

Tender Request for the Purchase of Annual Catch Entitlement (ACE)

Tender Number 2008-02

The Ministry of Fisheries ("The Ministry") invites tenders for the purchase of ACE for the 2008/2009 October fishing year as listed in the attached Schedule A. All tenders will be subject to the conditions contained in this Tender Request.

CONDITIONS OF TENDER

Definitions:

<i>"Bid"</i>	<i>means an offer to purchase ACE on the Tender Offer, at a total price (the Bid Price).</i>
<i>"Manual Tender Offer"</i>	<i>means the manual form in which the tenders can be submitted, a copy of the manual form is attached as Schedule B.</i>
<i>"Electronic Tender Offer"</i>	<i>means the electronic form in which the tenders can be submitted, this must be completed at the FishStock Website www.fishstock</i>
<i>"Transfer Form"</i>	<i>means the approved ACE transfer form prescribed pursuant to section 2 of the Fisheries Act 1996.</i>
<i>"Tender Close Date"</i>	<i>means 3.00pm, Wednesday 10 December 2008.</i>
<i>"Counter-Offer"</i>	<i>An offer made by the Ministry to a tenderer where the tenderer's original bid is unable to be fully accepted.</i>

Apart from those definitions provided above, other words, terms and phrases used in this Tender Request and which are also defined in the Fisheries Act 1996 are to be interpreted using the definitions in the Act unless the context otherwise requires.

THE TENDER PROCESS

1. Commercial Fisheries Services Limited (FishServe) has been appointed as the Crown Quota Broker. However all decisions in respect of this tender will be made by the Ministry.
2. All bids for ACE will be opened immediately after the Tender Close Date and are to remain valid and open for acceptance by the Ministry for a period of 15 working days after the Tender Close Date.
3. In the event that there is more than one equally priced bid then these successful tenderers will be allocated ACE on a pro rata basis.

4. Eligible bids received will be considered in order of bid prices from highest to lowest.
5. Where the total available ACE is insufficient to fully satisfy any bid, the tenderer may receive a Counter-Offer but any such offer will be for less ACE than was bid for.
6. Decisions on successful and unsuccessful bids will be made within 15 working days of the Tender Close Date however the Ministry reserves the right to extend this timeframe by written notification to tenderers.
7. The Crown Quota Broker will contact all unsuccessful tenderers after completion of this tender round.

GENERAL CONDITIONS

8. Manual Tender Offers are to be received no later than the Tender Close Date and must be sent to:

The Crown Quota Broker Tender Box
Level 6
Eagle Technology House
135 Victoria Street
Te Aro
Wellington

OR:

Crown Quota Broker
P O Box 24 346
Manners Street
Wellington, 6142

Electronic Tender Offers are to be received no later than the Tender Close Date and must be entered on the FishStock Website at www.fishstock.co.nz.

9. Manual Tender Offers must be on the manual form and marked with the Ministry's tender number 2008-02.
10. The Ministry reserves the right to accept Bids received after the Tender Close Date.
11. No Manual or Electronic Tender Offer will be considered before the Tender Close Date.

12. Multiple Bids for different quantities and different bid prices are permitted, however eligible bids received will be considered in order of bid price from highest to lowest.
13. The Ministry may accept any or none of the tenders it receives. The highest Bid will not necessarily be accepted.
14. Bids will only be eligible if the following conditions are complied with. They must:
 - a. Be submitted on the Manual Tender Offer form or be an Electronic Tender Offer submitted through the FishStock Website; and
 - b. Be received by The Crown Quota Broker at the address in clause 8 above or over the FishStock Website by the Tender Close Date; and
 - c. If a Manual Tender Offer, be signed in the appropriate place on the Tender Offer to the effect that the terms and conditions of the tender are accepted in full by the tenderer;
 - d. If an Electronic Tender Offer, be submitted by a registered member of the FishStock Website;
 - e. If a Manual Tender Offer, 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; and
 - f. Clearly show with each Bid:
 - i. The quantity of ACE in kgs being bid for; and
 - ii. The bid price (The total price for the total amount of ACE) for the ACE being bid for. Bid prices are to be **exclusive** of Goods and Services Tax.
 - g. If a Manual Tender Offer, be received in original form (i.e. no facsimiles or emails will be accepted).
15. **Acceptance of a Bid will be binding.** Successful tenderers will receive written notification of acceptance and must pay full settlement funds (including Goods and Services Tax) no later than 5.00pm on Wednesday, 21 January 2009.
16. 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.
17. The successful tenderers will not acquire any rights in respect to ACE until acceptance of their bid is notified by the Crown Quota Broker in writing, full settlement funds have been received, and the transfer has been registered.
18. 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.

