COMMISSION REGULATION (EC) No 202/2004

of 5 February 2004

opening a standing invitation to tender for the resale on the Community market of rice from the 1999 harvest held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies [2] provides among other things that rice held by intervention agencies is to be sold by tendering procedure at prices avoiding market disturbance.

(2) Spain still has intervention stocks of paddy rice from the 1999 harvest, the quality of which is in danger of deteriorating if kept in prolonged storage.

(3) In the present production situation and in view of the concessions for rice imports granted under international agreements and the restrictions on subsidised exports, disposing of this rice on traditional markets inside the Community would inevitably result in the placing of an equivalent quantity in intervention, which should be avoided.

(4) This rice can be disposed of by processing it into either broken rice or products derived therefrom, or into some other form suitable for use in animal feed, on certain conditions.

(5) In order to ensure that the rice really is processed, the procedure should be specially monitored and the successful tenderer should provide a security, to be released on conditions to be laid down.

(6) The undertakings given by tenderers must be regarded as primary requirements within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [3].

(7) Commission Regulation (EEC) No 3002/92 [4] lays down common detailed rules for verifying the use of products from intervention. Procedures should also be laid down to ensure the traceability of the products used for animal feed.

(8) So that the quantities awarded can be managed accurately, an allocation coefficient should be fixed for tenders offering the minimum selling price, while allowing tenderers to specify a minimum quantity awarded below which they do not wish their tender to stand.

(9) When the Spanish intervention agency notifies the Commission, the tenderers should remain anonymous.

(10) While respecting the tenderers' anonymity, they should be identified by numbers so that it is evident which have submitted several tenders and what prices they have offered.

(11) For control purposes, tenders must be traceable by their reference numbers, while safeguarding anonymity.

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

(13) 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

The Spanish intervention agency shall launch a standing invitation to tender for the sale on the internal market of the Community of quantities of rice from the 1999 harvest held by it and previously notified to the Commission under Regulation (EEC) No 75/91, as set out in Annex I hereto, with a view to its processing into either broken rice within the meaning of Annex A.3 to Regulation (EC) No 3072/95 or products derived therefrom, or into some other form suitable for use in animal feed (CN code 2309).

[1] OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).
[2] OJ L 9, 12.1.1991, p. 15.
[3] OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1932/1999 (OJ L 240, 10.9.1999, p. 11).
[4] OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

Article 2

1. The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 75/91.

However, notwithstanding Article 5 of that Regulation:

(a) tenders shall be drawn up on the basis of the actual quality of the lot to which they apply;

(b) the minimum sale price shall be set at a level which does not disturb the cereals or rice market.

2. Tenderers shall give the following undertakings:

(a) where the rice is to be processed into broken rice or products derived therefrom:

(i) that they will carry out the treatment provided for in Annex II within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them;

(ii) that they will use the awarded products solely in the form of broken rice or products derived therefrom either without further processing or by incorporating them into another product or by processing them, within six months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(iii) if they sell the products on, that they will have the purchaser give the above undertaking;

(b) where the rice is to be processed into a form suitable for use in animal feed,

(i) where they are feed manufacturers:

— that they will carry out the treatments described in Annex III or IV within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

— that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(ii) where they are rice mills:

— that they will carry out the treatments described in Annex IV within no more than three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

— that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(c) that they will bear the costs of the processing and treatment of the products;

(d) that they will keep stock records demonstrating that they have respected their undertakings.

Article 3

1. The Spanish intervention agency shall publish a notice of invitation to tender at least eight days before the final day of the first period for the submission of tenders.

The notice, and any changes to it, shall be forwarded to the Commission before publication.

2. The notice of invitation to tender shall contain:

(a) the additional clauses and conditions of sale compatible with this Regulation;

(b) the places of storage and the name and address of the storer;

(c) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;

(d) the number of each lot;

(e) particulars of the competent authorities responsible for monitoring the operation.

