



DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2023-0021]

Proposed Sale Notice for Commercial Leasing for Wind Power Development on the Outer; Continental Shelf in the Gulf of Mexico (GOMW-1)

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed sale notice; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) proposes to offer one or more lease areas (Lease Areas) for commercial wind power development on the U.S. Outer Continental Shelf (OCS) in the Gulf of Mexico (GOM). The Lease Areas are located in the previously identified wind energy areas (WEA) offshore Lake Charles, LA, and Galveston, TX. This proposed sales notice (PSN) contains information pertaining to the areas available for leasing, certain lease provisions and conditions, auction details, criteria for evaluating competing bids, and procedures for lease award, appeals, and lease execution. BOEM proposes simultaneous auctions for the Lease Areas within each WEA using a multiple-factor bidding format. Any lease resulting from this sale does not constitute approval of any offshore wind energy facilities. Lessees must submit project-specific plans to BOEM for approval before starting construction of an OCS wind energy facility. BOEM will subject such plans to environmental, technical, and public reviews prior to deciding whether the proposed development should be authorized.

DATES: BOEM must receive your comments no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For prospective bidders who want to participate in this lease sale: unless you have received confirmation from BOEM that you are qualified to participate in the GOMW-1 auction, BOEM must receive your qualification materials no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may send comments by any of the following ways:

Electronically: <http://www.regulations.gov>. In the entry entitled, “Enter Keyword or ID,” enter [BOEM-2023-0021] then click “search.” Follow the instructions to submit comments.

Mail, delivery service, or hand delivered: Enclose comment in an envelope labeled “Comments on GOM Wind Lease Sale PSN” and send to: Bureau of Ocean Energy Management, Office of Emerging Programs, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

For prospective bidders who want to participate in this lease sale: Submit your qualification materials in an envelope labeled “Qualification Materials for GOM Wind Energy Lease Sale” to Bureau of Ocean Energy Management, Office of Emerging Programs, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

For more information about submitting comments, see Sections XX, “Public Participation,” and XXI, “Protection of Privileged and Confidential Information,” under the “SUPPLEMENTARY INFORMATION” caption below.

FOR FURTHER INFORMATION CONTACT: Tershara Matthews, Bureau of Ocean Energy Management, Office of Emerging Programs, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123 or Tershara.matthews@boem.gov.

SUPPLEMENTARY INFORMATION:

I. Background:

- a. *Request for Interest:* On June 11, 2021, BOEM published a request for interest (RFI) for commercial leasing for wind power development on the Gulf of Mexico OCS. The RFI area comprised the entire Central Planning Area and Western Planning Area of the Gulf of Mexico, excluding the portions of those areas located in water depths greater than 1,300 meters. BOEM received 39 comments from the general public; Federal, State, and local agencies; the fishing industry; industry groups; developers; non-governmental

organizations (NGOs); universities; and other stakeholders. The subjects receiving the most comments were fisheries and marine mammals. Five developers indicated interest for a commercial wind energy lease within the RFI area.

Call for Information and Nominations: On November 1, 2021, BOEM published the “Call for Information and Nominations–Commercial Leasing for Wind Power Development on the Outer Continental Shelf in the Gulf of Mexico”¹ (Call). The Call area comprised the area located seaward of the Gulf of Mexico Submerged Lands Act boundary, bounded on the east by 89.857° W longitude and on the south by the 400-meter bathymetry contour and the United States Mexico maritime boundary established by the “Treaty between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles,” which took effect in January 2001. BOEM received 40 comments from the general public; Federal, State, and local agencies; the fishing industry; industry groups; developers; NGOs; universities; and other stakeholders. The subjects receiving the most comments were fisheries and marine mammals. Five developers nominated areas for a commercial wind energy lease within the call area.

- b. *Area Identification:* After the close of the Call comment period on December 16, 2021, BOEM initiated the area identification (Area ID) process by reviewing the inputs received on the Call. On July 20, 2022, BOEM announced that it was seeking public comments on two preliminary draft WEAs. The first draft WEA was located approximately 24 nautical miles (nm) off the coast of Galveston, TX, covered a total of

¹ <https://www.boem.gov/83-FR-15602/>

546,645 acres, and had the potential to power 2.3 million homes with clean wind energy. The second draft WEA was located approximately 56 nm off the coast of Lake Charles, LA, covered a total of 188,023 acres, and had the potential to power 799,000 homes. The public comment period for the preliminary WEAs was open for 30 calendar days.

For purposes of recommending the preliminary WEAs, BOEM considered the following non-exclusive list of information sources: comments and nominations received on the RFI and Call; information from the GOM Intergovernmental Renewable Energy Task Force; input from Alabama, Mississippi, Louisiana, and Texas State agencies; input from Federal agencies, particularly the Department of Defense (DoD) and U.S. Coast Guard (USCG); comments from stakeholders and ocean users, including the maritime community, offshore wind developers, and the commercial fishing industry; State and local renewable energy goals; and information on domestic and global offshore wind markets and technological trends.

BOEM received ocean users' feedback requesting that BOEM consider leveraging an ocean planning model previously used in the GOM for purposes of the National Oceanic and Atmospheric Administration's (NOAA) Aquaculture Opportunity Areas. In response, BOEM used the ocean planning model to help support the identification of preliminary WEAs.

BOEM's process to identify preliminary WEAs in the GOM relied on rigorous science to drive an informed, forward-looking, and sustainable industry that will maximize operational efficiency and minimize adverse interactions with other industries and natural resources. Additionally, BOEM's New Orleans, Louisiana Office and the NOAA National Centers for Coastal Ocean Science (NCCOS) collaborated using an ocean planning tool to identify preliminary WEAs on the U.S. OCS in the GOM. Due to the agencies' vast richness of data and decades of active management, BOEM was able to

use this tool in the region. BOEM identified preliminary WEAs based on the best available science, and through public engagement, to facilitate wind energy development; support environmental, economic, and social sustainability; and minimize resource use conflicts. The WEA process seeks to identify and minimize potential conflicts in ocean space, as well as mitigate interactions with other users and adverse interactions with the environment. The NCCOS model is a tool to help support that effort.

Identifying WEAs entails thorough synthesis and spatial analyses of critical environmental data and ocean space use conflicts. BOEM used geographic information systems (GIS) to integrate pertinent spatial data, perform analyses, and generate map-based products to inform where potential wind energy area(s) may be located within the Call area. BOEM seeks to identify wind energy areas in a manner that avoids or minimizes impacts on environmental resources. The use of this model is one approach to meet that objective.

BOEM has engaged in similar ocean planning efforts in other OCS Regions. Ocean planning processes often follow a standard workflow by 1) identification of the planning objective, 2) inventory of data, 3) geospatial analysis of data, 4) interpretation of results, and 5) delivery of map products and reports to decisionmakers and other ocean users. Spatial data are used to represent known or potential environmental and ocean space use conflicts that could constrain, or conditionally constrain, the siting of offshore wind facilities on the U.S. OCS. Using a multi-criteria decision approach allows for evaluation of numerous spatial data types for an area and provides a relative comparison of how suitable the areas are for potential offshore wind development. Additionally, natural and cultural resources, industry and operations, various fishing activities, logistics, economics, and national security are described and identified in the WEA model suitability analysis, which is discussed in detail in the WEA Modeling Report found at:

<https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM-WEA-Modeling-Report-Combined.pdf>.

Additionally, WEA siting informed by ocean planning is helpful in avoiding and minimizing adverse environmental, social, and existing user interactions. Throughout the Area ID process, BOEM used existing datasets to facilitate discussions with ocean users to receive early feedback. BOEM incorporated the feedback from ocean users in the spatial and temporal planning strategies to allow initial compatibility to be assessed while also increasing the efficiency of meaningful communications within and among stakeholders and potentially with industry. The preliminary WEAs resulting from this analysis were then considered by the decisionmaker.

After the close of the preliminary WEA comment period on September 2, 2022, BOEM finalized the Area ID process by reviewing the input received from all stakeholders mentioned above.

BOEM announced the Final WEAs on October 31, 2022, by designating the following WEAs within the Call area: Louisiana Coast Region (Lake Charles WEA) and the Texas Coast Region (Galveston WEA). The Area ID decision memorandum, the *Gulf of Mexico Area Identification Pursuant to 30 C.F.R. 585.211(b)*, and a map of the WEAs are available at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

- c. *Environmental Reviews:* On January 11, 2021, BOEM published a notice of intent to prepare an environmental assessment (EA) to consider potential environmental consequences of site characterization activities (e.g., biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (e.g., installation of meteorological buoys) that are expected to take place after issuance of wind energy leases in the Call area. As part of the EA, BOEM sought comments on the issues and alternatives that should inform the EA. BOEM received 18 comments,

which can be found at <http://www.regulations.gov> under Docket No. BOEM-2021-0092.

In addition to the preparation of the Draft EA, BOEM has initiated consultations under the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), and the Coastal Zone Management Act (CZMA). On July 20, 2022, BOEM issued a press release soliciting comments on the Draft EA. The public comments on the Draft EA can be found at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-draft-ea>. BOEM will conduct additional environmental reviews upon receipt of a lessee's Construction and Operations Plan (COP) if the proposed leases reach that stage of development. The Final EA is expected to be published in April 2023.

