

Tender Request for the Purchase of Annual Catch Entitlement

Tender Number 2007-02

The Ministry of Fisheries ("the Ministry") invites tenders for the purchase of Annual Catch Entitlement (ACE) for the fishing year commencing on 1 April 2007 as listed in the attached Schedule A. All tenders will be subject to the Conditions of Tender contained in this Tender Request.

CONDITIONS OF TENDER

1. Definitions

1.1 In these Conditions of Tender:

"Act"	means the Fisheries Act 1996.
"Bid"	means an offer to purchase individual parcels of Annual Catch Entitlement on the Tender Offer Form, at a total price (the Bid Price).
"Counter-Offer"	means an offer made by the Ministry to a tenderer where the tenderer's original bid is unable to be fully accepted.
"GST"	means Goods and Services Tax.
"Annual Catch Entitlement"	means the Annual Catch Entitlement (ACE) that is the subject of this tender request as listed in the attached Schedule A.
"Tender Close Date"	means 3.00pm, Wednesday 23 May 2007.
"Tender Offer Form"	means the form on which the tenders are to be submitted, a copy of which is attached as Schedule B

1.2 Other words, terms and phrases used in these Conditions of Tender and which are defined in the Act are to be interpreted using the definitions in the Act unless the context otherwise requires.

2. The Tender Process

2.1 Commercial Fisheries Services Limited (FishServe) has been appointed as the Crown Quota Broker. All decisions in respect of this tender, however, will be made by the Ministry.

2.2 Bids must be sent to:

The Crown Quota Broker Tender Box
P O Box 24 346
Manners Street
Wellington

or

The Crown Quota Broker Tender Box
4th Floor Feltex House
156-158 Victoria Street
Wellington

2.3 Bids must:

- 2.3.1 Be submitted on the Tender Offer Form;
- 2.3.2 Be received by the Crown Quota Broker at the address in clause 2.2 above by the Tender Close Date;
- 2.3.3 Be signed in the appropriate place on the Tender Offer Form to the effect that the terms and conditions of the tender are accepted in full by the tenderer;
- 2.3.4 Be signed by the tenderer or a person duly authorised to sign on behalf of the tenderer in which case a copy of the power of attorney or authorisation to sign on behalf of the tenderer is required;
- 2.3.5 Clearly show with each Bid:
 - i. The quantity of Annual Catch Entitlement being bid for; and
 - ii. The Bid Price **exclusive of GST**; and
- 2.3.6 Be submitted in original form (i.e. no facsimiles or emails will be accepted).

2.4 Notwithstanding clause 2.3 the Ministry reserves the right to accept Bids received after the Tender Close Date but prior to the Ministry having commenced consideration of Bids, or that are otherwise non-compliant.

3 Bids

- 3.1 Multiple Bids for different quantities and different bid prices are permitted.
- 3.2 No Bid will be considered which is in breach of the Act or any regulation, order or notice made under the Act.
- 3.3 Eligible Bids received will be considered in order of bid price per kilogram from highest to lowest.
4. Acceptance of Bids
 - 4.1 No Bids will be accepted before the Tender Close Date.
 - 4.2 The Ministry may accept any or none of the Bids it receives at its discretion. The Ministry may also withdraw ACE from the tender at any time.
 - 4.3 Successful tenderers will be notified in writing of acceptance. Once a Bid is accepted it is binding on the tenderer.
 - 4.4 In the event that there is more than one equally priced bid the successful tenderers' Bids will be apportioned on a pro rata basis if required.
 - 4.5 In circumstances where there is insufficient ACE to fully satisfy a Bid, the Ministry may make a Counter-Offer to the tenderer or tenderers. Acceptance of any Counter-Offer by the tenderer will be binding on the tenderer.
5. Payment
 - 5.1 Full settlement funds (**including GST**) must be paid to the FishServe Crown Quota Broker Account no later than Friday 29 June 2007.
 - 5.2 Where payment is not made by the end of the period set out in clause 5.1 or within such extended period as the Ministry may, in its discretion allow, the Ministry may offer the ACE to another tenderer.
6. Rights of Successful Tenderers
 - 6.1 Successful tenderers will not become the owner of any ACE under the Act until:
 - 6.1.1 acceptance of the tenderer's Bid is notified by the Crown Quota Broker in writing or the tenderer has, in writing, accepted a Counter Offer;
 - 6.1.2 full settlement funds have been paid; and
 - 6.1.3 the transfer has been registered.

