

Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder

CHAPTER III

SALES OF SKIMMED-MILK POWDER FROM PUBLIC STORAGE

Section 1

Organisation of and participation in tendering procedures

Article 26

1 Skimmed-milk powder shall be sold by means of a standing invitation to tender organised by each intervention agency.

2 Sales shall concern skimmed-milk powder taken into storage before [^{F1}1 July 2005].

3 A standing invitation to tender shall be published in the *Official Journal of the European Communities* at least eight days before the first closing date laid down for the submission of tenders.

4 The intervention agencies shall draw up a notice of invitation to tender indicating in particular the closing date and address for submission of tenders.

They shall also indicate, for the skimmed-milk powder they hold:

- a the locations of the warehouses where the powder to be sold is in store,
- b the quantity for sale in each warehouse.

5 Intervention agencies shall keep an up-to-date list of the information referred to in paragraph 4, which they shall make available to interested parties on request. They shall also publish regular updates of the list in an appropriate form, to be indicated in the notice of invitation to tender.

6 Intervention agencies shall make the necessary arrangements to enable interested parties:

- a to examine samples of the skimmed-milk powder put up for sale at their own expense before submitting a tender;
- b to verify the results of the analyses referred to in Article 3 of Commission Regulation (EC) No 322/96⁽¹⁾.

Textual Amendments

- F1** Substituted by [Commission Regulation \(EC\) No 1194/2005 of 25 July 2005 amending Regulation \(EC\) No 2799/1999 laying down detailed rules for applying Council Regulation \(EC\) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder.](#)

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III. (See end of Document for details)

Article 27

1 Intervention agencies shall organise individual tendering rounds during the term of validity of the standing invitation to tender.

[^{F2} The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.]

Textual Amendments

F2 Substituted by Commission Regulation (EC) No 2250/2004 of 27 December 2004 amending Regulations (EEC) No 429/90, (EC) No 2571/97, (EC) No 174/1999, (EC) No 2771/1999, (EC) No 2799/1999, (EC) No 214/2001, (EC) No 580/2004, (EC) No 581/2004 and (EC) No 582/2004 as regards the time limits for the submission of tenders and for the communication to the Commission.

Article 28

1 The skimmed-milk powder sold under this chapter shall qualify for the aid provided for in Article 1(a).

2 Tenders under each individual round shall be submitted by registered letter or delivered by hand to the intervention agency against acknowledgement of receipt, or by any other means of written telecommunication.

Tenders shall be submitted to the intervention agency holding the skimmed-milk powder for which an offer is made.

3 Tenders shall state:

- a the name and address of the tenderer;
- b the quantity desired;
- c the price in euro tendered per 100 kilograms, not including national taxes and charges, ex-warehouse;
- d the Member State in which processing into compound feedingstuffs or denaturing is to take place;
- e if appropriate, the warehouse where the skimmed-milk powder is held and, if desired, a substitute warehouse.

4 Tenders shall not be valid unless:

- a they relate to at least 10 tonnes; however, if the quantity available in a warehouse is less than 10 tonnes, the minimum quantity for which an offer may be made shall be the actual amount available;
- b they are accompanied by the tenderer's written undertaking to comply with the following requirements:
 - (i) to process the skimmed-milk powder or have it processed into compound feedingstuffs or denatured skimmed-milk powder within 60 days of the closing date for the submission of tenders in response to each individual tendering round as specified in Article 27(2);
 - (ii) to comply with this Regulation or ensure that it is complied with.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III. (See end of Document for details)

- c proof is provided that the tenderer has lodged a tendering security of EUR 36 per tonne, in the Member State where the tender is submitted, for the tendering round in question before the closing date for submission of tenders.

5 Tenders may not be withdrawn after the closing date provided for in Article 27(2).

Article 29

For the purposes of the tendering security provided for in Article 28(4)(c), the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be that tenders are maintained after the closing date for submission of tenders, that the processing security referred to in Article 30(3) is lodged and that the price is paid.

Section 2

Implementation of the tendering procedure

Article 30

1 On the closing date referred to in Article 27(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers and the quantity of skimmed-milk powder offered for sale.

[^{F3}If no offers have been submitted Member States communicate this to the Commission within the same delay if skimmed-milk powder is available for sale in the Member State concerned.]

2 The Commission shall fix a minimum selling price for the skimmed-milk powder on the basis of the tenders received under each round and in accordance with the procedure laid down in Article 42 of Regulation (EEC) No 1255/1999. This price may vary according to the age and location of the quantities of skimmed-milk powder offered for sale.