II. Area Proposed for Leasing:

BOEM has identified three areas to propose for leasing. The Louisiana Coast Region (within the Lake Charles WEA) Lease Area, Lake Charles OCS-G 37334, consists of 102,480 acres; the Texas Coast Region (within the Galveston WEA) Lease Area, Galveston I OCS-G 37335 consists of 102,480 acres, and Lease Area, Galveston II OCS-G 37336, consists of 96,786 acres.

In the final sales notice (FSN), BOEM will only offer one Lease Area within the Lake Charles WEA proposed in this PSN for auction. BOEM is seeking comments and recommendations on how many Lease Areas from the Texas Coast Region should be offered in the FSN and which Lease Area, OCS-G 37335 (Galveston I) or OCS-G 37336 (Galveston II), would be preferred if only one is offered.

Lease Area Name	Lease Area ID	Acres
Louisiana Coast Region		
Lake Charles	OCS-G 37334	102,480
Texas Coast Region		
Galveston I	OCS-G 37335	102,480
Galveston II	OCS-G 37336	96,786
<i>Total</i>		<i>301,746</i>

- d. The proposed Lease Area of Lake Charles comprises approximately 54 percent of the Louisiana Coast Region WEA M, while the Galveston I and Galveston II Lease Areas together comprise approximately 36 percent of the Texas Coast Region WEA I. BOEM subdivided the WEAs Options I and M so that each proposed Lease Area could be generated using a precision siting model, similar to the WEA model suitability analysis already applied.

BOEM is aware of potential conflicts with USCG lightering operations in portions of the Texas Coast Region Leases. Due to USCG's concerns about lightering areas in the southern portion of the Galveston WEA (Option I), BOEM will continue to work with USCG to identify, quantify, and mitigate potential impacts and risks to lightering operations within the traditional lightering use areas within Galveston leases when considering any plans submitted for BOEM's consideration and approval after lease issuance.

Descriptions of the proposed Lease Areas can be found in Addendum A of the proposed leases, which BOEM has made available with this notice on its website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

- a. *Map of the Area Proposed for Leasing:* A map of the Lease Areas, and GIS spatial files X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.
- b. *Potential Future Restrictions to Ensure Navigational Safety:*
- i. *USCG Navigational Safety Measures:* Potential bidders should note that portions of the GOM lease areas may not be available for future development (i.e., installation of wind energy facilities) because of navigational safety concerns. The USCG recommended that BOEM add a 2-nautical mile (3704 meter) buffer around the shipping fairways in the

GOM. BOEM may require additional mitigation measures at the COP stage when the lessee's site-specific navigational safety risk assessment is available to inform BOEM's decision-making.

- ii. *Vessel Transit Corridors*: Members of the fishing community have requested that offshore wind energy facilities be designed in a manner that, among other things, provides for safe transit to fishing grounds where relevant. The information currently available does not indicate that transit corridors are warranted, but BOEM may consider designating portions of a lease as transit corridors. Bidders should be aware that BOEM may include a lease stipulation in the FSN that addresses transit corridors, pending the outcome of additional discussions with ocean users and stakeholders as well as consideration of comments submitted in response to this PSN.
- c. *Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities*: Prospective bidders should be aware of potential conflicts with DoD's existing uses of the OCS. BOEM coordinates with DoD throughout the leasing process.
- i. *Air Surveillance and Radar*: The Military Aviation and Installation Assurance Siting Clearinghouse conducted a DoD assessment of the Call area. That assessment concluded that the North American Aerospace Defense Command (NORAD) mission may be affected by the development of the Lease Area(s). Considering both the expected height of offshore turbines and future cumulative wind turbine effects, adverse impacts can be mitigated through the use of Radar Adverse-impact Management (RAM)² and overlapping radar coverage. For projects where RAM mitigation is acceptable, BOEM anticipates including the following stipulations in any sale notification and project approval conditions:

² RAM is the technical process designed to minimize the adverse impact of obstruction interference on a radar system.

- (1) Lessee will notify NORAD when the project is within 30-60 days of completion and, again, when the project is complete and operational for RAM scheduling;
- (2) Lessee will contribute funds to DoD in the amount of no less than \$80,000 toward the cost of DoD's execution of the RAM procedures for each radar system affected; and
- (3) Lessee will curtail wind turbine operations for national security or defense purposes as described in the lease.

BOEM will require the lessee to enter into an agreement with the DoD to implement these conditions and mitigate any identified impacts. Sixth Generation Over the Horizon Radar is currently in development. Offshore wind turbines in the Gulf of Mexico may create adverse impacts to that system. BOEM will further coordinate with DoD and the lessee to deconflict potential impacts throughout the project review stage, which may result in adding mitigation measures or terms and conditions as part of any plan approval.

III. Participation in the Proposed Lease Sale:

- a. *Bidder Participation:* Entities that have already been notified by BOEM that they are qualified or pending qualification to participate in the upcoming GOMW-1 auction through their response to the RFI or Call, or by separate submission of qualification materials, are not required to take any additional action to affirm their interest. Those entities are listed below:

Company Name	Company No.
Avangrid Renewables, LLC	15019
547 Energy, LLC	15123
Bluepoint Wind, LLC	15096 (Pending Qualification)
Shell New Energies US, LLC	15140
Enterprize Energy USA, LLC	Pending
Hecate Energy Gulf Wind, LLC	15166
TotalEnergies Renewables USA, LLC	15136
US Mainstream Offshore, Inc.	15089

All other entities wishing to participate in this proposed GOMW-1 auction must submit the required qualification materials to BOEM by the end of the 60-day comment period for this PSN.

- b. *Affiliated Entities*: On the Bidder's Financial Form (BFF), discussed below, eligible bidders must list any other person with whom they are affiliated. An affiliate means a bidding entity who controls, is controlled by, or is under common control with another bidding entity. For the purpose of identifying affiliated entities, a bidding entity may be any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity) that is participating in the same auction. BOEM considers bidding entities to be affiliated if:
 - i. They own or have common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another bidding entity.
Ownership of less than 10 percent of a bidding entity constitutes a presumption of non-control that BOEM may rebut.
 - ii. They own or have common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another bidding entity, and BOEM determines that there is control upon consideration of factors including the following:
 - a. The extent to which there are common officers or directors.
 - b. With respect to the voting securities, or instruments of ownership or other forms of ownership: The percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other bidding entities, if a bidding entity is the greatest single owner, or if there is an opposing voting bloc of greater ownership.
 - c. Shared ownership, operation, or day-to-day management of a lease, grant, or facility as those terms are defined in BOEM's regulations at 30 CFR 585.112.

- iii. They are both direct, or indirect, subsidiaries of the same parent company.
- iv. If, with respect to any lease(s) offered in this auction, they have entered into an agreement prior to the auction regarding the shared ownership, operation, or day-to-day management of such lease.
- v. Other evidence indicates the existence of power to exercise control, such as evidence that one bidding entity has power to exercise control over the other, or that multiple bidders collectively have the power to exercise control over another bidding entity or entities.

Affiliated entities are not permitted to compete against each other in the auction.

Where two or more affiliated entities have qualified to bid in the auction, the affiliated entities must decide prior to the auction which one (if any) will participate in the auction.

If two or more affiliated entities attempt to participate in the auction, BOEM will disqualify those bidders from the auction.

BOEM solicits comments from stakeholders on this definition and will consider this feedback to potentially update its definition of affiliated entities in the FSN.

IV. Questions For Stakeholders:

Stakeholders are encouraged to comment on any matters related to this proposed lease sale that are of interest or concern. In addition, BOEM has identified the following issues as particularly important in developing this lease sale, and we encourage commenters to address these issues specifically:

- a. *Number, size, orientation, and location of the proposed Lease Areas:* BOEM is requesting comment on the number of leases that should be offered within the Lease Areas, the size and orientation of the Lease Areas, and any portions of the Lease Areas that should be prioritized for inclusion or exclusion from this lease sale or future lease sales.
- b. *Considerations for the delineation of a Lease Area:* These delineation considerations may include comparable commercial viability and size; prevailing wind direction and

minimal wake effects; maximized energy generating potential; mooring system anchor footprints and extents; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure and electrical grid interconnections; and fair return to the Federal Government pursuant to OCSLA through competition for commercially viable Lease Areas. BOEM welcomes additional comments regarding other considerations for how best to delineate Lease Areas.

- c. *Transit corridors*: BOEM welcomes comments on the potential need for defined transit corridors within the proposed Lease Areas and the degree to which such corridors might meet potential users' needs.
- d. *Existing uses that may be affected by the development of the proposed Lease Areas*: If transit corridors are warranted, what placement and orientation (length, width, etc.) would facilitate the continuance of existing uses? BOEM asks commenters to submit technical and scientific data in support of their comments.
- e. *Benefits to underserved communities*: Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," directs advancement of equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," establishes a policy to secure environmental justice and spur economic opportunity for disadvantaged communities through investing and building a clean energy economy and making environmental justice part of every agency's mission.

