeting the requirements as regards quality and packaging laid down in the Annex to this Regulation. Any schedule for instalment deliveries shall be fixed by the recipient country's agent in agreement with the successful tenderer.

2. The goods shall be regarded as delivered when they are deposited at the place of exportation at the point designated by the recipient country or its agent.

Article 8

1. The competent agency of the Member State in which the contract is awarded shall check that the skimmed-milk powder in question satisfies the requirements as to quality and packaging referred to in Article 1 (2).

2. If the goods are found to satisfy those requirements the agency shall, as referred to in Article 1 (2), provide the successful tenderer with a certificate to that effect.

3. Upon delivery of the goods at the port of embarkation, the recipient country's agent shall hand to the successful tenderer acting as agent for the Community a letter of acceptance.

This letter shall state that delivery of that quantity of skimmed-milk powder as well as the empty bags referred to in Article 1 (3) have been taken at the stage specified in Article 2 (1).

Article 9

If the port of loading specified in the tender is situated in a Member State other than that in which the tender has been introduced the goods shall, on completion of the control referred to in Article 8 (1), be placed under customs control with the object of ensuring that they are delivered at the port specified in the tender.

Proof of delivery to the port of loading can be furnished only by production of the control copy referred to in Article 1 of Commission Regulation (EEC) No 2315/69 of 19 November 1969 on the use of Community transit documents for the purpose of applying Community measures for verifying the use and/or destination of goods⁽¹⁾, as amended by Regulation (EEC) No 690/73⁽²⁾.

Sections 101, 103 and 104 of the control copy shall be completed.

⁽¹⁾ OJ No L 295, 24. 11. 1969, p. 14.

⁽²⁾ OJ No L 66, 13. 3. 1973, p. 23.

Section 104 shall be completed by deleting as necessary and entering against the second indent one of the following endorsements:

- 'Skimmed-milk powder as food aid (Regulation (EEC) No 2490/76) to be delivered at the port of ...',
- 'Lait écrémé en poudre à titre d'aide alimentaire (règlement (CEE) n° 2490/76) destinée à être livrée au port de ...',
- 'Magermilchpulver als Nahrungsmittelhilfe (Verordnung (EWG) Nr. 2490/76) zur Lieferung im Hafen von ... bestimmt',
- 'Latte scremato in polvere a titolo di aiuto alimentare (regolamento (CEE) n. 2490/76) destinato ad essere consegnato nel porto di ...',
- 'Magere-melkpoeder als voedselhulp (Verordening (EEG) nr. 2490/76) bestemd om te worden geleverd in de haven van ...',
- 'Skummetmælkpulver som fødevarerhjælp (forordning (EØF) nr. 2490/76) bestemt til levering i havnen i ...'.

Article 10

1. Except in cases of *force majeure*, the tendering security and delivery shall be released only if:

- (a) the tender has not been accepted;
- (b) the tenderer:
 - has not withdrawn his tender before the contract is awarded,
 - has furnished the certificates provided for in Article 8 (2) and (3).

2. Release of the security shall take place immediately.

Article 11

In cases of *force majeure*, the intervention agency shall decide on the measures to be taken having regard to the circumstances invoked.

Article 12

The amount referred to in Article 4 (3) (b) shall be paid only on production of the certificate provided for in Article 8 (2) and (3).

Article 13

Except in cases of *force majeure*, the successful tenderer shall accept all financial liability devolving upon the Community by reason of failure to load the skimmed-milk powder at the place and in due time, the recipient country having facilitated the delivery at the place and by the time appointed.

Costs incurred by reason of failure to deliver the skimmed-milk powder as a result of *force majeure* shall be borne by the competent agency of the Member State concerned.

Article 14

No refund or compensatory amount (whether monetary or accession) shall be applicable in respect of

skimmed-milk powder supplied under this Regulation.

Article 15

This Regulation shall enter into force on the day following 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, 13 October 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Skimmed-milk powder requirements

(a) fat content :	1.5 % maximum
(b) water content :	4.0 % maximum
(c) total acidity in lactic acid :	0.15 % maximum (18° Dornic)
(d) test for neutralization agents :	negative
(e) authorized additives :	none
(f) phosphatase test :	negative
(g) solubility :	0.5 ml maximum (99 % minimum)
(h) degree of purity :	disc B (15.0 mg minimum)
(i) germ content :	50 000 per g maximum
(k) colon bacillus titer :	negative in 0.1 g
(l) taste and smell :	clean
(m) appearance :	white or slightly yellowish colour, free from impurities or coloured particles
(n) vitamin enrichment :	
(aa) vitamin A :	5 000 i.u. per 100 g
(bb) vitamin D :	500 i.u. per 100 g