COMMISSION REGULATION (EC) No 1442/2003

of 13 August 2003

opening a standing invitation to tender for the resale on the Community market of long-grain B 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], as last amended by Commission Regulation (EC) No 411/2002 [2], and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 [3] provides, among other things, that paddy rice held by intervention agencies is to be sold by tendering procedure at prices preventing market disturbance.

(2) Spain still has intervention stocks of long-grain paddy rice B from the 1999 harvest whose quality is in danger of deteriorating as a result of prolonged storage.

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

(4) This rice can be disposed of by processing it into broken rice or into a 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 [4], as last amended by Regulation (EC) No 1932/1999 [5].

(7) Commission Regulation (EEC) No 3002/92 [6], as last amended by Regulation (EC) No 770/96 [7], 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 long-grain B rice from the 1999 harvest held by it and previously notified to the Commission under Regulation (EC) No 75/91, in particular Articles 2 and 5 thereof, as set out in Annex I hereto, with a view to its processing into broken rice within the meaning of Annex A to Regulation (EC) No 3072/95 or into a form suitable for use in animal feed (CN code 2309).

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 62, 5.3.2002, p. 27.
[3] OJ L 9, 12.1.1991, p. 15.
[4] OJ L 205, 3.8.1985, p. 5.
[5] OJ L 240, 10.9.1999, p. 11.
[6] OJ L 301, 17.10.1992, p. 17.
[7] 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, as an exception to 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) regarding the processing into broken rice:

— that within two months of the date of the award of the contract they will carry out the treatment provided for in Annex II, under the supervision of the competent authorities and at a place determined in agreement with them,

— that they, including the purchaser in the event of resale, will use the product for which the contract is awarded exclusively in the form of broken rice;

(b) regarding the processing into a form suitable for use in animal feed:

(i) where the tenderers are feed manufacturers:

— that within two months of the date of the award of the contract they will carry out the treatments described in Annex III or IV, 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 incorporate this product in feed within three months of the date of the award of the contract, except in cases of *force majeure*;

(ii) where the tenderers are rice mills:

— that within two months of the date of the award of the contract they will carry out the treatments described in Annex IV, 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 incorporate this product in feed within four months of the date of the award of the contract, except in cases of *force majeure*;

(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. At least eight days before the closing date of the first period for the submission of tenders, the Spanish intervention agency shall publish a notice of invitation to tender.

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) details 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 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 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 not later than two working days after the date of receipt of the notice of award of contract.

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 Article 7(2), tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The closing date for the submission of tenders for the first partial tendering procedure shall be 26 August 2003 at 12.00 (Brussels time).

2. The closing dates for the submission of tenders for subsequent partial tendering procedures shall be each Tuesday at 12.00 (Brussels time).

3. The closing date for the submission of tenders for the last partial tendering procedure shall be 25 November 2003 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 91) 521 98 32, (34 91) 522 43 87

Article 6

1. The Spanish intervention agency shall notify the Commission of the information as specified in Annex V, by type of processing, no later than 9.00 (Brussels time) on the Thursday following the expiry of the deadline for the submission of tenders.

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

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

The reference numbers of each tender shall be given by the Spanish intervention agency 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 which 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 as 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 dispatch of the notice referred to in the second paragraph of Article 8. The risks and costs of storing rice which 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:

   1. no award is made;
   2. the offer does not stand, in accordance with Article 4(3);
   3. 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 Article 7(2).

2. The security referred to in Article 4(1)(c) shall be released in proportion to the quantities used only if the intervention agency has carried out all the checks necessary to ensure that the product is processed in accordance with this Regulation.

However, the security shall be released in full:

(a) on presentation of proof of processing as provided for in Annex II and proof of the undertaking provided for in the second indent of Article 2(2)(a);

(b) on presentation of proof that the treatment referred to in Annex III has been carried out, provided that not less than 95 % of the fine broken grains and/or fragments obtained is used in compound feed;

(c) on presentation of proof that the treatment referred to in Annex IV has been carried out, provided that not less than 95 % of the milled rice obtained is used in compound feed.

3. Proof that the rice has been incorporated in animal feed as referred to in this Regulation shall be provided in accordance with Regulation (EEC) No 3002/92.