Consistent with its statutory and regulatory authorities, BOEM is considering lease stipulations to ensure that communities, particularly underserved communities, are considered and engaged with early and often throughout the offshore wind energy development process, that potential impacts and benefits from lessees' projects are

documented, and lessees' project proposals are informed by or altered to address those impacts and benefits.

BOEM invites comments on the appropriate mechanisms and metrics for these stipulations. Commenters are encouraged to describe how these measures would further the development of the proposed Lease Areas and the purposes of the Outer Continental Shelf Lands Act (OCSLA). BOEM requests that commenters provide references to any studies that support their recommendations.

- f. *Bidding credits*: As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. Under this system, BOEM would consider a combination of factors, which would include a monetary factor (cash bid) and up to two non-monetary factors in the form of bidding credits, to determine the outcome of the auction.

BOEM is proposing to grant bidding credits to bidders that commit to one or both of the following:

- (1) supporting workforce training programs for the offshore wind industry or developing a domestic supply chain for the offshore wind industry, or a combination of both, as described in section IV(f)(i) below; or
- (2) establishing and contributing to a fisheries compensatory mitigation fund or contributing to an existing fund to mitigate potential negative impacts to commercial and for-hire recreational fisheries caused by OCS offshore wind development in the GOM, as described in sections IV(f)(iii) and IV(f)(iv) below.

These bidding credits are intended to:

- (1) enhance, through training, the offshore wind workforce and enhance the establishment of a domestic supply chain for offshore wind manufacturing, assembly, or services, both of which will contribute to the expeditious and orderly development of offshore wind resources on the OCS;

- (2) support the expeditious and orderly development of OCS resources by mitigating potential direct impacts from proposed projects and encouraging the investment in infrastructure germane to the offshore wind industry; and
- (3) minimize potential economic effects on commercial fisheries impacted by potential offshore wind development, as cooperation with commercial fisheries impacted by OCS operations will enable development of the Lease Area to advance.

In a multiple-factor auction, BOEM appoints a panel to review the non-monetary factors before the auction, but after BOEM has received the BFFs, BFF Addenda, and conceptual strategies as described in the BFF Addenda. This panel will later verify the results of the lease sale. Following the panel's review of the conceptual strategy submitted by each bidder attempting to qualify for a bidding credit, BOEM would notify the bidder if it qualifies for a credit(s) prior to the mock auction. The bid made by a particular bidder in each round would be comprised of the sum of a monetary factor (cash bid) and the value of any non-monetary factors (bidding credit(s)). The structure of the proposed bidding credits is explained in the subsection below.

A bidder may seek to qualify for one or both of the bidding credits. The work force training and/or domestic supply chain development bidding credits would be worth 20 percent of the cash bid. A bidder could commit to both workforce training and supply chain development, but the bidding credit for these commitments combined would still be worth 20 percent of the cash bid. The proposed fisheries compensatory mitigation fund bidding credit would be worth 10 percent of the cash bid. If a bidder qualifies for both of the proposed bidding credits, the credits would be additive for a total potential credit of 30 percent of the cash bid. Bidders are encouraged to review the BFF Addendum if they are interested in qualifying for these bidding credits.

As proposed, all bidding credits would require an explicit financial commitment. The fully executed lease will include an Addendum C that will specify the exact amount of

the financial commitment. BOEM provides the following example. For a 30 percent of cash bid bidding credit with a \$50 million Asking Price, the bidding credit would be calculated (subject to rounding) as follows:

$$\text{Cash} = \left\{ \frac{\text{Asking Price}}{1 + \text{Credit\%}} \right\} = \left\{ \frac{\$50 \text{ million}}{1 + 30\%} \right\} = \$38,461,538$$

$$\text{Credit} = \$50 \text{ million} - \$38,461,538 = \$11,538,462$$

The table below demonstrates the financial commitment calculations if a \$50 million Asking Price is paid for in part with various bidding credits. The cash bid is calculated using the full value of credits received, and the commitment for each credit is calculated as either 20 or 10 percent of that value for the workforce training/supply chain development credit, and the fisheries mitigation credit, respectively.

Qualified Bidding Credits	Asking Price	Cash Bid	Credit Value	Workforce Training/Supply Chain Development Value	Fisheries compensatory mitigation fund Value
Workforce Training/Supply Chain Development; and Fisheries compensatory mitigation fund (30%)	\$50 million	\$38,461,538	\$11,538,462	\$7,692,308	\$3,846,154
Workforce Training/Supply Chain Development (20%)	\$50 million	\$41,666,667	\$8,333,333	\$8,333,333	\$0
Fisheries compensatory mitigation fund (10%)	\$50 million	\$45,454,545	\$4,545,455	\$0	\$4,545,455

- i. *20 Percent Bidding Credit for Workforce Training or Supply Chain Development or a Combination of Both:* This proposed bidding credit would allow a bidder to receive a credit of 20 percent of its cash bid in exchange for a commitment to make a qualifying monetary contribution (“Contribution”), in the same amount as the bidding credit received, to programs or initiatives that support workforce training programs for the U.S.

offshore wind industry or development of a U.S. domestic supply chain for the offshore wind industry, or both, as described in the BFF Addendum and the Lease.

1. As proposed, the Contribution to workforce training must result in a better trained and/or larger domestic offshore wind workforce that would provide for more efficient operations via increasing the supply of fully trained personnel. Training of existing Lessee employees, Lessee contractors, or employees of affiliated entities would not qualify.
2. The Contribution to domestic supply chain development must result in (i) overall benefits to the U.S. offshore wind supply chain available to all potential purchasers of offshore wind services, components, or subassemblies, not solely the Lessee's project; (ii) either the demonstrable development of new domestic capacity (including vessels) or the demonstrable buildout of existing capacity; (iii) an improved offshore wind domestic supply chain by reducing the upfront capital or certification cost for manufacturing offshore wind components, including the building of facilities, the purchasing of capital equipment, and the certifying of existing manufacturing facilities; or (iv) the development of a supply chain supporting the manufacture of offshore wind facility components that could be used to generate hydrogen. In this PSN, BOEM refers to hydrogen that is produced using offshore renewable energy as green hydrogen.
3. No portion of the Contribution may be used to meet the requirements of any other bidding credits.
4. Bidders interested in obtaining a bidding credit could choose to commit to workforce training programs, domestic supply chain initiatives, or a combination of both. The conceptual strategy must describe verifiable actions that the Lessee will take that would allow BOEM to confirm compliance when the documentation for satisfying the bidding credit is submitted. The Contribution must be tendered in full, and the lessee must provide documentation evidencing it has made the Contribution and complied with

applicable requirements, no later than the date the lessee submits its first Facility Design Report (FDR).

5. As proposed, Contributions to workforce training would need to promote and support one or more of the following purposes: (i) Union apprenticeships, labor management training partnerships, stipends for workforce training, or other technical training programs or institutions focused on providing skills necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States; (ii) Maritime training necessary for the crewing of vessels to be used for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (iii) Training workers in skills or techniques necessary to manufacture or assemble offshore wind components, subcomponents or subassemblies. Examples of these skills and techniques include welding; wind energy technology; hydraulic maintenance; braking systems; mechanical systems, including blade inspection and maintenance; or computers and programmable logic control systems; (iv) Tribal offshore wind workforce development programs or training for employees of wholly owned Tribal corporations in skills necessary in the offshore wind industry; that lead to the expeditious and orderly development of offshore wind; or (v) Training in any other job skills that the Lessee can demonstrate are necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States.
6. As proposed, Contributions to domestic supply chain development must promote and support one or more of the following: (i) Development of a domestic supply chain for the offshore wind industry, including manufacturing of components and sub-assemblies and the expansion of related services; (ii) Domestic Tier 2 and Tier 3 offshore wind component suppliers and domestic Tier-1 supply chain efforts, including quay-side fabrication; (iii) Technical assistance grants to help U.S. manufacturers re-tool or certify (e.g., ISO-9001) for offshore wind manufacturing; (iv) Development of Jones Act-

compliant vessels for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (v) Purchase and installation of lift cranes capable of lifting foundations, lift cranes on vessels, towers and nacelles quayside (vi) Port infrastructure directly related to offshore wind component manufacturing or assembly of major offshore wind facility components; (vii) Establishing a new or existing bonding support reserve or revolving fund available to all businesses providing goods and services to offshore wind energy companies, including disadvantaged businesses and wholly owned Tribal corporations; or (viii) Other supply chain development efforts that the lessee can further demonstrate advance the manufacturing of offshore wind components or subassemblies including those that could be used to generate green hydrogen, or the provision of offshore wind services, in the United States.

