

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2023-0062]

Atlantic Wind Lease Sale 10 for Commercial Leasing for Wind Power Development on the U.S. States Central Atlantic Outer Continental Shelf – Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed sale notice; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) proposes to hold Atlantic Wind Lease Sale 10 and offer one or more lease areas (Lease Areas) for commercial wind power development on the U.S. Central Atlantic Outer Continental Shelf (OCS). The Lease Areas are located in the previously identified wind energy areas (WEAs) A-2 and C-1 offshore the State of Delaware and the Commonwealth of Virginia. This proposed sale 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 a multiple factor bidding format using a simultaneous clock auction. BOEM will use new auction software for the lease sale, with attendant and minor changes in the auction rules used in previous OCS wind lease auctions. Any lease resulting from this sale does not constitute approval of any offshore wind energy facilities. Lessees must first submit project-specific plans to BOEM and obtain BOEM’s approval before they may start any 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 February 10, 2024.

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 Central Atlantic auction, BOEM must receive your qualification materials no later than February 10, 2024, and, prior to the auction, BOEM must confirm your qualification to bid in the auction.

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

- *Electronically:* Visit <https://www.regulations.gov>. In the entry entitled, “Enter Keyword or ID,” enter [BOEM-2023-0062] then click “search.” Follow the instructions to submit comments.
- *Mail or delivery service:* Enclose comment in an envelope labeled, “Comments on Central Atlantic Wind Lease Sale PSN” and send to: Bridgette Duplantis, Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166.
- *For prospective bidders who want to participate in this lease sale:* Submit your qualification materials in an envelope labeled, “Qualification Materials for Central Atlantic Wind Energy Lease Sale” to Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166 or electronically to renewableenergy@boem.gov.

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: Bridgette Duplantis, Bureau of Ocean Energy Management, bridgette.duplantis@boem.gov or (504) 736-7502.

SUPPLEMENTARY INFORMATION:

I. Background

- a. *Call for Information and Nominations:* On April 29, 2022, BOEM published the “Call for Information and Nominations-Commercial Leasing for Wind Power Development on the Central Atlantic Outer Continental Shelf” (Call). The Call consisted of six areas labelled A-F. BOEM received 66 comments from the general public; Federal, State, and local agencies; the fishing industry; industry groups; developers; non-governmental organizations (NGOs); universities; and other stakeholders. Comments can be viewed at <https://www.regulations.gov/document/BOEM-2022-0023-0001/comment>. Three developers nominated areas for a commercial wind energy lease within the Call Area.
- b. *Area Identification:* After modifying the Area Identification (Area ID) process in a Notice to Stakeholders, which is available at <https://www.boem.gov/newsroom/notes-stakeholders/boem-enhances-its-processes-identify-future-offshore-wind-energy-areas>, BOEM used this process to support identification of Draft WEAs in the Central Atlantic. After the close of the Call comment period on June 28, 2022, BOEM initiated the Area ID process

by reviewing the input received on the Call. BOEM and the National Oceanic and Atmospheric Administration's National Centers for Coastal Ocean Science (NCCOS) Team used an ocean planning tool to identify the eight Draft WEAs on the U.S. Central Atlantic OCS using the methodology outlined in the BOEM and NCCOS Draft Report: Development of the Central Atlantic Wind Energy Areas, which can be found at

https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/BOEM_NCCOS_JointReport_DraftWEAs.pdf.

On November 16, 2022, BOEM opened a 30-day public comment period on eight draft WEAs on the OCS offshore the U.S. Central Atlantic coast, covering approximately 1.7 million acres. BOEM considered the following non-exclusive information sources when identifying the draft WEAs: comments and nominations received on the Call; information from the Central Atlantic Intergovernmental Renewable Energy Task Force; input from Delaware, Maryland, Virginia, and North Carolina State agencies; input from Federal agencies; comments from stakeholders and ocean users, including the maritime community, offshore wind developers, and the commercial and recreational fishing industry; state and local renewable energy goals; and information on domestic and global offshore wind market and technological trends. BOEM's draft WEA recommendations did not reflect a final assessment from the Department of Defense (DOD) regarding compatibility of the draft WEAs with DOD needs.

