

Terms of Trade for Intervention Sale of Maize Intended for Sale on the Community Market

The Agricultural Paying Agency (hereinafter Agency) is noticing the invitation to tender for the sale of 100 000 tonnes of maize (hereinafter the cereals) held by the intervention Agency of the Slovak Republic for the sale on the Community market in accordance with the paragraph (6) (1)(m)(n) of the Act No. 473/2003 on the Agricultural Paying Agency on agricultural and farming support policies and the amendments and complements of certain laws.

The invitation to tender is noticed in accordance with the Commission Regulation (EC) No 1586/2006, of 24 October 2006 amending Regulation (EC) No 1483/2006 as regards the quantities covered by the standing invitation to tender for the resale on the Community market of cereals held by the intervention agencies of the Member States.

1 EU Legislation and the Legislation of the SR in force as regards the intervention sale of cereals:

- Commission Regulation (EC) No 1586/2006 of 24 October 2006 amending Regulation (EC) No 1483/2006 as regards the quantities covered by the standing invitation to tender for the resale on the Community market of cereals held by the intervention agencies of the Member States.
- Commission Regulation (EC) No 1483/2006 of 6th October 2006 opening standing invitations to tender for the resale on the Community market of cereals held by the intervention agencies of the Member States
- Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals
- Commission Regulation (EC) No 2131/1993 of 28 July 1993 laying down the procedure and conditions for the sale of cereals held by intervention agencies
- Commission Regulation (EC) No 824/2000 of 19 April 2000 establishing procedures for the taking-over of cereals by the intervention agencies and laying down methods of analysis for determining the quality of cereals
- Commission Regulation (EC) No 2220/1985 of 22 July 1985 laying down detailed rules for the application of the system of securities for agricultural products
- Commission Regulation (EC) No 3002/1992 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention
- Act No 473/2003 on the Agricultural Paying Agency on agricultural and farming support policies and the amendments and complements of certain laws.

The abovementioned legislation are valid and in force.

2 Type of Goods, Quantity – Lots Offered and Places of Storage

- 2.1. Within the framework of the partial invitation to tender the Agricultural Paying Agency shall specify the type of cereals offered and place of storage of the cereal offered.

- 2.2. The quantity in lots in each storage as well as the places of storage are listed in the List of Sale.
- 2.3. The main quality characteristics are established in the **List of Sales** which is an information indicator and it doesn't represent the authoritative indicator for removal from the storage. Determining for removal from storage are the quality characteristics meeting at least the minimum required standards in respect of a certain lot of cereal in accordance with the Commission Regulation (EC) No 824/2000.
- 2.4. The indicators on the quality characteristics referred to in List of Sales have been established within the intervention purchase and are set out pursuant to the Commission Regulation (EC) No 824/2000.
- 2.5. The delivery is to be effected „fco“ including loading for transport in the intervention stock of the warehouse.
- 2.6. The „List of Sales“ will be weekly updated within the adequate lead time prior the expiry of the deadline of the partial tender for the submission of offers..
The Agency will reserve the right of modifying the „List of Sales“ without the previous notice.
- 2.7. The Agency is warning that the capacity for the removal of cereals presented in the „List of Sales“ has an information character whereupon potential participants of tender are liable before the submission of offer to contact with the store-keeper and to agree upon the accurate schedule when the cereals can be stored off. The Agency shall not deal with and shall not accept the requirements of buyers to refund the costs in case of not compliance of the removal off with the schedule set out by Agency.

3 Visual Inspection and Taking Samples

- 3.1. Before the submission of offer it is possible to check over the particular lots of cereals upon the **„Application on taking of samples“** in store during the storage keeper working time. The samples to the weight 2 kg are provided free of charge; the additional quantities are invoiced in current market price including VAT. The visual inspection costs and those of taking samples including the costs of checking the quality shall be borne by tenderer.
- 3.2. The tenderer is liable to inform the particular storage keeper and to agree the date and time of visual inspection and of taking samples prior checking and taking samples the tenderer shall inform the Agency - the Department of Cereals and Starch by fax on the visual inspection and relevant taking of samples. The Agency shall inform consequently the storage keeper on the date of visual inspection.

4 The Offers to Tender for Sale of Maize Held by Intervention Agency of the Slovak Republic in the Community Market

- 4.1. It is possible to send offers to tender by post, personally delivered to the Registry Office of the Agricultural Paying Agency (Dobrovičova 12, groundfloor, Room No 33) or by courier at form produced by the Agency and published at the website www.apa.sk. The offer in conjunction with the actual copy from the **Register of Business Names** (not

older than 1 month) can be delivered by fax, too, on condition, that the origin documents will be sent within the period of 5 working days after the expiry of the deadline of the partial tender, at latest. The determining time for adoption by fax is the time of acception by the Agency. The offers delivered by e-mail will be not accepted.