7. Documentation: If a lease is issued pursuant to a winning bid that includes a bidding credit for workforce training or supply chain development, the lessee would be required to provide documentation showing that the lessee has met the financial commitment before the lessee submits the first Facility Design Report (FDR) for the lease. The documentation must allow BOEM to objectively verify the amount of the Contribution and the beneficiary(ies) of the Contribution.
8. At a minimum, the documentation would need to include: all written agreements between the lessee and beneficiary(ies) of the Contribution, which must detail the amount of the Contribution(s) and how it will be used by the beneficiaries of the Contribution(s) to satisfy the goals of the bidding credit for which the Contribution was made; all receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and sworn statements by the entity that made the Contribution and attesting that all information provided in the above documentation is true and accurate. The documentation would need to describe how the funded initiative or program has advanced, or is expected to advance, U.S. offshore wind

workforce training or supply chain development. The documentation must also provide qualitative and/or quantitative information that includes the estimated number of trainees or jobs supported, or the estimated leveraged supply chain investment resulting or expected to result from the Contribution. The documentation would need to contain any information called for in the conceptual strategy that the lessee submitted with its BFF and allow BOEM to objectively verify (i) the amount of the Contribution and the beneficiary(ies) of the Contribution; and (ii) compliance with the bidding credit criteria provided in Addendum C of the Lease. If the lessee's implementation of its conceptual strategy changes due to market needs or other factors, the lessee would need to explain the changed approach. BOEM would reserve all rights to determine that the bidding credit has not been satisfied if changes from the lessee's conceptual strategy result in the lessee not meeting the criteria for the bidding credit described in Addendum C of the Lease.

9. Enforcement: The commitment for the bidding credit would be made in the BFF and would be included in a lease addendum that would bind the lessee and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the requirements of the bidding credit, or if a lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to the Office of Natural Resources Revenue (ONRR) with interest from the lease Effective Date. The interest rate would be the underpayment interest rate identified by ONRR. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements but failed to develop the lease by the tenth Lease Anniversary. BOEM could, at its sole discretion, extend the documentation deadline beyond the first FDR submission or extend the lease development deadline beyond the 10-year timeframe.

ii. *Questions Regarding Bidding Credit for Workforce Training or Supply Chain*

Development:

1. What other activities should qualify for this bidding credit to best develop a sustained and robust US offshore wind energy supply chain, as described in section IV(f)(i) above?
2. Are there activities related to manufacturing, sourcing of raw materials and components, or other offshore wind-related industries that BOEM should consider as possibly qualifying for this credit? Please explain how the proposed qualifying activity supports the development of a domestic supply chain and how that support can best be documented.
3. Should the sale offer a bidding credit for a bidder who proposes to make a financial commitment by entering into a long-term contract for components needed to build or maintain its project that will also benefit the offshore wind industry as a whole, such as the construction of new manufacturing capacity or investment in expanding or re-tooling existing capacity?

Are other effects of such contracts conducive to the development of renewable energy on the OCS? How might the bidder document that its contract facilitated such development? Should BOEM require the manufacturer or bidder to demonstrate that the new or expanded capacity also will be used to fulfill contracts with other developers? How much of the value of such a contract should count toward any potential credit, and why?

- iii. *Fisheries Mitigation and Related Benefits Bidding Credit*: The second bidding credit proposed would allow a bidder to receive a credit of 10 percent of its cash bid in exchange for a commitment to establish and contribute to a fisheries compensatory mitigation fund, or to contribute to a similar existing fund, to compensate for potential negative impacts to commercial and for-hire recreational fisheries. The term “commercial fisheries” refers to commercial and processor businesses engaged in the act of catching and marketing fish and shellfish for sale from the GOM. The term “for-hire recreational fisheries” refers to charter and headboat fishing operations involving vessels-for-hire engaged in recreational fishing in the GOM that are hired for a charter fee by an individual or group of individuals (for the exclusive use of that individual or group of individuals). Lessees are encouraged to contribute to a regional fund that would compensate fisheries losses resulting from all OCS wind energy leases and easements in the GOM. The compensation must address the following:
- Gear loss or damage; or
 - Lost fishing income in GOM wind energy Lease Areas.
- iv. The fisheries compensatory mitigation fund would assist commercial fisheries directly impacted by income or gear losses due to offshore wind activities on offshore wind leases or easements and is intended to address the impacts identified in BOEM’s environmental and project reviews. The compensatory mitigation must cover impacts that result directly from the preconstruction, construction, operations and decommissioning of an offshore wind project being developed on GOM wind energy leases or easements. The fund must be established and the Contribution made before the lessee submits the lease’s first FDR. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a strategy as described in the BFF Addendum.
1. Bidders committing to use the fisheries compensatory mitigation fund bidding credit must submit their conceptual strategy along with their BFF, further described below and

in the BFF Addendum. The conceptual strategy would describe the verifiable actions that the lessee intends to take that would allow BOEM to confirm compliance when the lessee submits its documentation showing how it is satisfying the requirements for the bidding credit. The lessee would be required to provide documentation showing that the lessee has met the commitment and complied with the applicable bidding credit requirements before the Lessee submits the lease's first FDR.

2. As proposed, gear loss and damage, and fishing income loss claims should be prioritized at each phase of offshore wind project development including impacts from surveys conducted before the establishment of the fund. BOEM encourages lessees to coordinate with other lessees to establish or contribute to a regional fund. A regional fund should be flexible enough to incorporate future contributions from future lease auctions and actuarially sound to recognize the multi-decade life of offshore wind projects in the GOM. While the fund's first priority is to compensate for gear loss or damage and income loss, funds that have been determined to be excess based on an actuarial accounting may be used to:
 - a. Promote participation of fishers and fishing communities in the project development process;
 - b. Promote research into the coexistence of multiple ocean industries; and
 - c. Offset the cost of gear upgrades and transitions for operating within a wind farm.

Any fund established or selected by the lessee to meet this sale's bidding credit requirement must include a process for evaluating the actuarial status of funds every 5 years and publicly reporting information on fund disbursement.

3. The fisheries compensatory mitigation fund must be independently managed by a third party and designed with fiduciary governance and strong internal controls while minimizing administrative expenses.

4. Documentation: As proposed, if a lease is awarded pursuant to a winning bid that includes a fisheries compensatory mitigation fund bidding credit, the lessee must provide written documentation to BOEM that demonstrates that it completed the fund contribution before it submits the lease's first FDR. The documentation must enable BOEM to objectively verify the contribution has met all applicable requirements as outlined in Addendum C of the Lease. At a minimum, this documentation must include:

- the mechanism established to compensate for gear loss or damage resulting from all phases of the project development on the Lease Area (pre-construction, construction, operation, and decommissioning);
- the fisheries compensatory mitigation fund charter, including the governance structure, audit and public reporting procedures, and standards for paying compensatory mitigation for impacts to fishers from development on wind energy Lease Areas in the GOM;
- all receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and
- sworn statements by the entity that made the Contribution, attesting to:
 - the amount and date(s) of the Contribution;
 - that the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and
 - that all information provided is true and accurate.

The documentation must contain any information specified in the conceptual strategy that was submitted with the BFF including the mechanism established to compensate for lost income or for gear loss or damage during pre-construction, construction, operation, and decommissioning activities. If the lessee's conceptual strategy has changed due to market needs or other factors, the lessee would need to explain this change.

5. Enforcement: The commitment to the fisheries compensatory mitigation fund bidding credit will be made in the BFF. It will be included in Addendum C to the Lease and will

bind the lessee and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the commitment at the time the first FDR is submitted, or if a lessee were to relinquish the lease or fail to start surveys by the fifth Lease Anniversary, the amount corresponding to the bidding credit awarded would be immediately due and payable to ONRR with interest from the lease effective date. The interest rate would be the underpayment interest rate identified by ONRR. BOEM may, at its sole discretion, extend the documentation deadline beyond the 5-year timeframe stated in this paragraph.

- v. *General Questions Regarding Fisheries Compensatory Mitigation Fund Credit:* BOEM seeks comment on the following questions concerning a fisheries compensatory mitigation fund and the associated bidding credit as described in sections IV(f)(iii) and IV(f)(iv) above.

1. Should BOEM restrict or expand the eligible compensation criteria?
2. What types of fiduciary governance structures or requirements should be in place for a fund to qualify?
3. What types of fund management provisions should BOEM require to ensure the fund's continued actuarial solvency?
4. What information should the fisheries compensatory mitigation fund be required to publish for the public to evaluate whether the fund is meeting its objective and whether the funds are being appropriately used?
5. Should qualifying mitigation funds be segregated to cover specific leases or should funds be pooled as proposed to cover fisheries impacts derived from future offshore wind leasing and projects in the Gulf of Mexico?
6. Should BOEM require investment limitations or other internal controls for the fund?
7. Should BOEM prescribe limits or caps on the fund's administrative expenses?