After the close of the draft WEA comment period on December 16, 2022, BOEM finalized the Area ID process after reviewing the input received from all stakeholders mentioned above and the DOD assessment. BOEM announced the final WEAs on July 31, 2023, by designating three WEAs within the Call Area. The first WEA (A-2) is 101,767 acres and located approximately 26 nautical miles (nm) from Delaware Bay. The second WEA (B-1) is 78,285 acres and located 23.5 nm offshore Ocean City, Maryland. The third WEA (C-1) is 176,506 acres and located approximately 35 nm from the mouth of the Chesapeake Bay. The final WEAs comprise 356,558 acres and would support approximately 4.3 – 8.1 GW of energy production if fully developed. BOEM, DOD (the Departments of the Air Force and Navy), and the National Aeronautics and Space Administration (NASA) agreed to undertake an in-depth review of WEA B-1 to determine if the impacts to military and NASA operations could be acceptable and/or mitigated. The Central Atlantic Area Identification process and documentation can be found at <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>.

- c. *Environmental Reviews*: On August 1, 2023, 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. When scoping the EA, BOEM sought comments on the issues and alternatives that should inform the

EA. BOEM received 104 comment submissions, which can be found at <https://www.regulations.gov> under Docket No. BOEM-2023-0034. In addition to the preparation of the Draft EA, including compliance with threatened and endangered species requirements for certain data collection activities associated with OCS leasing (<https://www.boem.gov/sites/default/files/documents/renewable-energy/OSW-surveys-NLAA-programmatic.pdf>), BOEM has initiated other required consultations under the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act. The EA and associated consultations will inform BOEM’s decision whether to proceed with the final sale notice (FSN). BOEM will solicit comments on the EA before it is finalized. 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.

II. Areas Proposed for Leasing

BOEM proposes two areas for leasing. Lease Area A-2, OCS-A 0557, which consists of 101,443 acres and is approximately 26.4 nm from Delaware Bay; and Lease Area C-1, OCS-A 0558, which consists of 176,505 acres and is approximately 35 nm from the mouth of the Chesapeake Bay.

Lease Area Name	Lease Area ID	Acres
A-2	OCS-A 0557	101,443
C-1	OCS-A 0558	176,505
<i>Total</i>		277,948

Descriptions of the proposed Lease Areas can be found in Addendum A of the proposed leases, which can be found on BOEM’s website at:

<https://www.boem.gov/renewable-energy/state-activities/central-atlantic>. As described in Section I (b), the Federal team consisting of BOEM, DOD, and NASA reviewed the constraints associated with Area B-1, and conducted an analysis of the mitigations that would be necessary to keep that Area viable during an initial Central Atlantic offshore wind sale. The team identified the magnitude and cost of collective mitigation needed to accommodate offshore wind construction and operations in this area. After this review, BOEM decided to remove WEA B-1 from consideration as part of the upcoming Central Atlantic lease sale due to the significant costs and mitigation that would be required.

- 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/central-atlantic>.
- b. *Potential Future Restrictions to Ensure Navigational Safety*: Potential bidders are advised that portions of the Lease Areas may not be available for future development (i.e., installation of wind energy facilities) because of navigational safety concerns. 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.
- c. *Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities*: Those interested in bidding should be aware of potential conflicts with DOD's existing uses of the OCS. BOEM coordinates with DOD throughout the leasing process and the Military Aviation and Installation

Assurance Siting Clearinghouse conducted a DOD assessment of the Call Area. The assessment identified the following potential issues that may require mitigation.

i. *Air Surveillance and Radar*: 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)¹ and overlapping radar coverage. For projects where RAM mitigation is acceptable, BOEM anticipates including the following project approval conditions:

- 1) Lessee will notify NORAD when the project is within 30-60 days of completion of commissioning of the last wind turbine generator (WTG) (meaning every WTG in the Project is installed with potential for blade rotation), 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.

¹ RAM is the technical process designed to minimize the adverse impact of obstruction interference on a radar system.

- ii. *Advanced Dynamic Aircraft Measurement System (ADAMS) operations:*
The Department of the Navy identified ADAMS operations that could be impacted by development off the coast of Norfolk, Virginia, and may require curtailment or other mitigation.
- iii. *U.S. Air Force and U.S. Air Force Air National Guard operations:* The U.S. Air Force noted that the airspace above both proposed Lease Areas has a floor of 1,000 feet above sea level. The U.S. Air Force requested BOEM limit structure heights to no higher than 1,000 feet above sea level.

BOEM may require the lessee to enter into an agreement with DOD to implement these conditions and mitigate any identified impacts. 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.

