

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

## **Tender Number 2011-02**

The Ministry of Agriculture and Forestry ("The Ministry") invites tenders for the purchase of ACE for the 2011/2012 fishing year as listed in 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 <a href="http://www.fishstock.co.nz">www.fishstock.co.nz</a></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, Monday 19 December 2011.</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  
PO 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](http://www.fishstock.co.nz)

9. Manual Tender Offers must be on the Tender Offer and marked with the Ministry's tender number 2011-02.
10. The Ministry reserves the right to accept Bids received after the Tender Close Date.

11. No Manual or Electronic Tender Offers 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 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 Tuesday, 31 January 2012.
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

### ACE available for purchase for the 2011/2012 fishing year

#### ACE 01/04/2011 to 31/03/2012

| Stock Code | Common Name    | ACE (kgs) |
|------------|----------------|-----------|
| DAN9       | RINGED DOSINIA | 16        |

#### ACE 01/10/2011 to 30/09/2012

| Stock Code | Common Name                    | ACE (kgs) |
|------------|--------------------------------|-----------|
| ANC7       | ANCHOVY                        | 3,184     |
| BIG1       | BIGEYE TUNA                    | 1,727     |
| BUT5       | BUTTERFISH                     | 12        |
| BWS1       | BLUE SHARK                     | 5,143     |
| COC3       | COCKLE                         | 3,300     |
| FLA1       | FLATS                          | 12        |
| FRO3       | FROSTFISH                      | 1         |
| JDO1       | JOHN DORY                      | 18        |
| JDO3       | JOHN DORY                      | 13,110    |
| JMA3       | JACK MACKEREL                  | 1,111     |
| KBB3G      | BLADDER KELP                   | 346,304   |
| MAK1       | MAKO SHARK                     | 1,787     |
| MOK5       | BLUE MOKI                      | 11        |
| MOO1       | MOONFISH                       | 4,901     |
| PAD8       | PADDLE CRAB                    | 21,671    |
| PAU6       | BLACK PAUA AND YELLOWFOOT PAUA | 900       |
| PIL3       | PILCHARD                       | 1,320     |
| POS1       | PORBEAGLE SHARK                | 233       |
| PRK2       | PRAWN KILLER                   | 4         |
| PTO1       | PATAGONIAN TOOTHFISH           | 990       |
| RBM1       | RAY'S BREEM                    | 38        |
| SCI3       | SCAMPI                         | 103,621   |
| SCI5       | SCAMPI                         | 31,742    |
| SCI7       | SCAMPI                         | 60,000    |
| SCI8       | SCAMPI                         | 4,000     |
| SCI9       | SCAMPI                         | 27,999    |
| SPD5       | SPINY DOGFISH                  | 251       |
| SQU1J      | ARROW SQUID                    | 4,883,021 |
| TOR1       | PACIFIC BLUEFIN TUNA           | 134       |
| YFN1       | YELLOWFIN TUNA                 | 12,300    |

# Schedule B



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

Tender Offer Number

FishServe use only

## Tender Number 2011-02 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

| Line | Stock | Amount of ACE (kgs) | Total price (excluding GST) |
|------|-------|---------------------|-----------------------------|
| 1    |       |                     |                             |
| 2    |       |                     |                             |
| 3    |       |                     |                             |
| 4    |       |                     |                             |
| 5    |       |                     |                             |
| 6    |       |                     |                             |
| 7    |       |                     |                             |
| 8    |       |                     |                             |
| 9    |       |                     |                             |
| 10   |       |                     |                             |
| 11   |       |                     |                             |
| 12   |       |                     |                             |
| 13   |       |                     |                             |
| 14   |       |                     |                             |
| 15   |       |                     |                             |
| 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 2011-02".

| Full legal name | Position | Signature | Date |
|-----------------|----------|-----------|------|
|                 |          |           |      |
|                 |          |           |      |
|                 |          |           |      |
|                 |          |           |      |