- g. *Native American Tribes, ocean users, and stakeholder engagement:* In an effort to require early and regular lessee engagement with affected stakeholders, BOEM is proposing to include a lease stipulation in the GOM leases that would require lessees to provide a semi-annual (i.e., every 6 months) progress report that summarizes engagement with Native American Tribes and ocean users potentially affected by proposed activities on the lease or proposed project easement. The progress report would identify and describe: all existing users; the lessee's engagement with those users; efforts to avoid, minimize, or mitigate any conflict between the existing users and the lessee; disproportionate impacts to environmental justice communities; and planned next steps to engage those users and address identified conflicts. The lease stipulation specifically would require coordination with the commercial fishing industry and consideration of potential conflicts prior to proposing a wind turbine layout in the COP. BOEM seeks comment on this concept generally, as well as comment on the contents and timing of such reports.
- h. *Coordinated engagement:* BOEM seeks comments on methods to improve coordination and engagement among lessees, federally recognized Tribes, and other stakeholders. Specifically, BOEM is soliciting input on how to improve the frequency, duration, and sustainability of collaborative engagement among these parties, as well as the preferred form it should take (in-person, webinar, facilitated meeting, etc.). BOEM recognizes its responsibility under Executive Order 13175 to conduct government-to-government consultations with Tribal governments. Coordinated engagement between federally recognized Tribes and lessees that may be required in a future lease would be in addition to BOEM's responsibilities. To illustrate the intent of this question, one possible lease term to facilitate coordinated engagement could be to require lessees to hold coordination meetings at regular intervals throughout the year (i.e., quarterly, biannually, annually, etc.). During these meetings, lessees would share information and updates about their

activities with federally recognized Tribes and other stakeholders and solicit feedback and input about lessee activities. These meetings would not substitute for government-to-government meetings between Tribes and Federal agencies, including BOEM.

- i. *Prescribed layouts:* BOEM seeks comment about whether BOEM should consider prescribing uniform and aligned turbine layouts in the Lease Area. Would the establishment of uniform turbine layouts negate the need for established transit corridors?
- j. *Limits on the Number of Lease Areas per Bidder:* BOEM recognizes that two regions (i.e., Texas WEA and Louisiana WEA), miles apart and likely serving two different electricity markets, will be offered in the same renewable energy lease sale. While BOEM is proposing to offer one lease per region in this PSN, if an applicable alternative is ultimately selected, then BOEM is proposing to allow each qualified entity to bid for one lease per region and ultimately acquire one Lease Area per region using simultaneous auctions. BOEM is seeking feedback on this proposed scheme and how different leasing scenarios may influence the advisability of such a limitation (e.g., number of Lease Areas offered, size of Lease Areas, etc.).
- k. *The Definition of “Affiliated Entities:”* BOEM prohibits “affiliated entities” from bidding against each other in an auction. This is an important part of BOEM’s policy limiting the number of leases that can be bid on or won by a single entity — the “one-per-customer” policy. In past lease sales, BOEM’s definition of “affiliated entities” was tied to direct or indirect ownership or control of one entity over another. This effectively prevents a bidder and several subsidiaries from bidding in the same lease sale. However, it has been brought to BOEM’s attention that this would not preclude bidding by multiple entities that have formed agreements with the effect of circumventing the spirit of BOEM’s one-per-customer policy. For example, BOEM’s policy would not cover a situation in which a bidder also had agreements giving them development rights in other bidders’ projects should they win. Accordingly, we request comment on revising the definition of

“affiliated entities” to include bidders that have formed such agreements related to the disposition of leases offered in either of the auctions. Such a change in the auction policy would likely be accompanied by a new requirement to disclose any agreements with affiliated bidders that could impact the results of the auction. We invite comment on whether this adjustment to the definition of “affiliated entities” sufficiently protects the policy objectives of our “one-per-customer” policy. See definition of “affiliated entities” in Part III of this PSN.

V. Proposed Lease Sale Deadlines and Milestones:

This section describes the major deadlines and milestones in the auction process from publication of this PSN to execution of a lease issued pursuant to this sale.

- a. The PSN Comment Period:
 - i. *Submit Comments:* The public is invited to submit comments during this 60-day period, which will expire on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. All comments received or postmarked during the comment period will be made available to the public and considered by BOEM prior to publication of the FSN.
 - ii. *Public Auction Seminar:* BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM and published on the BOEM website at <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. No registration or RSVP is required to attend.
 - iii. *Submit Qualification Materials:* Unless you have already received confirmation from BOEM that you are qualified to participate in the GOMW-1 auction, all qualification materials must be received by BOEM by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. This requirement includes the submission of materials sufficient to establish a company’s legal, technical, and financial

qualifications pursuant to 30 CFR 585.106 – 585.107. BOEM’s qualification guidelines available at <https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/> provide guidance on the types of information you should submit to BOEM pursuant to 30 CFR 585.107. If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential: please label privileged or confidential information with the caption “Contains Confidential Information” and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in section XXI entitled, “Protection of Privileged or Confidential Information.” Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

- b. End of PSN Comment Period to FSN Publication:
 - i. *Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.
 - ii. *Finalize Qualifications Reviews:* Prior to the publication of the FSN, BOEM will complete any outstanding reviews of bidder qualifications materials submitted during the PSN comment period. The final list of eligible bidders will be published in the FSN.
 - iii. *Prepare the FSN:* BOEM will prepare the FSN by updating information contained in the PSN where appropriate.
 - iv. *Publish FSN:* BOEM will publish the FSN in the *Federal Register* at least 30-calendar days before the date of the sale.
- c. *FSN Waiting Period:* During the period between FSN publication and the lease auction (i.e., a minimum of 30-calendar days), qualified bidders would be required to take several steps to remain eligible to participate in the auction.
 - i. *Bidder’s Financial Form:* Each bidder must submit a BFF to BOEM to participate in the auction. The BFF would be required to contain each bidder’s conceptual strategy for

each non-monetary bidding credit for which that bidder wishes to be considered. BOEM must receive each bidder's BFF no later than the date listed in the FSN. BOEM could consider extensions to this deadline only if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder's control. The proposed BFF can be downloaded at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

Once BOEM has processed a bidder's BFF, the bidder would be allowed to log into *pay.gov* and submit a bid deposit. For purposes of this auction, BOEM would not consider BFFs submitted by bidders for previous lease sales. Bidders must submit an original BFF, signed manually or digitally by an authorized signatory, by mail to BOEM's GOM Regional Office for certification.

1. Your BFF submission should be accompanied with a transmittal letter on company letterhead.
 2. The BFF would be required to be executed by an authorized representative listed on the bidder's legal qualifications in the BFF, in accordance with 18 U.S.C. 1001 (fraud and false statements).
 3. Additional information regarding the BFF may be found below in section IX entitled, "Bidder's Financial Form."
- ii. *Bid Deposit:* Each qualified bidder must submit a bid deposit of \$2,000,000 in order to bid for one (1) Lease Area. If the FSN allows bidders to win up to two (2) Lease Areas (one per region), a bid deposit of \$4,000,000 would be required to bid on two (2) Lease Areas (one per region). Further information about bid deposits can be found below in section X "Bid Deposit."
- d. *Notification of Eligibility for Non-Monetary Credits:* Prior to the mock auction, BOEM would notify each bidder of its determination of eligibility for bidding credits for each auction in which it is participating.

- e. *Mock Auction:* BOEM will hold a Mock Auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. Final details of the Mock Auction will be provided in the FSN.
- f. *The Auction:* BOEM, through its contractor, will hold an auction as described in the FSN. The auction will take place no sooner than 30-calendar days following the publication of the FSN in the *Federal Register*. The estimated timeframes described in this PSN assume the auction will take place approximately 45-calendar days after the publication of the FSN. Final dates will be included in the FSN. BOEM would announce the provisional winners of the lease sale after the auction ends.
- g. *From the Auction to Lease Execution:*
 - i. *Refund Non-Winners:* Once the provisional winners have been announced, BOEM will provide the non-winners with a written explanation of why they did not win and will return their bid deposits.
 - ii. *Department of Justice (DOJ) Review:* DOJ will have up to 30-calendar days to conduct an antitrust review of the auction, pursuant to 43 U.S.C. § 1337(c).
 - iii. *Delivery of the Lease:* BOEM will send three lease copies to each winner, with instructions on how to execute the lease. The first year's rent is due 45 calendar days after the winners receive the lease copies for execution.
 - iv. *Return the Lease:* Within 10 business days of receiving the lease copies, the auction winners must post financial assurance, pay any outstanding balance of their winning bids (i.e., winning monetary bid minus applicable bid deposit), and sign and return the three executed lease copies. The winners may request extensions and BOEM may grant such extensions if BOEM determines the delay to be caused by events beyond the requesting winner's control, pursuant to 30 CFR 585.224(e).

- v. *Execution of Lease*: Once BOEM has received the signed lease copies and verified that all other required materials have been received, BOEM will make a final determination regarding its issuance of the leases and will execute the leases, if appropriate.

VI. Withdrawal Of Blocks:

BOEM reserves the right to withdraw all or portions of the Lease Areas prior to executing the leases with the winning bidders.

VII. Lease Terms and Conditions:

BOEM has made available the proposed terms, conditions, and stipulations for the commercial leases that would be offered through this proposed sale. BOEM reserves the right to require compliance with additional terms and conditions associated with the approval of a site assessment plan (SAP) and COP. The proposed lease is on BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. Each lease would include the following attachments:

1. Addendum A (“Description of Leased Area and Lease Activities”);
2. Addendum B (“Lease Term and Financial Schedule”);
3. Addendum C (“Lease-Specific Terms, Conditions, and Stipulations”);
4. Addendum D (“Project Easement”); and
5. Addendum E (“Rent Schedule”).