3. The Spanish intervention agency shall take all additional steps necessary to enable the parties concerned to assess the quality of the rice put up for sale before submitting their tenders.

Article 4

1. Tenders shall indicate whether they relate to processing into broken rice or products derived therefrom or into a form suitable for animal feed.

Tenders shall be valid only if they are accompanied by:

(a) evidence that the tenderer has lodged a security of EUR 15 per tonne;

(b) evidence that the tenderer is an animal feed manufacturer or a rice mill;

(c) a written undertaking by the tenderer to lodge a security, not later than two working days after the date of receipt of the notice of award of contract, for an amount equivalent to the difference between the intervention price for paddy rice applicable on the tender date plus EUR 15 and the price tendered per tonne of rice.

2. Once submitted, a tender may not be altered or withdrawn.

3. In case the Commission is required to fix an award coefficient for the quantities offered for sale as provided for in the second paragraph of Article 7, tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The period for the submission of tenders for the first partial invitation to tender shall commence on 11 February 2004 and end on 17 February at 12.00 (Brussels time).

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 12.00 (Brussels time) each Tuesday thereafter: 2 March 2004, 16 March 2004, 30 March 2004 and 13 April 2004. The period for the submission of tenders shall commence on the Wednesday before the closing date in each case.

3. The period for the submission of tenders for the last partial invitation to tender shall commence on 21 April 2004 and end on 27 April 2004 at 12.00 (Brussels time).

Tenders must be lodged with the Spanish intervention agency:

Fondo Español de Garantía Agraria (FEGA)
Beneficencia 8
E-28004 Madrid
Telex: 23427 FEGA E
Fax: (34) 915 21 98 32, (34) 915 22 43 87

Article 6

1. Not later than 09.00 (Brussels time) on the Thursday following the closing date for the submission of tenders, the Spanish intervention agency shall notify the Commission of the information provided for in Annex V hereto, broken down by type of processing.

2. For each type of processing and for each partial tendering procedure, the Spanish intervention agency shall identify the tenderers by an individual number, starting at 1.

To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

The Spanish intervention agency shall give each tender a reference number in such a way as to ensure that the tenderers remain anonymous. For the entire standing tendering procedure, each tender shall be identified by its own reference number.

3. The notification referred to in paragraph 1 shall be made by electronic mail to the address given in Annex V using the form provided to the Spanish intervention agency by the Commission for that purpose.

The notification must be made even if no tenders are submitted. In that case, it must state that no tenders have been received within the deadline laid down.

4. The Spanish intervention agency shall also notify the Commission of the information specified in Annex V for rejected tenders, stating why they were rejected.

Article 7

For each type of processing, the Commission shall set the minimum sale 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 sale price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum sale price.

This decision shall be taken in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95.

Article 8

The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure.

Within three working days of the notification referred to in the first paragraph, it shall send notices of award of contract to successful tenderers by registered letter or written telecommunication.

Article 9

Successful tenderers shall pay for the rice before it is removed, and at the latest within one month of the date of the notice of award of contract referred to in the second paragraph of Article 8. The risks and costs of storing rice that is not removed within the payment period shall be borne by the successful tenderers.

Following the expiry of the payment period, rice for which a contract is awarded and which is not removed shall be regarded for all purposes as having been removed from storage.

Where a successful tenderer fails to pay for the rice within the period referred to in the first paragraph, the contract shall be terminated by the intervention agency, where appropriate in respect of the quantity not paid for.

Article 10

1. The security referred to in Article 4(1)(a) shall be released

(a) in full for the quantities for which:
   (i) no award is made;
   (ii) the tender does not stand, in accordance with Article 4(3);
   (iii) the sale price is paid within the period set and the security referred to in Article 4(1)(c) has been lodged;

(b) proportionately to the quantity not awarded where an award coefficient is set for the quantities offered in accordance with the second paragraph of Article 7.