- d. *Proposed Restrictions Related to National Aeronautics and Space Administration (NASA) Wallops Island Flight Facility Operations:* NASA and the Missile Defense Agency identified potential impacts to operations originating from the Wallops Island Flight Facility. BOEM has included stipulations in proposed Lease OCS-A 0558 (NASA Operations, section 11) to avoid and minimize this potential conflict with wind energy development.
- e. *Potential Future Restrictions to Mitigate Potential Conflicts with Sand Resources:* Potential bidders are advised that BOEM has developed sand resource areas in aliquots offshore the Mid Atlantic (MMIS Application

(<https://mmis.doi.gov/BOEMMMIS/>). OCS sand resource areas are composed of sand deposits found on or below the surface of the OCS seabed. If it is determined that significant OCS sand resources may be impacted by a proposed activity, BOEM may require you to undertake measures deemed economically, environmentally, and technically feasible to protect the resources to the maximum extent practicable, including minimizing, avoiding, and mitigating impact to these resources. Measures may include modification of proposed transmission corridor locations. There is potential for sand resources to exist in aliquots not currently identified. BOEM and/or BSEE will not approve future requests for in-place decommissioning of cables in sand resource areas unless BOEM’s Marine Minerals Program has determined that the cable corridor does not unduly interfere with other uses of the OCS, specifically sand resource use.

III. Participation in the Proposed Lease Sale

- a. *Bidder Participation*: Entities that have been notified by BOEM that their qualification is pending or that they are qualified to participate in the upcoming Central Atlantic auction through their response to the 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
US Mainstream Offshore, Inc.	15089
OW North America Ventures LLC	15133
energyRe Offshore Wind Holdings, LLC	15171

All other entities wishing to participate in this proposed Central Atlantic 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 eligible bidders with whom they are affiliated. For the purpose of identifying affiliated entities, a bidding entity is 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 when:
- 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:
 - 1) The extent to which there are common officers or directors.
 - 2) 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.

- 3) 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, 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 Final Sale Notice (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, 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.
- b. *Considerations for the delineation of a Lease Area:* These delineation considerations may include comparable commercial viability and size; prevailing wind direction and minimizing wake effects; maximized energy generating potential; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure and electrical grid interconnections; and fair return to the Federal Government pursuant to the Outer Continental Shelf Lands Act through competition for commercially viable Lease Areas. BOEM welcomes additional comments regarding other considerations for how best to delineate Lease Areas.
 - i. *Lease Area C-1:* BOEM is specifically requesting comment on the need for a buffer or setback between proposed Lease Area C-1 (Lease OCS-A 0558) and the existing Lease Area OCS-A 0483 to the West. Comments on the need for a buffer, the size or distance of the buffer between leases, and the method for implementing a buffer between Lease Areas are requested. A buffer from the existing Lease Area could be accomplished through removal of lease blocks from proposed Lease Area C-1 or through a lease stipulation that prohibits surface structures within a specified

distance of Lease OCS-A 0483. BOEM has included such lease stipulation (Siting Conditions, section 10) in Addendum “C” of proposed Lease OCS-A 0558.

- c. *Existing uses and how they may be affected by the development of the proposed Lease Areas:* BOEM asks commenters to submit technical and scientific data in support of their comments.
- d. *Bidding Credit for Workforce Training or Supply Chain Development:* Are there additional activities that should qualify for this bidding credit or are there other changes to the structure of the credit that will best aid in developing a sustained and robust U.S. offshore wind workforce and/or energy supply chain?
- e. *Fisheries Compensatory Mitigation Fund Credit:* BOEM seeks comment on its proposal for a fisheries compensatory mitigation fund and the associated bidding credit as described in Section XII.
- f. *Potential future bidding credit for Conservation Programs:* While this bidding credit is not being considered for the Central Atlantic, BOEM is requesting comments on a conservation program bidding credit, which would allow a bidder to receive a credit in exchange for a commitment to advance conservation for threatened and endangered species, migratory birds, or North Atlantic right whales (NARWs). The Contribution to advance conservation programs would need to result in demonstrable benefits to: (i) species conservation and/or recovery goals; and/or (ii) net positive impacts associated with habitat restoration, enhancement, or preservation for these species.