Addenda A, B, and C provide detailed descriptions of proposed lease terms and conditions. Addendum D will be completed at the time of COP approval or approval with modifications. Addendum E will be completed after COP approval or approval with modifications. After considering comments on the PSN and proposed lease, BOEM will publish final lease terms and conditions in the FSN.

- a. *Proposed Lease Stipulations*: BOEM proposes to add or revise the following lease stipulations or provisions from previous commercial leases:

- i. *Fisheries Communication Plan*: BOEM proposes to include a stipulation in the lease entitled, “Commercial Fisheries,” which would contain components of stipulations in prior commercial leases issued by BOEM, including a requirement for a Fisheries Communications Plan (FCP).
- ii. *Native American Tribes Communication Plan (NATCP)*: BOEM proposes to revise the NATCP requirements in previous commercial leases to require the Lessee to work with BOEM and its Gulf of Mexico Region to identify Tribes with cultural and/or historical ties to the Lease Areas and invite those Tribes to participate in the development of the NATCP.
- iii. *Protected Species*: The Lessee must coordinate with BOEM, the National Marine Fisheries Service (NMFS), and the U.S. Fish and Wildlife Service (USFWS) prior to designing and conducting biological surveys intended to support offshore renewable energy plans that could interact with protected species.
- iv. *Marine Mammal Protection Act Authorization(s)*: If the Lessee is required to obtain an authorization pursuant to section 101(a)(5) of the Marine Mammal Protection Act prior to conducting survey activities in support of plan submittal, the Lessee must provide to the Lessor a copy of the authorization prior to commencing these activities.
- v. *Site Characterization*: BOEM updated language regarding survey plans and pre-survey meetings (section 2.1 of Addendum C of the Lease). BOEM proposes to make the pre-survey meeting between the lessee and BOEM optional at BOEM's discretion. BOEM also recommends removing the requirement for lessees to meet with BOEM prior to holding Tribal pre-survey meetings. The change would allow lessees more flexibility in scheduling Tribal pre-survey meetings, possibly holding them earlier and allowing greater opportunity for Tribal input.
- vi. *Siting Conditions*: BOEM included a lease stipulation that outlines situations when lessees may not construct surface facilities.

- vii. *Research Access*: This stipulation would make explicit BOEM’s reservation of the right to access the lease area for purposes of future research and other activities.
- viii. *Project Labor Agreements and Supply Chain*: BOEM is committed to a clean energy future, workforce development and safety, and the establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry. To advance this vision, BOEM is proposing two lease stipulations that would encourage construction efficiency for projects and contribute towards establishing a domestic supply chain:
 - 1. The first stipulation would require Lessees to make every reasonable effort to enter a Project Labor Agreement (PLA) covering the construction stage of any project proposed for the Lease Areas. The PLA provisions for the construction of an offshore wind project would apply to all contractors.
 - 2. The second stipulation would require the Lessee to establish a statement of goals in which the Lessee would describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The Lessee would be required to provide regular progress updates on the achievement of those goals to BOEM, and BOEM would make those updates publicly available.
- ix. *Stakeholder and Ocean User Engagement Summary*: BOEM proposes to require the lessee to include a stakeholder and ocean user engagement summary as part of their progress reporting requirements (section 2.2 of Addendum C of the Lease). This summary would include a description of all existing users, engagement activities with those users during the reporting period, and a description of efforts to minimize any conflict between the existing users and the lessee.

- x. *Confirmed Munitions and Explosives of Concern (MEC) and Unexploded Ordnance (UXO) Notification:* BOEM proposes to include a stipulation in the lease that would require notification for confirmed MEC and UXO. The lessee would be required to notify BOEM, the Bureau of Safety and Environmental Enforcement (BSEE), and relevant agency representatives when a confirmed discovery is made.
- xi. *Proposed Information to Lessees:* BOEM proposes to inform potential lessees of the Significant OCS Sediment Resource Areas. Bidders and lessees are advised that BOEM has designated lease blocks in the GOMR as Significant OCS Sediment Resource Areas. One or more of these blocks may be within the lease sale area. If it is determined that significant OCS sediment resources may be impacted by a proposed activity, the BOEM and/or BSEE Gulf of Mexico Region may require you to undertake measures deemed economically, environmentally, and technically feasible to protect the resources to the maximum extent practicable. For the most current listing of significant OCS sediment resource blocks, see <https://www.boem.gov/marine-minerals/managing-multiple-uses-gulf-mexico>.

VIII. Lease Financial Terms and Conditions:

This section provides an overview of the required annual payments and financial assurances under the lease. Please see the proposed lease for more information.

- a. *Rent:* Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of \$3 per acre is due within 45 calendar days after the lessee receives the lease copies from BOEM. Thereafter, annual rent payments are due on the anniversary of the effective date of the lease (the "Lease Anniversary"). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the Lease Area remaining undeveloped (i.e., non-generating acreage). For example, for the 102,480 acres Lease Area of OCS-G 37334, the rent payment would be \$307,440 per year until commercial operations begin.

If the lessee submits an application for relinquishment of a portion of its leased area within the first 45 calendar days after receiving the lease copies from BOEM and BOEM approves that application, no rent payment would be due on the relinquished portion of the Lease Area. Later relinquishments of any portion of the Lease Area would reduce the lessee's rent payments starting in the year following BOEM's approval of the relinquishment.

The lessee also must pay rent for any project easement associated with the lease. Rent commences on the date that BOEM approves the COP (or modification thereof) that describes the project easement as outlined in 30 CFR 585.508. Annual rent for a project easement that is 200 feet wide, centered on the transmission cable, would be \$70 per statute mile. For any additional acreage, the lessee must pay the greater of \$5 per acre per year or \$450 per year.

- b. *Operating Fee:* For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM applies an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment will be due within 45 calendar days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments will be due on or before the Lease Anniversary.

The subsequent annual operating fee payments will be calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value will be the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 976-

megawatt (MW) wind facility operating at a 40 percent capacity (i.e., capacity factor of 0.4) with a regional wholesale power price of \$40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 976 \text{ MW} \times 8,760 \frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$40}{\text{MWh}} \text{Power Price} \times 0.02 = \$2,735,923.20$$

- i. *Operating Fee Rate:* The operating fee rate is the share of the imputed wholesale market value of the projected annual electric power production due to the Office of Natural Resources Revenue as an annual operating fee. For the Lease Areas, BOEM proposes to set the fee rate at 0.02 (2 percent) for the entire life of commercial operations.
- ii. *Nameplate Capacity:* Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer. The nameplate capacity available at the start of each year of commercial operations on the lease will be the capacity provided in the Fabrication and Installation Report (FIR). For example, if the lessee installed 100 turbines as documented in its FIR, and each is rated by the manufacturer at 12 MW, the nameplate capacity of the wind facility would be 1,200 MW.
- iii. *Capacity Factor:* The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero and one. There are several reasons why the amount of power delivered is less than the theoretical 100 percent of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and downtime for maintenance or other purposes also affect the capacity factor.

BOEM proposes to set the capacity factor at 0.4 (i.e., 40 percent) for the year in which the commercial operation date occurs and for the first 6 years of commercial

operations on the lease. At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous 5 years based upon the actual metered electricity generation at the delivery point to the electrical grid. BOEM may make similar adjustments to the capacity factor once every 5 years thereafter.

- iv. *Wholesale Power Price Index:* Under 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MWh, is determined at the time each annual operating fee payment is due. For the leases offered in this sale, BOEM proposes to use the ERCOT (Texas Coast Region) and Louisiana MISO (Louisiana Coast Region) average price per MW from the Enerfax power prices dataset within Hitachi's ABB Velocity Suite. A similar price dataset may also be used and may be posted by BOEM at boem.gov for reference.
- c. *Financial Assurance:* Within 10 business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, the provisional winner would be required to provide an initial lease-specific bond or other BOEM-approved financial assurance instrument in the amount of \$100,000. BOEM encourages the provisional winner to discuss financial assurance requirements with BOEM as soon as possible after the auction has concluded.

BOEM would base the amount of all SAP, COP, and decommissioning financial assurance on cost estimates for meeting all accrued lease obligations at the respective stages of development. The required amount of supplemental and decommissioning financial assurance will be determined on a case-by-case basis.

The financial terms described above can be found in Addendum "B" of the lease, which is available at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

IX. Bidder's Financial Form:

Each bidder would be required to provide the information required in the BFF referenced in this PSN. A copy of the proposed form is available at:

<https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. BOEM recommends that each bidder designate an email address in its BFF that the bidder would then use to create an account in *pay.gov* (if it has not already done so). BOEM would not consider previously submitted BFFs for previous lease sales to satisfy the requirements of this auction. BOEM may consider BFFs submitted after the deadline set in the FSN if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. BOEM would accept only an original, executed paper copy of the BFF. The BFF would be required to be executed by an authorized representative listed in the qualification package on file with BOEM.