The offers to tender has to be delivered in the sealed envelope and marked by the following scripture :

“TOP SECRET – OFFER TO TENDER FOR SALE of MAIZE – DO NOT OPEN“

to the following address:

**Agricultural Paying Agency
Department for Cereals and Starch
Dobrovičova 12
815 26 Bratislava
Slovak Republic**

FAX No: 00 421 2 53 412 665 (secretariat of the Section)

FAX No:00 421 2 53 412 659 (Division of the Market Organization with the Plant Commodities)

Tenders shall be valid only if they are accompanied by proof that the tenderer has lodged a security.

- 4.2. The closing date for the submission of tenders for the first partial invitation to tender shall be **13.00 (Brussels time) on 8 th November (Wednesday) 2006.**

The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at **13.00 (Brussels time), with the exception of 27 December 2006, 4 April 2007 and May 2007**, i.e. weeks when no invitation to tender shall be made. **The closing date for the submission of tenders for the last partial invitation to tender shall be 27 June 2007 at 13.00 Brussels time.**

Unmarked incomplete and late delivered offers will not be accepted.

- 4.3. The offers are valid only on condition, that the copies **from the** Register of Bussiness Names (not older then 1 month) are attached and the tendering security of 10 EUR per tonne of cereal has been lodged.
- 4.4. The offers can be submitted for one or several „lots“. The offers only for a part of the lot are inaccessible.
- 4.5. The tender price per „lot“ shall be set in EUR/t max with 2 decimal numbers, excluded VAT, tax and transport costs and with reference to the quality of cereals. For the price quotation to be accepted and the offered lots of cereals to be sold in the Community market, the tender price may not be lower than the intervention price valid for particular month included monthly increase.
- 4.6. Tenders submitted on behalf of third parties are valid only on condition that the written powers of representation certified by notary public will be submitted to the Agency within the expiry of the period for subbmision of tenders. The written power of attorney shall be attached to offers to tender or it has an general format.

- 4.7. Tenders containing terms other than those indicated in the invitation to tender shall not be taken into consideration.
- 4.8. Once submitted a tender may not be withdrawn.

5 Quality Checks

- 5.1. The Agency, the store keeper or tenderer – on buyer's request shall carry out checks at least of one representative sample of the lot on the basis of mutual agreement either before or during the removal from the stock of the lots concerned for at least each 500 tonnes and these samples taken are analysed.
- 5.2. The double taking samples and their analyses are carried out during the time limit of 7 working days following the day of the application submission by the tenderer or within the time limit of 3 working days in case of taking samples during the removal from storage.
- 5.3. The final results of the analyses have been carried out on the basis of the representative samples and have been considered in accordance with the Commission Regulation (EC) opening standing invitation to tender for the sale of maize on the Community market held by the intervention agency of the Slovak Republic.

6 Security Lodging

- 6.1. If the tenderer has not been still lodged securities it is necessary to register at the Trade Mechanisms Division form published on the following address: www.apa.sk - trade mechanisms –exporter/importer registration
- 6.2. The security to be lodged in conjunction with the sale of maize:
- 6.3. Differ from Article 13(4) of the Commission Regulation (EEC) No 2131/1993 the tenders shall be valid if they are accompanied by the proof that tenderer has lodged a tendering security of 10 EUR /tonne.

Security can be lodged by form:

- bank transfer to the special account (single or block for more trade transactions)
- providing by bank guarantor (by special guarantee; single or block)

The security can be lodged by bankig transfer of payment to the special APA's account managed in Treasury:

Special APA's account No: 7000071150/8180

The security is to be lodged if the payment in cash is assigned to the APA's account and its verification pursuant to the Statement of account and its acceptance by APA on the date of crucial issue – the closing date of the partial invitation to tender or is delivering to APA. A form of "Application on using of the block security lodged providing by

bank transfer“ is at disposal at the website: www.apa.sk. The security lodged providing by bank guarantee shall be recognized by APA if the origin of the guarantee letter is delivered by applicant to the APA – to the Trade Mechanisms Division. The security shall be accepted in SKK, calculated on the basis of the reference rate to be laid down by the ECB (is published on the website of ECB: <http://www.ecb.int/stats/eurofxref>).