Specifically, BOEM is considering for future sales a credit that would include one or more of the following: (i) contributions supporting the development and operation of a near-real-time acoustic surveillance system to detect and report the location of NARWs that would directly inform adaptive management strategies for the protection of NARWs; (ii) establishment of an on-demand gear program that would provide, exchange, or otherwise replace gear used in federal- and state-permitted commercial fisheries that deploy vertical lines with on-demand gear that would avoid entanglements with NARWs; (iii) programs that reduce underwater ambient noise caused by the operation of vessels; (iv) programs that meet recovery objectives for threatened and endangered bird species; and/or (v) restoration, enhancement, or protection of migratory bird breeding, resting, feeding, or migratory habitats. BOEM is seeking stakeholder feedback on the following:

- i. What portion of the total bidding credits should go towards a conservation program?
 - ii. Eligible activities or projects authorized under a conservation bidding credit.
 - iii. Documentation and enforcement mechanisms.
- g. *Limits on the Number of Lease Areas per Bidder*: BOEM is proposing to allow each qualified entity to bid for one Lease Area at a time and ultimately acquire only one Lease Area.
- h. *New national security stipulations related to foreign interest*: BOEM has included new lease stipulations (4.4 and 4.5) for an Atlantic renewable energy lease related

to foreign entities and national security. Stipulation 4.4 requires the lessee to provide the names of entities who own, or will engage in activities at, an OCS facility, and the names of any foreign entities allowed access to such facilities, to DOD for review at least 14 days prior to the lessee taking any actions in the Lease Area. Stipulation 4.5 requires an assignor and assignee to notify the Committee on Foreign Investment in the United States as part of the assignment process. BOEM requests comment on both of these proposed lease stipulations.

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/central-atlantic>. 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 Central Atlantic 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 – 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. BOEM will inform you if you are qualified to participate in the auction.
- iv. *Confidential information.* 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 qualification 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 necessary.
 - 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, 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 must include 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/central-atlantic>.

- 1) Once BOEM has processed a bidder's BFF, the bidder would be allowed to log into <https://www.pay.gov> and submit a bid deposit. For purposes of this auction, BOEM would not consider BFFs submitted by bidders for previous lease sales. An original signed BFF may be mailed to BOEM's Office of Renewable Energy Programs for certification. A signed copy of the form may be submitted in PDF format to renewableenergy@boem.gov. A faxed copy will not be accepted. Your BFF submission should be accompanied with a transmittal letter on company letterhead.
 - 2) The BFF must 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 \$5,000,000 in order to bid for one (1) Lease Area. 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 the bidder 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 will 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 provisional winner, with instructions on how to execute the lease. Once the lease has been fully executed, a provisional winner becomes an auction winner. The first year's rent is due 45 calendar days after the auction winners receive the lease copies for execution.
 - iv. *Return the Lease:* Within ten 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 value of the bidding credit, as applicable), 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 was 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/central-atlantic>. Each lease would include the following attachments:

- a. Addendum A (“Description of Leased Area and Lease Activities”);
- b. Addendum B (“Lease Term and Financial Schedule”);
- c. Addendum C (“Lease-Specific Terms, Conditions, and Stipulations”); and

- d. Addendum D (“Project Easement”).

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, particularly Addendum “B,” for more detailed information, including any changes from past practices.

- 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 101,443 acres Lease Area of OCS-A 0557 (A-2), the rent payment would be \$304,329 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 that describes the project easement (or any modification of such COP that affects the easement acreage), as outlined in 30 CFR 585.507. If the COP revision results in increased

easement acreage, additional rent would be required at the time the COP revision is approved. Annual rent for a project easement is 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 90 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 a 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 (ONRR) 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.
- iii. *Capacity Factor*: BOEM proposes to set the capacity factor at 0.4 (i.e., 40 percent) for the year in which the commercial operations date occurs and for the first six 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 five 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 five 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 the following table provides the proposed price data. A similar

price dataset may also be used and may be posted by BOEM at boem.gov for reference.

Lease Area Name	Wholesale Power Price
A-2, OCS-A 0557	PJM DPL
C-1, OCS-A 0558	PJM DOM

- c. *Financial Assurance*: Within ten 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/central-atlantic>.

IX. Bidder’s Financial Form

Each bidder is required to provide the information listed in the BFF referenced in this PSN. A copy of the proposed form is available at: <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>. BOEM recommends that each bidder designate an email address in its BFF that the bidder will use to create an account in <https://www.pay.gov> (if it has not already done so). BOEM will 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. The BFF is 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, the 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 unsuccessful bidders once BOEM has announced the provisional winners.

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 will retain the bidder's \$5,000,000 bid deposit for the Lease Area. In such a circumstance, BOEM reserves 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 \$100.00 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 prices incrementally until no more than one active bidder per Lease Area remains in the auction.

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

- i. 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; or
- ii. 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 Central Atlantic.

These bidding credits are intended to:

- i. Enhance, through training, the offshore wind workforce and/or 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;
 - ii. 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
 - iii. 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.
- b. *Changes to Auction Rules:* BOEM will be employing new auction software for the Central Atlantic lease sale. The auction format remains an ascending clock auction with multi-factor bidding. Three primary changes have been made to the ascending clock auction rules in the new software.

