

Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (repealed)

CHAPTER II

Aid granted through a tendering procedure

Article 9

Opening of the tendering procedure

1 A tendering procedure shall be opened in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007 by way of Regulation, hereinafter referred to as ‘Regulation opening the tendering procedure’.

2 The Regulation opening the tendering procedure may contain the following information:

- a the products covered with their relevant CN codes, if applicable;
- b the unit of measurement of the quantities (lots, batches, vats/silos);
- c the period covered (‘tendering period’) and the different sub-periods when the tenders can be lodged;
- d the opening and closing time between which tenders may be lodged;
- e the minimum and the maximum period of storage;
- f the global quantity covered by the tendering procedure, if necessary;
- g the minimum quantity each tender must provide for;
- h the amount of the security per unit;
- i the periods of placing into store and of removal from store;
- j the specifications that have to appear on the packages.

3 At least six days must elapse between the entry into force of the Regulation opening the tendering procedure and the first date for the submission of tenders.

Article 10

Submission of tenders

1 Tenders shall be lodged using the method made available to the operators by the Member State concerned.

The competent authorities of the Member States may require that electronic tenders be accompanied by an advance electronic signature within the meaning of Article 2, point (2) of Directive 1999/93/EC of the European Parliament and of the Council⁽¹⁾ or by an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature by applying the same rules and conditions as those defined in the Commission’s provisions on electronic and digitised documents, set out by Commission Decision 2004/563/EC, Euratom⁽²⁾, and in its implementing rules.

2 A tender shall be valid if the following conditions are met:

- a it indicates a reference to the Regulation opening the tendering procedure and the expiry date for the sub-period of submission of the tenders;
 - b it indicates the identification data of the tenderer: name, address and the VAT registration number;
 - c it indicates the product with its relevant CN code, if applicable;
 - d it indicates the storage period, if necessary;
 - e it indicates the quantity of products covered by the tender;
 - f where products are already stored, it indicates the name and address of the storage place, the storage lot/batch/vat/silo number and where appropriate the approval number identifying the factory;
 - g it indicates the amount of aid offered per unit and per day in euros and cents, exclusive of VAT;
 - h the tenderer has lodged a security before the end of the submission sub-period, in accordance with the provisions of Title III of Regulation (EEC) No 2220/85, and has provided proof thereof within the same period;
 - i it does not include any additional conditions introduced by the tenderer other than those laid down in this Regulation and in the Regulation opening the tendering procedure;
 - j it is presented in the official language, or one of the official languages of the Member State in which the tender is lodged.
- 3 Tenders shall not be withdrawn or amended after their submission.

Article 11

Examination of tenders

- 1 The competent authorities of the Member States shall decide on the validity of tenders on the basis of the conditions set out in Article 10(2).
- 2 Persons authorised to receive and examine the tenders shall be under an obligation not to disclose any particulars relating thereto to any unauthorised person.
- 3 Where the competent authorities of the Member States decide that a tender is invalid they shall inform the tenderer.

Article 12

Notification of the tenders to the Commission

- 1 All valid tenders shall be notified to the Commission by the competent authorities of the Member States.
- 2 The notifications shall not contain the data referred to in Article 10(2)(b).
- 3 The notifications shall be made by electronic means, using the method indicated to the Member States by the Commission, within a specific period fixed by the Regulation opening the tendering procedure in question.
- 4 The form and content of the notifications shall be defined on the basis of models made available by the Commission to the Member States.
- 5 The competent authorities of the Member States shall notify nil returns to the Commission within the period referred to in paragraph 3.

Article 13

Decision on the basis of the tenders

1 On the basis of the tenders notified in accordance with Article 12(1), the Commission shall decide in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007:

- a not to fix a maximum amount of the aid; or
- b to fix a maximum amount of the aid.

2 Where Article 9(2)(f) applies, the Commission shall, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, fix a coefficient, applicable to the tenders which have been introduced at the level of maximum aid, if the award of the total quantities for which that amount has been offered would lead to the global quantity being exceeded.

By way of derogation from Article 10(3), a tenderer to which such a coefficient applies may decide to withdraw its tender within 10 days from the publication of the abovementioned Regulation fixing the coefficient.

3 Decisions on private storage aid referred to in paragraphs 1 and 2 shall be published in the *Official Journal of the European Union*

Article 14

Individual decisions on tenders

1 Where a maximum amount of aid has been fixed in accordance with Article 13(1) (b), the competent authorities of the Member States shall accept tenders which are equal to or lower than the maximum amount without prejudice to Article 13(2). All the other tenders shall be rejected.

2 Where no maximum amount of aid has been fixed all tenders shall be rejected.

The competent authorities of the Member States shall not accept tenders that have not been notified as provided for in Article 12(1).

3 The competent authorities of the Member States shall adopt the decisions referred to in paragraphs 1 and 2 of this Article after the publication of Commission's Decision on aid referred to in Article 13(1) and shall notify to tenderers the outcome of their participation within a deadline of three working days after the publication.

4 The rights and obligations of the successful tenderer shall not be transferable.

Article 15

Primary requirements and securities

1 The primary requirements within the meaning of Article 20(2) of Regulation (EEC) No 2220/85 shall be:

- a not to withdraw a tender;

- b to place and to keep in storage at least 99 %, respectively 90 % for meat products, 98 % for olive oil and 95 % for cheeses of the contractual quantity for the contractual storage period, at the risk of contracting party within the meaning of Article 19 of this Regulation and under the conditions referred to in Article 22(1)(a) of this Regulation;
 - c where Article 28(3) applies, to export the products in accordance with one of the three options listed therein.
- 2 Securities shall be released immediately where:
- a the tender is invalid or rejected, or it is withdrawn in case of application of the second subparagraph of Article 13(2);
 - b in case of application of the first subparagraph of Article 13(2) the amount of the released security shall correspond to the quantity not accepted.
- 3 Securities shall be released in respect of quantities for which the contractual obligations have been fulfilled.
- 4 Where the time limit for placing in storage, as set out in Article 25(1) of this Regulation is exceeded, the security shall be forfeit in accordance with Article 23 of Regulation (EEC) No 2220/85.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 13, 19.1.2000, p. 12.
- (2) OJ L 251, 27.7.2004, p. 9.