APA recommends to lodge the higher disposable value of security in compare with the sum that the applicant shall calculate by multiplying of the sum in question with the value of security and reference rate EUR/SKK, in respect to their frequent rate changes and in respect of the fact that the delay may be occurred between the lodging of the security in cash to the APA's account and its verification pursuant to the Statement of account from the Treasury and its acceptance on the date of crucial issue. The security is considered to be lodged on the date when the amount of money equivalent to the security is entered in the abovementioned APA's special account. That's why APA recommends to lodge security to the abovementioned APA's account in advance (at least 3 working days) prior the conclusion of the partial tender during which offer to tender has to be submitted by tenderer.

In term of tenderer identification APA requests to identify the payments by variable code and specific code.

Variable Code:

- in case of legal entity to specify the Company Registration Number (IČO)
- in case of physical entity specify the Company Registration Number or the personal identification number without slash)

Specific Code:

- in case of tendering security specify the Number 711

Security lodged shall be released on the basis of notifying by Department of Cereals and Starch.

Contacts: Department of Licences and Securities Administration: +421 2 582 43 245

7 Results of the Tendering Procedure and Contracting

- 7.1. By fulfilling the form „The offers to tender for sale of maize held by intervention agency of the Slovak Republic in the Community market“ (hereinafter „offer“) and its delivering to the Agency's address the proposal for conclusion the contract between the tenderer and the Agency shall come into being in case of awarding by EC.
- 7.2. Prior the delivering of the List of tenders to the EC the Agency shall carry out the administration checks of the tenders, the date of tendering security lodging to the APA's account at the Treasury as well as the amount of money equivalent to this security concerned.
- 7.3. On the basis of the EC final decision the Agency shall notify all tenderers on results by fax and subsequently in writing in „Statement of awarding of a lot“ or in „Statement of not awarding of a lot“.

- 7.4. If the minimum selling price has been fixed by European Commission the tenders with the best tender price will be awarded. However, should the tenders for certain lots in same price award shall be made by drawing lots. Results of drawing lots is final.
- 7.5. A decision may be taken by the European Commission no award shall be made in respect of an invitation to tender.
- 7.6. APA shall issue and send a "Statement on awarding of a lot" on the third working day at latest following the date of notifying the outcomes of the tendering procedure published by the European Commission. This Statement shall be described as an offer acceptance – a proposal for the conclusion a contract on sale of cereals between the tenderer and the APA in accordance with these Terms of Trade and in compliance with the partial tender concerned.

8 Selling Price and Forms of Payment

- 8.1. APA shall notify the tenderer inter alia the amount of the selling price in EUR the quantity of cereals and the final day of the time limit for execution of payment to the APA's account for the goods concerned and the final date for removal of cereals from the intervention store of the APA.
- 8.2. The time limit laid down for payment is performed if the tender price is made to the APA's account at the last day within this period, at latest.
- 8.3. The tender price (sale price) in EUR shall be paid by tenderer in SKK, recalculated in accordance with the actual exchange rate in SKK/EUR laid down by the ECB (is published on the website of ECB: <http://www.ecb.int/stats/eurofxref>, the crucial moment is the date of banking transfer of the first payment for cereals at the APA's account. We recommend to pay this payment in higher amount with respect to the exchange rates differences and in respect of the fact that the delay may occur between the payment and its execution to the APA's account in the Treasury.
- 8.4. The tenderer has to pay the tender price to the Agency's account:

Account No: 7000223628/8180

Variable Code: Company Register Number

Specific Code: 220063

This payment shall be made to the APA's account not later than the 30th day following the date of issuing the „Statement of awarding of a lot“. If the final date for payment is the holiday or weekend the payment has to be made to the APA's account at the first working day, at latest.

In case of foreign tenderer the payment is executed as follows:

The name and the address of the Bank: Všeobecná úverová banka, a.s.

Mlynské Nivy 11

829 90 Bratislava

Slovak Republic

SWIFT:

SUBASKBX

Č. účtu::

7000223628/8180

IBAN:

SK32 8180 0000 0070 0022 3628

The name and the address of recipient: Pôdohospodárska platobná agentúra
Agricultural Paying Agency
Dobrovičova 12
815 26 Bratislava
Slovak Republic

- 8.5. The 19% of actual VAT shall be added to the tender price if the tenderer is a legal or physical entity with his permanent address in the Slovak Republic. Physical or legal entity who has his permanent address in other Member State than in the Slovak Republic, the VAT shall not be invoiced in the case, if the statement on export of goods from the Slovak Republic has been submitted to the Agency.
- 8.6. At the same time with the execution of payment it is necessary to submit an application in writing and addressed to the APA – the Department of Cereals and Starch by fax on issuing the „Removal Order“, with specifying the payment/date, variable code, the amount), the quantity of goods in lots and the expected date of removal from storage in the application concerned. It is available to make the payment in parts for goods awarded referred to in contract per 500 tonnes, at least, on condition that the Removal order shall be issued after providing payment for the whole quantity awarded. Payments relating to lots of less than 500 tonnes shall be not accepted and the cereals shall not be released from the intervention store. It is available payments relating to remaining lots concerned less than 500 tonnes.

