Commission Regulation (EC) No 1573/2005 of 28 September 2005 opening a standing invitation to tender for the resale on the Community market of rye held by the German intervention agency for processing into bioethanol and its subsequent use for the production of biofuel in the Community

COMMISSION REGULATION (EC) No 1573/2005

of 28 September 2005

opening a standing invitation to tender for the resale on the Community market of rye held by the German intervention agency for processing into bioethanol and its subsequent use for the production of biofuel in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals[(1)], and in particular Article 6 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 of 28 July 1993 laying down the procedure and conditions for the sale of cereals held by intervention agencies[(2)] provides in particular that cereals held by intervention agencies are to be sold by tendering procedure at a selling price which is not below the price recorded on the market at the place of storage or, failing that, on the nearest market, account being taken of transport costs, for an equivalent quality and for a representative quantity preventing market disturbance.

(2) The increased use of biofuels in Community transport forms part of a raft of measures designed to meet the Community's environmental commitments. Promoting the use of biofuels may open up a new market for the agricultural products of the Member States.

(3) Germany has significant intervention stocks of rye for which it is proving difficult to find markets and which should therefore be disposed of. To this end, sales on the Community market may be organised by tendering procedure with a view to processing the rye into bioethanol and its subsequent use for the production of biofuel in the Community, within the meaning of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport[(3)].

(4) To take account of the situation on the Community market, provision should be made for the Commission to manage this invitation to tender. In addition, provision must be made for an award coefficient for tenders offering the minimum selling price.

(5) It is also important for the German intervention agency's notification to the Commission to maintain the anonymity of the tenderers.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1573/2005. (See end of Document for details)*

(6) With a view to modernising management, the information required by the Commission should be sent by electronic mail.

(7) To enable checks on the particular destination of the stocks covered by tendering procedures, provision should be made for specific monitoring of, on the one hand, the delivery of the rye and its processing into bioethanol and, on the other hand, its subsequent use for the production of biofuel in the Community. To permit this monitoring, application of the procedures laid down by Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention[(4)] and Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products[(5)] respectively should be made compulsory.

(8) To guarantee proper performance, tenderers should be asked to lodge a security which, in view of the nature of the operations concerned, should be fixed by derogation from Regulation (EEC) No 2131/93, in particular as regards the conditions for its release.

(9) The Management Committee for Cereals has not delivered an opinion within the time-limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The German intervention agency shall open a standing invitation to tender for the sale on the Community market of 200 000 tonnes of rye held by it, for processing into bioethanol and its subsequent use for the production of biofuel in the Community within the meaning of Article 2(1)(a) of Directive 2003/30/EC.

Article 2

The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 2131/93.

However, notwithstanding:

(a) Article 13(1) of that Regulation, tenders shall be drawn up by reference to the actual quality of the lot to which they apply;

(b) the second paragraph of Article 10 of that Regulation, the minimum selling price shall be set at a level which does not disturb the cereals market.

Article 3

Tenders shall be valid only if they are accompanied by:

(a) proof that the tenderer has lodged a security which, notwithstanding the second subparagraph of Article 13(4) of Regulation (EEC) No 2131/93, is set at EUR 10 per tonne;

(b) the tenderer's written undertaking to use the rye for processing within the Community into bioethanol and its subsequent use for the production of biofuel in the Community before 30 August 2006 and to lodge a security of EUR 40 within two working days of the day on which the notice of award of contract is received;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1573/2005. (See end of Document for details)*

(c) an undertaking to keep stock records so that checks may be carried out to ensure that the quantities of rye awarded have been processed on Community territory into bioethanol and that this ethanol has been used for the production of biofuel in the Community.

The holding and movement of ethanol is subject to Directive 92/12/EEC for the purposes of the production of biofuels.

Article 4

1 The first partial invitation to tender shall expire at 15.00 (Brussels time) on 5 October 2005.

The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 15.00 (Brussels time), with the exception of 2 November 2005, 28 December 2005, 12 April 2006, 24 May 2006 and 14 June 2006, i.e. weeks when no invitation to tender shall be made.

The last partial invitation to tender shall expire at 15.00 (Brussels time) on 28 June 2006.

2 Tenders must be lodged with the German intervention agency at the following address:

Bundesanstalt für Landwirtschaft und Ernährung (BLE)

Deichmannsaue 29

D-53179 Bonn

Fax: (49-228) 6845 3985

(49-228) 6845 3276.

Article 5

Within two hours of the expiry of the time-limit for the submission of tenders, the German intervention agency shall notify the Commission of tenders received. This notification shall be made by e-mail, using the form in Annex I hereto.

Article 6

Under the procedure laid down in Article 25(2) of Regulation (EC) No 1784/2003 the Commission shall set the minimum selling price or decide not to award any quantities. In the event that tenders are submitted for the same lot and for a quantity larger than that available, the Commission may fix this price separately for each lot.

Where tenders are offering the minimum selling price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum selling price.

Article 7

1 The security referred to in Article 3(a) shall be released in full in respect of quantities for which:

a no award is made;

b payment of the selling price is made within the period set and the security referred to in Article 3(b) has been lodged.

2 The security referred to in Article 3(b) shall be released in proportion to the quantities of rye used by 30 August 2006 for the production of bioethanol in the Community and subject

to the bioethanol being placed under the tax warehouse system provided for in Directive 92/12/EEC and specifying the end use of the bioethanol as biofuel in the Community.

Article 8

1 Proof that the undertakings referred to in Article 3(b) have been met shall be supplied in accordance with Regulation (EEC) No 3002/92 and Directive 92/12/EEC.

2 In addition to the particulars provided for in Regulation (EEC) No 3002/92, box 104 of the control copy T5 shall refer to the undertaking provided for in Article 3(b) and (c) and contain one or more of the entries shown in Annex II.

[[F1]3 Notwithstanding Article 7(1)(a) of Regulation (EEC) No 3002/92, proof that the rye has been properly used shall be provided where it is stored in a bioethanol processing undertaking, its processing into bioethanol has taken place and the biofuel producer shows that this bioethanol has been processed into biofuel. Proof of processing into biofuel shall be provided by the stock records kept by the various parties involved and by the submission of supporting documents for the movement of the products. Under these conditions, the intermediate storage of the bioethanol may be carried out by mixing with other bioethanols.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 260/2006 of 15 February 2006 amending Regulation (EC) No 1573/2005 opening a standing invitation to tender for the resale on the Community market of rye held by the German intervention agency for processing into bioethanol and its subsequent use for the production of biofuel in the Community.

Article 9

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.