

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Policy on procuring commercial fishing vessels for research surveys
Paper No: 06/09
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Report of: Director of Fisheries

1.0 Purpose

Commercial fishing vessels have been used for undertaking a variety of research surveys. This occurred during the period when FIG chartered a dual role fishery protection and research vessel and is if anything more relevant in the absence of that capability. In some cases vessels have been procured by accepting the first offer which comes along, particularly where no cost has been involved. It is generally considered that tenders should be invited. This paper proposes a policy in that regard particularly in relation to whether the quota holders in any fishery get any priority in bidding compared to non-quota holders.

2.0 Recommendations

That Executive Council be advised to approve the following policy and procedure for the occasions when research surveys are commissioned using commercial fishing vessels;

- a) Produce tender document and full specification for the research work to be undertaken.
- b) Circulate to the relevant quota owning group(s) to ascertain whether they can come up with a 'no cost' solution.
- c) In the event that (b) draws a blank, circulate the Invitation To Tender to all quota owners.
- d) Evaluate and award bids on the basis of fulfilment of the tender specification and cost, including the 5% price differential (preference) for quota owners.

3.0 Summary of Financial Implications

The policy is only applicable when fisheries research is procured on commercial vessels. For illustration, if all research were undertaken in this manner, and all tenders were awarded at a 5% uplift, the additional cost would be about £10,000 per year. The decision still needs to be taken as to whether to charter a dedicated research vessel, and a further paper will be prepared to compare and assess the 'Castelo' option compared to ad hoc research options. (There is little merit in considering the same financial issue twice!)

4.0 Background

- 4.1 Commercial fishing vessels have been used to undertake a variety of exploratory and research fishing surveys. This occurred whilst FIG had its own chartered research capability. It is more relevant in the absence of that capability although negotiations continue on that front. Use of commercial vessels in this way has largely been on the basis of no payment being made for the use of the vessel. The catches obtained during the survey are sufficient to cover the costs of the operation. Whilst that approach has worked well it is anticipated that some payment may be necessary in respect of some surveys. There is also a more general feeling that such surveys should be put out to tender rather than procuring vessels through less formal arrangements. Also, in considering a proposal to conduct a research survey into hoki stocks, FIFCA (the fisheries association) representatives on the Fisheries Committee took the view that the tender should be limited to quota holders in the first instance.
- 4.2 At present there are 8 fisheries in the quota system. These range from having 11 quota holding companies involved in one fishery down to a single company in another fishery. A number of fisheries have few quota holders and hence the level of competition if tenders are restricted to quota holders is likely to be low. This has been borne out to some extent where bids were invited recently to conduct research in a fishery which has 3 quota holders. Despite modifying the terms of the tender to try and encourage a response no bids were received. FIFCA's preference for limiting tenders to quota holders in the first instance might require the tender to be re-issued to all companies if the quota holders fail to respond first time around. Whilst this might not be unduly burdensome there is the risk in this model that a non-quota holder suggests after the event that they could or would have done the project for half the price quoted by a quota holder. This would raise questions over value for money.
- 4.3 In view of this the issue was returned to the Fisheries Committee with a revised proposal. The basis of this was that all quota owning companies would be invited to bid for research surveys in the first round and that quota owning companies could receive a price advantage of 5 %. Hence, if a quota owning company and a non-quota owning company bid the non-quota owner would only be awarded the contract if their bid was > 5% cheaper than that of the quota owner. It is considered that this process will encourage competition, has a higher likelihood

of achieving value for money, and holds out a better prospect of sourcing commercial vessels which can undertake the required research.

4.4 The rationale for the 5% differential on price may not be strong. However, it is a mechanism for encouraging competition whilst giving some level of priority to the quota owners. Vessels belonging to quota owners are likely to be better equipped and prepared for undertaking research in fisheries in which they routinely operate. The Captain and crews of such vessels are likely to have relevant knowledge and skills. There is some advantage in undertaking research with a vessel which operates routinely in that fishery compared to a completely unknown vessel. In monetary terms the cost of the price differential on a £100-200K project will be £5-10K.