9 Taking –over the Goods by Tenderer

- 9.1. The store keeper after execution the payment for cereals together with the tenderer in accordance with the „Statement of awarding of a lot“ shall participate on the preparation of the „Binding plan of removal from the storage“ of quantities concerned.
(Contract between the Agency and the tenderer)
- 9.2. The „Binding plan of removal from the storage“ shall be delivered by the tenderer to the APA- to the Department of Cereals and Starch two days prior the removal from storage. The lots of cereals shall be removed from storage in accordance with the „Binding plan of removal from the storage“. Together with the Binding plan of removal from the storage the tenderer is obliged to send to the APA the Declaration on movement of goods.
- 9.3. The lots of cereals sold shall be removed from storage not later than during the time limit of 30 days following the date of issuing and delivering the Statement of awarding of a lot to tenderer. This time limit shall be respected in the „Binding plan of removal from storage“. After the expiry of the time limit -one month following the date of issuing and delivering the Statement of awarding of a lot to tenderer the intervention storage of cereals shall be ended and the lots of cereals shall be considered to be removed from the storage. In case of not taking over the lots of cereals within the time limit all risks and costs regarding further warehousing are covered by the tenderer (buyer). The tenderer is obliged to agree a contract on delivering services with the storekeeper on condition that any costs regarding the warehousing at the amount of 51,- SK/tonne/month (see the

formula bellow) are covered by tenderer as well as the balance between the costs regarding the removal without movement of the goods at the amount of 27,60,- SK/tonne. Any additional operating cost occurred are covered by tenderer and has to be paid to storekeeper before the lots of cereals concerned shall be ended, removed from the storage. The payment for warehousing is to be paid to storekeeper by tenderer for the stored quantities of cereals concerned. The formula for the final balance for a given month is as follows:

First day of removal without movement + final balance

2

Explanation:

First day of removal without movement: means the balance on first day of removal without movement

final balance: means balance on the last day in month in the store

- 9.4. The warehouser shall be eligible and liable to remove the stored goods from storage only against the delivering the Removal order issued by the Agency. In order to avoid delay in removal of goods from store the payment to the APA's account has to be designed several days before the expected date of removal concerned. The Agency shall verify the acceptance of payment –basic document for issuing the Removal Order. The tenderer shall verify the issuing and sending of the Removal Order at the warehouser prior taking over the goods from storage.
- 9.5. Relevant samples are taken from lots of cereals during the removal off. The warehouser is obliged to take samples of cereals both under the APA's representatives attendance and tenderer or his deputy.
- 9.6. The buyer (tenderer) shall ensure the means of transport for delivery of the relevant lots of cereals concerned. The warehouser shall ensure the loading of cereals to the visual controlled means of transport in the intervention store of warehouser. If the warehouser has no render he is obliged to ensure the transport of cereals to the nearest railway station and its loading into wagon on the request of the tenderer. These costs are covered by the warehouser. The warehouser shall ensure on his own costs the weighting, the weight determined shall be decisive for statement of costs.
- 9.7. The tenderer is obliged to submit to Agency a Declaration on the movement of goods at least two days prior the removal in accordance with the Commission Regulation (ECC) No3002/1992. The Report shall contain particularly the type and Schedule of transport, the line of transport, the crossborder of the SR, the crossborder of other Member States of EC. The checks of cereals from intervention stocks are carried out "CIF".

10 Discrepancies in Quantity and Quality of Cereals in Lots Awarded

- 10.1. Agricultural Paying Agency is eligible to deliver and purchaser is obliged to take over the quantities referred to in the "Statement of award of certain lots of cereals" not less than 5%.
- Where the particular store has not available quantity of cereals covered by the

Statement concerned, the Agency shall agree with the modification of the contract for the less quantity or shall offer adequate compensation from another store in compliance with the application submitted by tenderer. Any costs shall be borne by the tenderer.