X. Bid Deposit:

Each qualified bidder must submit a bid deposit no later than the date listed in the FSN. Typically, this deadline is approximately 30 calendar days after the publication of the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control.

Following the auction, bid deposits will be applied against the winning bid and other obligations owed to BOEM. If a bid deposit exceeds that bidder's total financial obligation, BOEM will refund the balance of the bid deposit to the bidder. BOEM will refund bid deposits to the other bidders once BOEM has announced the provisional winner.

If BOEM offers a lease to a provisional winner and that bidder fails to timely return the signed lease, establish financial assurance, or pay the balance of its bid, BOEM would retain the bidder's \$2,000,000 bid deposit for one Lease Area or \$4,000,000 bid deposit for two Lease Areas (one per region). In such a circumstance, BOEM would reserve the right to offer a lease to the next highest bidder as determined by BOEM.

XI. Minimum Bid:

The minimum bid is the lowest dollar amount per acre that BOEM will accept as a winning bid and is the amount at which BOEM will start the bidding in the auction.

BOEM proposes a minimum bid of \$50.00 per acre for this lease sale.

XII. Auction Procedures:

- a. *Multiple-Factor Bidding Auction:* As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. Under BOEM's proposal, the bidding system for this lease sale would be a multiple-factor combination of monetary and non-monetary factors. The bid made by a particular bidder in each round would represent the sum of the monetary factor (cash bid) and the value of any non-monetary factors in the form of bidding credits. BOEM proposes to start the auction using the minimum bid price for the Lease Area and to increase that price incrementally until no more than one active bidder per lease area remains in the auction.
- b. *The Auction:* Using an online bidding system to host the auction, BOEM will start the bidding for Lease OCS-G 37334 through 37336 as described below.

Lease Area Name	Lease Area ID	Acres	Minimum Bid
Texas Coast Region			
NAME	OCS-G37335	102,480	
NAME	OCS-G37336	96,786	
Louisiana Coast Region			
NAME	OCS-G37334	102,480	

The precise auction process will depend on limitations, to be established in the FSN, on how many Lease Areas each bidder can bid for and win. BOEM is proposing a 'one-per-customer' rule for each Region. While BOEM is proposing to offer one lease per region, if an applicable alternative is ultimately selected, then BOEM's proposal would be that each bidder would be eligible to bid for at most one of the two Lease Areas in the offered Texas Coast Region at a time and, ultimately, to acquire at most one of the two

Texas Coast Region Lease Areas. Each bidder would also be eligible to bid for the one Lease Area in the offered Louisiana Coast Region and, ultimately, to acquire the Louisiana Coast Region Lease Area. During the comment period, BOEM is also seeking comments on alternative options for the auction format in which the limitations on bidding are varied, as described in Section XII.c below.

Depending on the ultimate selection of the number of lease areas, BOEM may conduct the auction in one of two ways. First, the two regions (Louisiana Coast and Texas Coast) would be offered in two separate auctions that would be conducted simultaneously, each with a ‘one-per-customer’ rule. BOEM would require a bidder to indicate in its BFF the regions on which it planned to bid and to submit a deposit for each region. Bidders eligible to bid in each auction would be required to check both webpages of the auction website: the Louisiana Coast auction page and the Texas Coast auction page. Bidders eligible to bid in each auction must select the correct region’s page from the auction homepage before placing a bid. A bidder’s eligibility is region-specific. BOEM would not permit bidders to “switch” between regions during the auction, i.e., if a bidder elects to bid in only one region, it may not bid in the other region at any time in the auction. Once a bidder places an exit bid in a region (or submits no bid in the region at all, in a round when the bidder is eligible to bid), the bidder would be ineligible to continue to bid in that region. Second, BOEM could hold the auction as one auction with both areas offered. In this event, BOEM suggests reviewing the rules outlined in the Carolina Long Bay FSN.³

Each auction would be conducted in a series of rounds. At the start of each round, BOEM would state an asking price for each Lease Area. If a bidder is willing to meet that asking price for one of the Lease Areas, it would indicate its intent by submitting a

³ <https://public-inspection.federalregister.gov/2022-06507.pdf>

bid equal to the asking price for the selected Lease Area. A bid at the asking price is referred to as a “live bid.” If the bidder has qualified for a non-monetary credit, it will meet the asking price by submitting a multiple-factor bid—that is, a live bid that consists of a monetary (cash bid) amount and a non-monetary credit (depending on the bidder’s qualification for bidding credits), the sum of which equals the asking price. Bidders without a non-monetary credit would submit a cash bid amount equal to the asking price. To participate in the next round of a given auction, a bidder would be required to have submitted a live bid for one of the Lease Areas (or have a carried-forward bid) in each previous round.

As long as there are two or more live bids (including carried-forward bids) for at least one of the Lease Areas in the given auction, the auction would move to the next round. BOEM would raise the asking price for each Lease Area that received two or more live bids in the previous round. Asking price increments would be determined based on several factors, including, but not necessarily limited to, the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM would reserve the right to increase or decrease bidding increments as it deems appropriate. If there was only one live bid (including carried-forward bids) or no live bids for a Lease Area in the previous round, the asking price would not be increased.

A live bid would automatically be carried forward if it was uncontested in the previous round (*i.e.*, if it was the only live bid for that Lease Area in the previous round), and the bidder who placed the uncontested bid would not be permitted to place any other bid in the current round of the given auction. Conversely, if a live bid was contested in the previous round (*i.e.*, if there was at least one other live bid for the same Lease Area, including carried-forward bids), each bidder who placed a contested live bid in the previous round would be free to bid on any Lease Area in the current round of the given auction, at the new asking prices.

If a bidder decides to stop bidding before the final round of a given auction, there could be circumstances in which the bidder could nonetheless win a lease. For example, that bidder could be ultimately selected in stage two of the winner determination that is described in detail below, or the winning bidder might be disqualified at the award stage of the auction. In these circumstances, the bidder would be bound by its bid and thus obligated to pay the full bid amount. Bidders, therefore, are bound by any of their bids up until the auction results are finalized.

Between rounds, BOEM would disclose to all bidders that submitted bids: (1) the number of live bids (including carried-forward bids) for each Lease Area in the previous round of the auction (*i.e.*, the level of demand at the asking price); and (2) the asking price for each Lease Area in the upcoming round of the auction.

In any round after the first round, a bidder would be allowed to submit an “exit bid” (also known as an “intra-round bid”), but only for the same Lease Area that received the bidder's contested live bid in the previous round. An exit bid is a bid that is greater than the previous round’s asking price, but less than the current round’s asking price. An exit bid is not a live bid, and it represents the final bid that a bidder may submit in the given auction. A bidder would not be allowed to submit both an exit bid on one of the Lease Areas and a live bid on a different Lease Area in the given auction. During the auction, the exit bid would be seen only by BOEM and not by other bidders.

A given auction would end when a round occurs in which each of the Lease Areas in the auction receives one or zero live bids (including carried-forward bids), regardless of the number of exit bids on any Lease Area. Because the Texas Coast Region and Louisiana Coast Region Lease Areas would be offered in two separate auctions, one of these separate auctions may end before the other. After the bidding ends, BOEM would determine the provisionally winning bid for each Lease Area in the given auction by the

following two-stage procedure, applying the procedure separately to each of the two separate auctions.

In stage one, the highest bid (live bid or exit bid) received for each Lease Area in the final round would be designated the provisionally winning bid, if there is a single highest bid. In the event of a tie (i.e., if two or more bidders submitted identical highest exit bids for the same Lease Area), the selection of one of the highest exit bids would be deferred until stage two.

In stage two, BOEM would consider bids from all bidding rounds for Lease Areas that were not assigned in stage one and were placed by bidders who were not assigned one of the Lease Areas in stage one. BOEM would select the combination of such bids that maximizes the sum of the bid amounts of the selected bids, subject to the following constraints: (1) Each Lease Area that received multiple highest exit bids in the final round (but no live bid) must be assigned to one of the bidders that submitted the highest exit bid; (2) at most one bid from each bidder can be selected; and (3) at most one bid for each Lease Area can be selected. If there is a unique combination of bids that solves this maximization problem, then these bids would be deemed to be the remaining provisionally winning bids. If two or more combinations of bids tie by producing the same maximized sum of bid amounts, the auction system would select one of the combinations by use of pseudorandom numbers. The provisional winners would pay the amounts of their provisionally winning bids, or risk forfeiting their bid deposits.

A provisional winner will be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder must sign the applicable lease documents, post financial assurance, and submit the outstanding balance (if any) of its winning bid (i.e., winning monetary bid minus the applicable bid deposit) within 10-business days of

receiving the lease copies, pursuant to 30 CFR 585.224. BOEM would reserve the right not to issue the lease to the provisionally winning bidder if that bidder fails to: timely execute three copies of the lease and return them to BOEM, post adequate financial assurance, pay the balance of its winning bid, or otherwise comply with applicable regulations or the terms of the FSN. In that case, the bidder would forfeit its bid deposit.