6.2 Where a tender is binding on a tenderer it means that the tenderer has a right to become the owner of the relevant ACE and an obligation to pay for it in accordance with these Conditions of Tender. The right to acquire ACE may be assigned, in whole or in part, to any other person (whether involved in the tender process or not). The successful tenderer may arrange for someone else to pay for the ACE but the obligation remains with them.

6.3 It is the responsibility of the tenderer to be aware of the minimum holdings sections of the Fisheries Act 1996, (refer section 74) and all other legislative provisions relating to the holding of ACE, including those relating to foreign ownership and if necessary to obtain their own legal advice on them.

6.4 It is the responsibility of the tenderer to be aware of all other relevant provisions including (where relevant) regulations relating to bivalve shellfish made under the Animal Products Act 1999 (including the Animal Products (Regulated Control Scheme-Bivalve Molluscan Shellfish) Regulations 2006 and if necessary to obtain their own legal advice on them.

7. Publicity

7.1 After the Tender Close Date the Ministry will release details of certain aspects of the tender. Information such as successful bid prices will be publicly available.

8 Privacy/Official Information

8.1 Except as may be otherwise required by law, information supplied in the Tender Offer and any other supporting material will only be used by the Ministry or its agent for the management of Crown-owned ACE. Tenderers have the right to access and correct the information held by the Ministry pursuant to the Privacy Act 1993.

8.2 Any information submitted to the Ministry as part of the tender round is subject to the Official Information Act 1982.

9 Negotiations With Tenderer

9.1 The Ministry may, after the Tender Close Date, negotiate with any tenderer on any matter relating to any of their Bids.

10. Liability of Ministry/Broker

10.1 Neither the Ministry nor the Crown Quota Broker shall be liable for any costs that the tenderer may incur in participating in this tender round.

11. Disclaimer

11.1 No previous assurance by either the Ministry or the Crown Quota Broker whether oral or in writing shall be taken into account in the tender process.

12. No obligations

12.1 No legal or other obligations shall arise between the tenderer and the Ministry in relation to the conduct or outcome of the tender process unless and until the tenderer has received written notification of the acceptance of the tender or the tenderer has, in writing, accepted a Counter Offer. Specifically, but without limitation, no process contract shall arise out of the tender process.

Schedule A

Stock	Common Name	Regular ACE (kg)
BYA1	Friiled Venus Shell	9
BYA2	Friiled Venus Shell	9
BYA3	Friiled Venus Shell	9
BYA5	Friiled Venus Shell	9
BYA7	Friiled Venus Shell	4
BYA8	Friiled Venus Shell	10
BYA9	Friiled Venus Shell	9
DAN3	Ringed Dosinia	2
DAN7	Ringed Dosinia	6,900
DAN8	Ringed Dosinia	16,400
DAN9	Ringed Dosinia	16,400
GSC1	Giant Spider Crab	3
GSC3	Giant Spider Crab	2,586
GSC5	Giant Spider Crab	581
GSC6A	Giant Spider Crab	21,852
GSC6B	Giant Spider Crab	84,563

Stock	Common Name	Regular ACE (kg)
HOR2	Horse Mussel	18
HOR3	Horse Mussel	18
HOR5	Horse Mussel	9
HOR6	Horse Mussel	9
HOR8	Horse Mussel	9
PDO1	Deepwater Tuatua	9
SBW1	Southern Blue Whiting	16
SCA1A	Scallop	800
SCA2A	Scallop	800
SCA3	Scallop	800
SCA5	Scallop	800
SCA7A	Scallop	800
SCA7B	Scallop	800
SCA7C	Scallop	800
SCA8A	Scallop	800
SCA9A	Scallop	800

Schedule B



Invitation to tender issued by:
The Crown Quota Broker
P O Box 24 346
Manners Street
Wellington
Attention: Karen Olver

Tender Offer Number

FishServe use only

Tender Number 2007-02 Tender Offer for the Purchase of Annual Catch Entitlement

Client Number

Full Legal Name of
person or company
submitting tender

Business postal
address of person or
company submitting
tender

Contact Name

Contact telephone
number

Contact email address

Advertising – specify
where you first saw
the advert for this
tender

FishServe
website

Received
copy of ad
in post

Other

Details of Bid

Please Note - Acceptance of this bid is binding

Line	Stock	Amount of ACE (kg)	Total Price (<i>excluding</i> GST)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
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16			
17			
18			
19			
20			

I/we the tenderer, hereby offer to purchase Annual Catch Entitlement in the quantities entered in the table above. I/we have read, understand, and accept the conditions of the tender as set out in "Tender Request for the Purchase of Annual Catch Entitlement Tender Number 2007-02".

Full Legal Name	Position	Signature	Date