4.5 In the Fisheries Committee, industry representatives reiterated that the new proposal did not accord with their proposal that such projects be offered to quota owners only in the first round. At least they suggested that prior to going to tender, discussions should be held with the relevant quota owning group(s) to see whether the quota owners could come up with a satisfactory solution for undertaking the survey. This approach seems reasonable, and assuming the solution is 'no cost' could almost certainly be agreed. This reflects the manner in which surveys are conducted in the *Loligo* fishery for example. One of the aspirations for the new fisheries policy and system is that quota owning companies become more involved in delivering fisheries research. There are already a number of areas where this is happening.

4.6 Hence, the procedure for commissioning research surveys using commercial fishing vessels would be;

- a) Produce tender document and full specification for the research work to be undertaken.
- b) Circulate to the relevant quota owning group(s) to ascertain whether they can come up with a 'no cost' solution.
- c) In the event that (b) draws a blank, circulate the Invitation To Tender to all quota owners.
- d) Evaluate and award bids on the basis of fulfilment of the tender specification and cost, including the 5% price differential (preference) for quota owners.

5.0 Financial Implications

5.1 The longer term arrangements for the provision of fishery research capability are still under discussion. The main options were set out in Exco paper 207/08. At that stage the M/V Protegat was accepted as the fishery protection vessel. The paper proposed that with regard to fishery research either the option involving the F/V Castelo be accepted or that ad hoc procurement options be pursued. Exco expressed some preference for the ad hoc option but agreed the 'Castelo' option be investigated. The outcome of this should be reported on in January, or February at the latest. If it is

decided in due course to accept the ‘Castelo’ option the vessel is unlikely to be modified before the middle of 2009. In the meantime the policy proposed here does propose a procedure for commissioning research surveys using commercial fishing vessels. It can be used with or without the ‘Castelo’ option.

5.2 The financial aspects were referred to in Exco paper 207/08. In very general terms the ‘Castelo’ option requires additional funding of c. £500 000 per annum (£282K in 08/09 as it is a part year). The ad hoc option is estimated at c. £200 000 per annum (perhaps half that in 08/09). The ‘Castelo’ option is clearly more expensive although equally the ad hoc option is an estimate which may yet prove inadequate. In any event a choice between options is not required in considering this paper, and costs are set out by way of background information. It is simply the policy on procuring commercial vessels for research projects which is being considered here. The financial aspect will be the subject of a further paper once the ‘Castelo’ option has been investigated.

5.3 The maximum potential cost of the policy (based on the estimated total ad hoc research expenditure of £200,000 per annum, and that the response to every tender is that a non quota holder bids exactly 5% less than a quota holder) would be £10K more than accepting the lowest bid. Whilst this outcome is possible it is quite unlikely.

5.4 There has been discussion with FS over the implications of the 5% differential in assessing the costs of bids from quota holders compared to non quota holders. His view was that the specification should be set by tender and competition and value maximised by opening the tender to all quota holders, without any differential. The authors view is that the proposed policy should promote competition, it goes some way to addressing industry (FIFCA) views on how the process should operate, and it has no great cost penalty. It certainly seems preferable to the original industry proposal of limiting tenders to quota holders in a particular fishery. The alternative would be to open tenders to all from the outset with no price advantage for quota holders. However, as set out earlier that runs counter to industry views and as also set out earlier there is an advantage in securing vessels which have equipment and expertise relevant to the fishery to be surveyed.

6.0 Legal Implications

6.1 Principal Crown Counsel comments:

“Financial Instructions require tenders to be obtained for any contract for services estimated to be worth in excess of £50,000 (the tender threshold for services), or two invited competitive quotes for any contract for services estimated to be worth in excess of £5,000, but below the tender threshold.

The policy proposed in this paper could be adopted using existing tender/quotation procedures under Financial Instructions. Paragraph 1017 of

Financial Instructions permits the acceptance of a tender which is not the lowest, if there is good and sufficient reason for doing so. Adoption of this policy by Executive Council could amount to a good and sufficient reason in relation to the 5% preference for relevant quota owners.”

7.0 Human Resources Implications

None.

8.0 GMT

8.1 GMT considered the paper at its meeting on 13 January. The Financial Secretary’s reservations in relation to the proposed 5% price advantage for quota holders were noted. The Director of Fisheries explained that the proposed policy sought to address FIFCA’s concerns, and even if the 5% differential came into play to the maximum extent, which was unlikely, it represented a minor sum.