19. It is also the responsibility of the tenderer to be aware of all regulations and notices pertaining to bivalve shellfish made under the Animal Products Act 1999, in particular the Animal Products (Regulated Control Scheme - Bivalve Molluscan Shellfish) Regulations 2006 and the Animal Products (Specifications for Bivalve Molluscan Shellfish) Notice 2006.
20. Information supplied in the Tender Offer and any other supporting material will only be used by the Ministry or its agent (FishServe) 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. Any information submitted to the Ministry is subject to the Official Information Act 1982.
21. 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.
22. Payment of full settlement funds must be made to the FishServe Crown Quota Broker Account by the successful tenderers.
23. The Ministry may negotiate with any tenderer on any matter relating to the Bid once the tender has closed.
24. Neither the Ministry nor the Crown Quota Broker shall be liable for any decisions, bids, costs associated with making a bid, completion and registration of any transfer document or any other matter associated with the tender of ACE.
25. Disclaimer - 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.

Schedule A

Stock Code	Common Name	ACE (kg's)	Stock Code	Common Name	ACE (kg's)	Stock Code	Common Name	ACE (kg's)
ANC1	Anchovy	23,184	MAK1	Mako Shark	84	PRK6B	Prawn Killer	800
ANC3	Anchovy	9,412	MOO1	MoonFish	27,191	PRK7	Prawn Killer	800
ANC7	Anchovy	31,839	OYS1	Oysters Dredge	8	PRK8	Prawn Killer	880
BIG1	BigEye Tuna	618	OYS2A	Oysters Dredge	1	PRK9	Prawn Killer	800
BWS1	Blue Shark	119	OYS5A	Oysters Dredge	6	RBM1	Rays Bream	11
BYX8	Long-Finned Beryx	1	OYS7A	Oysters Dredge	2	RSK1	Rough Skate	2
COC3	Cockle	3,300	OYS7B	Oysters Dredge	1	SCI3	Scampi	103,621
COC3B	Cockle	1	OYS8A	Oysters Dredge	1	SCI5	Scampi	31,742
FLA7	Flats	20	OYS9	Oysters Dredge	1	SCI6B	Scampi	40,000
FRO3	Frost Fish	1	PAD1	Paddle Crab	76	SCI7	Scampi	60,000
GLM2	Green-Lipped Mussel	1	PAD2	Paddle Crab	30,808	SCI8	Scampi	4,000
GLM7A	Green-Lipped Mussel	106,892	PAD3	Paddle Crab	13,711	SCI9	Scampi	27,999
GLM7B	Green-Lipped Mussel	9	PAD8	Paddle Crab	23,271	SKI7	Southern Kingfish	6
GMU2	Grey Mullet	22	PAU6	Black Paua & Yellowfoot Paua	900	SPD1	Spiny Dogfish	91,274
GMU3	Grey Mullet	43	PIL3	Pilchard	12,000	SPE1	Sea Perch	4
GSH7	Ghost Shark	617,931	PIL7	Pilchard	16,948	SPR3	Sprats	52,000
JDO3	John Dory	14,400	POS1	Porbeagle Shark	1	SPR7	Sprats	65,000
KAH1	Kahawai	21	PPI7	Pipi	1	SQU1J	Arrow Squid	4,404
KAH3	Kahawai	47	PRK1	Prawn Killer	6,629	TOR1	Pacific Bluefin Tuna	2,451
KAH8	Kahawai	88,756	PRK2	Prawn Killer	1,618	YFN1	YellowFin Tuna	12,363
LDO3	LookDown Dory	124,609	PRK3	Prawn Killer	800			
LEA2	Leather Jacket	297,827	PRK5	Prawn Killer	800			

Schedule B



Commercial Fisheries Services Ltd

Invitation to tender issued by:
The Crown Quota Broker
P O Box 24 346
Manners Street
Wellington 6142
Attention: Rachael Hepburn

Tender Offer Number

FishServe use only

Tender Number 2008-02 Tender Offer for the Purchase of Annual Catch Entitlement (ACE)

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's)	Total price (excluding GST)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
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17			
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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 2008-02".

Full legal name	Position	Signature	Date