BOEM would publish the provisional winners and the provisionally winning bid amounts shortly after the conclusion of the sale. Full bid results, including round-by-round results of the entire sale, including exit bids, would be published on BOEM's website after a review of the results and announcement of the provisional winner.

- c. *Alternative options for the auction format:* BOEM is also seeking comments on alternative options for the auction format, including two specific options. In the first alternative option, the two Lease Areas would be offered in a single auction and a 'one-per-customer' rule would be applied overall, i.e., all the Lease Areas would be offered in a single auction, and there would be no distinctions made between the Louisiana Coast and Texas Coast Regions within the auction process. Under this alternative, a bidder would not be required to select in its BFF the region in which it is bidding and would supply a single deposit; a bidder could switch its uncontested bids among any of the Lease Areas between rounds. The auction would then proceed similarly as described in the California FSN (Section XIII(e)-(h), 87 FR 64106-64107).

In the second alternative option, the two Lease Areas would be offered in a single auction, but bidders could be eligible to bid for both Lease Areas. As in the first alternative, all of the Lease Areas would be offered in a single auction, and there would be no distinctions made between the Louisiana Coast and Texas Coast Regions within the auction process. A bidder would not be required to select in its BFF the region in which it is bidding and would supply as many deposits as the number of Lease Areas on which it wishes to be eligible to bid for and win. In this case, the auction would proceed

similarly as described in the Carolina Long Bay FSN (“The Auction” section, 87 FR 17332-17334).

d. Additional Information Regarding the Auction Format:

- i. *Authorized Individuals and Bidder Authentication:* A company that is eligible to participate in the auction would identify on its BFF up to three individuals who would be authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. After BOEM processes the bid deposits, the auction contractor would send several emails to the authorized individuals. The emails would contain user login information and instructions for accessing the bidder manual for the auction system and any auction system technical supplement (ASTS) that may be issued.

The auction system would require software tokens for two-factor authentication. To set up the tokens, authorized individuals would download an app onto their smartphone or tablet with a recent operating system. One of the emails sent to authorized individuals would contain instructions for installing the app and the credentials needed to activate the software token. A short telephone conversation with the auction contractor could also be required to use the credentials. The login information, along with the tokens, would be tested during the mock auction. If an eligible bidder failed to submit a bid deposit or did not participate in the auction, BOEM would de-activate that bidder’s tokens and login information.

- ii. *Timing of Auction:* The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.
- iii. *Messaging Service:* BOEM and the auction contractors would use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM could change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it would use the messaging feature to

notify bidders that a revision has been made and will direct bidders to the relevant page.

BOEM would also use the messaging system for other updates during the auction.

Bidders could place bids at any time during the round. At the top of the bidding page, a countdown clock shows how much time remains in each round. Bidders would have until the scheduled time to place bids. Bidders should do so according to the procedures described in the FSN and any ASTS issued. Information about the round results would be made available only after the round has closed, so there is no strategic advantage to placing bids early or late in the round.

Any ASTS would elaborate on the auction procedures described in this PSN. In the event of any inconsistency between the Bidder Manual, any ASTS issued, and the FSN, the FSN is controlling.

- iv. *Alternate Bidding Procedures:* Redundancy is the most effective way to mitigate technical and human issues during an auction. Bidders should strongly consider authorizing more than one individual to bid in the auction and confirm during the mock auction that each authorized individual is able to access the auction system. A 4G card or other form of wireless access may prove helpful in the event that the bidder's primary internet connection should fail. As a last resort, an authorized individual facing technical issues may request to submit its bid by telephone. In order to be authorized to place a telephone bid, an authorized individual must call the help desk number listed in the auction manual before the end of the round. BOEM will authenticate the caller's identity, including requiring the caller to provide a code from the software token. The caller must also explain the reasons why a telephone bid is necessary. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using this alternate telephonic bidding procedure.

XIII. Rejection Or Non-Acceptance of Bids:

BOEM reserves the right and authority to reject any and all bids that do not satisfy the requirements and rules of the auction, the FSN, or applicable regulations and statutes.

XIV. Anti-Competitive Review:

Bidding behavior in this sale is subject to Federal antitrust laws. Following the auction, but before the acceptance of bids and the issuance of the lease, BOEM must “allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of [the] lease sale.” 43 U.S.C. 1337(c)(1). If a provisional winner is found to have engaged in anti-competitive behavior in connection with this lease sale, BOEM may reject its provisionally winning bid. Compliance with BOEM's auction procedures and regulations is not an absolute defense against violations of antitrust laws.

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

1. An express or tacit agreement among bidders not to bid in an auction, or to bid a particular price;
2. An agreement among bidders not to bid against each other; or
3. Other agreements among bidders that have the potential to affect the final auction price.

Pursuant to 43 U.S.C. 1337(c)(3), BOEM may decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that awarding the lease may be inconsistent with antitrust laws.

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see <https://www.justice.gov/atr/business-resources> and consult legal counsel.

XV. Process For Issuing the Lease:

Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM will issue three unsigned copies of the lease to the provisional winner. Within 10 business days after receiving the lease copies, the provisional winner must:

1. Execute and return the lease copies on the bidder's behalf;
2. File financial assurance, as required under 30 CFR 585.515-537; and
3. Pay by electronic funds transfer (EFT) the balance (if any) of the winning bid (winning monetary bid minus the applicable bid deposit and bidding credit, as applicable). BOEM would require bidders to use EFT procedures (not pay.gov, the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the "Instructions for Making Electronic Payments" available on BOEM's website at: <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/EFT-Payment-Instructions.pdf>.

BOEM will not execute the lease until the three requirements above have been satisfied. BOEM may extend the 10-business-day deadline if BOEM determines the delay was caused by events beyond the provisional winner's control.

If the provisional winner does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right not to issue the lease to that bidder. In such a case, the provisional winner would forfeit its bid deposit. Also, in such a case, BOEM reserves the right to offer the lease to the next highest bidder as determined by BOEM.

Within 45 calendar days after receiving the lease copies, the provisional winner must pay the first year's rent using the "ONRR Renewable Energy Initial Rental Payments" form available at: <https://www.pay.gov/public/form/start/27797604/>.

Subsequent annual rent payments must be made following the detailed instructions contained in the "Instructions for Making Electronic Payments," available on BOEM's

website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

XVI. Non-Procurement Debarment and Suspension Regulations:

Pursuant to 43 CFR part 42, subpart C, an OCS renewable energy lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400. The lessee must also communicate this requirement to persons with whom the lessee does business relating to this lease by including this term as a condition in their contracts and other transactions.

XVII. Final Sale Notice:

The development of the FSN will be informed through the EA, related consultations, and comments received during the PSN comment period. The FSN will provide the final details concerning the offering and issuance of an OCS commercial wind energy lease for the Lease Areas in the GOM. The FSN will be published in the *Federal Register* at least 30 calendar days before the lease sale is conducted and will provide the date and time of the auction.

XVIII. Changes To Auction Details:

The regional director of BOEM's New Orleans, Louisiana Office has the discretion to change any auction detail specified in the FSN, including the date and time, if the regional director deems events outside BOEM's control may interfere with a fair and proper lease sale. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, floods, and blizzards), wars, riots, act of terrorism, fire, strikes, civil disorder, Federal Government shutdowns, cyberattacks against relevant information systems, or other events of a similar nature. In case of such events, BOEM would notify all qualified bidders via email, phone, and BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. Bidders should call (703) 787-1121 if they have concerns.

XIX. Appeals:

The appeals and reconsideration procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). BOEM's decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director under 30 CFR 585.225 as follows:

- (a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and will refund any money deposited with your bid, without interest.
- (b) You may ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection. The Director will send you a written response either affirming or reversing the rejection.

XX. Public Participation:

BOEM will make all comments publicly available on www.regulations.gov under the docket number and will consider each comment prior to publication of the FSN. BOEM does not consider anonymous comments; please include your name, address, and telephone number or email address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personally identifiable information (PII) included in your comment, may be made publicly available at any time. Even if BOEM withholds your information in the context of this PSN, your comment is subject to the Freedom of Information Act (FOIA). If your submission is requested under the FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

In order for BOEM to consider withholding from disclosure your PII, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal

privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Note that BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

XXI. Protection of Privileged or Confidential Information:

BOEM will protect privileged or confidential information that you submit consistent with FOIA and 30 CFR 585.113. Exemption 4 of FOIA applies to “trade secrets and commercial or financial information obtained from a person” that is privileged or confidential. 5 U.S.C. 552(b)(4). If you wish to protect the confidentiality of such information, clearly mark it “Contains Privileged or Confidential Information” and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise non-confidential information.

- a. *Access to Information (54 U.S.C. 307103)*: BOEM may, after consultation with the Secretary of the Interior, withhold the location, character, or ownership of historic properties if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

(AUTHORITY: 43 U.S.C. 1337(p); 30 CFR 585.211 and 585.216)

Elizabeth A. Klein,
Director,
Bureau of Ocean Energy Management.

[FR Doc. 2023-03842 Filed: 2/23/2023 8:45 am; Publication Date: 2/24/2023]