- 10.2. All complaints regarding the quality of cereals delivered shall be solved prior the transfer of ownership of the goods on the buyer (tenderer; see paragraph 11). In order to be accepted for intervention, the cereals must be sound, fair and marketable quality. They shall be considered sound, fair and of marketable quality if they are of the typical colour of the cereals in question, are free from abnormal smell and live pests (including mites) at every stage of their development and meet the minimum quality requirements set out in the Commission Regulation (EC) No 824/2000.

11 Transfer of Ownership

- 11.1. If the amount referred to in contract has been paid and the cereals have been taken over by purchaser within the time limit of one month after the issuing and sending Statement on award of lots of cereals the physical delivery of the lots of cereals concerned to the purchaser e.g. the loading of cereals onto the means of transport and its weighting is the time of transfer of all rights of ownership of goods and risks related to the deterioration of quality and devaluation of cereals onto the purchaser (buyer). Any risks incurred during the transport shall be borne by the purchaser.
- 11.2. If the amount of cereals referred to in contract has been paid and it has not been taken over by purchaser within the time limit of one month after the issuing and sending the Statement on award of lots of cereals any costs incurred during this time limit – after the expiry of the deadline for taking over the cereals shall be borne by purchaser. In this case APA is eligible to weight and store the cereals in question separately from the remainder intervention lots of cereals or store in other stock, in both cases any costs incurred within the storage shall be borne by purchaser. After expiry the deadline for taking over of the cereals by purchaser all rights of ownership of goods and risks related to the deterioration of quality and devaluation of butter are transferred onto the purchaser (buyer).

12 Reimbursement of Transport Costs

- 12.1. The Agency shall not cover the transport costs.

13 The final Statement of Account

- 13.1. It is compulsory for buyer to submit to Agency the documents requested.

The documents to be submitted to the Agency for the final accounting shall be as follows:

- the requested documents by the Agency
- 13.2. The final Statement of account shall consist of the following documents:
- the quantities of cereals removed from the storage and delivered,
 - the the sale price,
 - VAT,
 - payments executed by buyer-tenderer.

- 13.3. From the final accounting it shall be evident the amount of payment that Agency has to pay to buyer- tenderer or the amount to pay by buyer to the Agency.
- 13.4. If the Agency issues an invoice pursuant to the final accounting it shall be compulsory for a buyer-tenderer to pay this amount due to Agency by the invoice of 21 days maturity .
- 13.5. In case of overpayment within the final accounting for account of buyer the Agency shall pay the balance of a debt to buyer by the invoice of 21 days maturity.

14. Rate of Interest

- 14.1. Incorrect receipt of payment shall be return by buyer to the Agency. In case of finding that the tenderer or buyer has not notified such payment and has not repaid it within the time limit of three working days he is obliged to reimbursed it to the Agency within the time limit laid down in a call for tender and to pay the contract penalty in an amount 0,1% daily from the unreasonably accepted fulfilment *a die* of its depreciation from the Agency's account *ad diem of its* entry to the Agency's account.
- 14.2. The interests of late payment in an amount 0,1 % daily shall be applied by the Agency *a die* of beginning of delay *ad diem* paying the liability to the Agency's account, e.g. its entry to the Agency's account.
- 14.3. The Agency is not responsible and shall not accept the requests of buyers on the reimbursements of delay costs or those arised from the contract.
- 14.4. It is not available to assign the lialibility to third parties.

15 Registry of Records

It is necessary to register the business documents by the tenderer at least 10 years following the year they have been issued pursuant to the requirements of the Agency. The records, evidence, documents and supporting documents the records and date from the bookkeeping and the correspondence of the tenderer represent the business documents. The records have to be available to the control bodies and to the authorised representatives of the Agency, of the European Commission, of the Supreme Control Authority and of the European Court of Auditors to verify or to audit of particular transactions.

16 The right of control and the liability to provide information

Buyer is liable to enable control and to provide information regarding to the intervention sales of cereals to the bodies and to the authorised representatives of the Agency, of the European Commission, of the Supreme Control Authority and of the European Court of Auditors.

17 Final provisions

- 17.1. The validity, fulfilment, commentary and efficiency of terms of trade have to be in

compliance with the legislation of the Slovak Republic, especially in compliance with the Commercial Code and with other binding regulations of EC. These terms of trade shall be updated in accordance with the unprejudiced reasons, the updating of Terms of trade shall be published on our web site : www.apa.sk

- 17.2. Irregularities raised from these Terms of Trade shall be solved by the competent court at the Agency's residence.
- 17.3. The tenderer by fulfilling the form "Offer to tender for sale of maize held by intervention agency in the Community market and consequently by its delivering to the Agency shall certify his understanding and agreement by the terms of trade which shall be the component of the contract in case of tender acceptance.