It may be decided to make no award under the round.

3 The Commission shall fix the amount of the processing security per 100 kilograms of skimmed-milk powder at the same time as the minimum selling price and in accordance with the same procedure.

The purpose of the processing security shall be to ensure fulfilment of the primary requirement, within the meaning of Article 20 of Regulation (EEC) No 2220/85, that the skimmed-milk powder be used in accordance with the undertaking provided for in Article 28(4)(b). This security shall be lodged in the Member State in which processing into compound feedingstuffs or denaturing is to take place, with the body designated by that Member State.

Textual Amendments

- F3** Inserted by [Commission Regulation \(EC\) No 2250/2004 of 27 December 2004 amending Regulations \(EEC\) No 429/90, \(EC\) No 2571/97, \(EC\) No 174/1999, \(EC\) No 2771/1999, \(EC\) No 2799/1999, \(EC\) No 214/2001, \(EC\) No 580/2004, \(EC\) No 581/2004 and \(EC\) No 582/2004 as regards the time limits for the submission of tenders and for the communication to the Commission.](#)

Article 31

Tenders shall be rejected if the price offered is lower than the minimum price.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III. (See end of Document for details)

Article 32

1 The intervention agency shall make the award in accordance with the rules laid down in paragraphs 2 to 5.

2 The skimmed-milk powder shall be allocated on the basis of its date of entry into storage, starting with the oldest product of the total quantity available in the warehouse(s) designated by the tenderer.

3 Without prejudice to Article 31, the successful tenderer shall be the tenderer offering the highest price. If the full quantity available is not allocated, the remainder shall be awarded to the other tenderers on the basis of the prices tendered, starting with the highest price.

4 Where acceptance of a tender would result in contracts being awarded in excess of the quantity of skimmed-milk powder available in a particular warehouse, only the quantity available shall be awarded to the tenderer in question.

However, the intervention agency may designate other warehouses to make up the quantity set out in the tender, provided the tenderer agrees.

5 Where acceptance of two or more tenders offering the same price for skimmed-milk powder in a particular warehouse would lead to contracts being awarded in excess of the quantity available, the award shall be made by allocating the quantity available in proportion to the quantities tendered for.

However, should such allocation lead to the award of quantities of less than five tonnes, the award shall be made by drawing lots.

Article 33

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

Article 34

1 The intervention agency shall immediately inform tenderers of the outcome of their participation in the invitation to tender.

Securities as referred to in Article 29 lodged for unsuccessful tenders shall be released immediately.

2 Before removing the skimmed-milk powder and within the period specified in Article 35(2), successful tenderers shall pay the intervention agency the amount corresponding to their tender for each quantity that they wish to withdraw and shall lodge the processing tender provided for in Article 30(3).

Article 35

1 Once the amount referred to in Article 34(2) has been paid and the security provided for in Article 30(3) has been lodged, the intervention agency shall release the tendering security referred to in Article 29 and issue a removal order indicating:

- a the quantity in respect of which the abovementioned requirements have been met;
- b the warehouse in which the skimmed-milk powder is in store;
- c the final date for removal of the skimmed-milk powder;
- d the final date for processing into compound feedingstuffs or denaturing.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III. (See end of Document for details)

2 Successful tenderers shall remove the skimmed-milk powder awarded to them within 30 days of the closing date for the submission of tenders. Removal may be effected by instalments.

Except in cases of *force majeure*, if the skimmed-milk powder has not been removed within the period laid down in the first subparagraph, the cost of storing it shall be borne by the successful tenderer, at his own risk, from the day following that on which the period expired.

3 The skimmed-milk powder shall be handed over by the intervention agency in packages bearing a reference to this Regulation in clearly visible and legible characters.

At the request of the interested party, the intervention agency shall issue a copy of the certificate indicating the composition of the products purchased, as provided for in Article 3 of Regulation (EC) No 322/96.

4 In addition to the information provided for in Commission Regulation (EEC) No 3002/92⁽²⁾, Section 104 of the T5 control copy must contain one or more of the statements listed in Annex II.D. Section 106 must show the final date for processing into compound feedingstuffs or denaturing.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III. (See end of Document for details)

- (1) OJ L 45, 23.2.1996, p. 5.
- (2) OJ L 301, 17.10.1992, p. 17.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 2799/1999, CHAPTER III.