The first change is that if a bidder decides to bid on a different Lease Area in a subsequent round of the auction, it will be allowed to submit an intra-round bid for the Lease Area it bid on in the previous round and, simultaneously, submit a bid for another Lease Area. This allows a bidder to possibly switch to another

Lease Area if the price of the first Lease Area exceeds its specified intra-round bid price.

The second change is that the determination of provisional winners will no longer use a two-stage process. The auction rules are implemented in a way such that, when the auction concludes, the bidder who remains on a Lease Area after the final round becomes its provisional winner. There will be no additional processing to determine if any other Lease Areas can be awarded to other bidders.

The third change is that the upcoming auctions will use a ‘second price’ rule. A given Lease Area will be won by the bidder that submitted the highest bid amount for the Lease Area, but the winning bidder will pay the highest bid amount at which there was competition (i.e., the ‘second price’).

All potential bidders should review the complete Auction Procedures for Offshore Wind Lease Sales (Version 1) located at:

<https://www.boem.gov/renewable-energy/lease-and-grant-information>.

- c. *The Auction:* Using an online bidding system to host the auction, BOEM will start the bidding for the Lease Areas as described below.

Lease Area Name	Lease Area ID	Acres	Minimum Bid
A-2	OCS-A0557	101,443	\$10,144,300
C-1	OCS-A0558	176,505	\$17,650,500

Each auction will be conducted in a series of rounds. Before each round, the auction system will announce a clock price for each Lease Area offered in the auction. In Round 1, the clock prices (also known as the ‘opening prices’) are the minimum bid prices, and each bidder can bid for one Lease Area at those prices. After Round 1, the processed demand for a bidder is the Lease Area for which it

bid in Round 1. After any round, if there is no processed demand for a bidder, the bidder's eligibility drops to zero, and the bidder can no longer bid in the auction.

Starting in Round 2, each Lease Area is assigned a range of prices for the round. The start-of-round price is the lowest price in the range, and the clock price is the highest price in the range. A bidder still eligible to bid after the previous round can either continue bidding at the new round's clock price for the Lease Area for which the bidder's processed demand is one or submit a bid to exit (reduce demand for) that Lease Area at any price in the range for that round. A bid to reduce demand at some price indicates that the bidder is not willing to acquire that Lease Area at a price exceeding the specified bid price. A bidder that submits a bid to reduce demand for a Lease Area can optionally bid on another Lease Area. If an eligible bidder does not place a bid for that Lease Area during the round, the auction system will consider this a request to exit that Lease Area at the start-of-round price.

If an eligible bidder does not place a bid for that Lease Area during the round, the auction system will consider this a request to exit that Lease Area at the start-of-round price.

After each round, the auction system processes the bids and determines each bidder's processed demand for each Lease Area and the posted prices for all the Lease Areas. The posted price is the price determined for each Lease Area after processing of all bids for a round. The posted price for a Lease Area in each round is the start-of-round price for that Lease Area in the next round. Because of

the ‘one-per-customer’ rule, a bidder will have at most one bid on one Lease Area.

After the bids are processed, if each Lease Area has received one or fewer bids, the auction will end and each bidder on a Lease Area will become a provisional winner for that Lease Area. Otherwise, the auction will continue with a new round in which the start-of-round price for a Lease Area equals the posted price of the previous round.

The provisional winners of the auction will pay the “second price” 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 of its winning bid (i.e., winning monetary bid minus the applicable bid deposit and the value of bidding credits, as applicable) within ten business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM reserves the right to not 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, timely post adequate financial assurance, timely pay the balance of its winning bid, or otherwise comply with applicable regulations or the terms of the FSN. In any of these cases, the bidder will forfeit its bid deposit.

BOEM will publish the names of 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, will be published on BOEM's website after a review of the results and announcement of the provisional winner.

Additional Information Regarding the Auction Format:

- i. *Authorized Individuals and Bidder Authentication:* An entity that is eligible to participate in the auction will identify on its BFF up to three individuals who will be authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. All individuals will log into the auction system using login.gov. Prior to the auction, all the individuals listed on the BFF form must obtain a FIDO-compliant security key², and must register this security key on login.gov using the same email address that was listed in the BFF. The login.gov registration, together with the FIDO-compliant security key, will enable the individual to log into the auction website. BOEM will provide information on this process on its website.

After BOEM has processed the bid deposits, the auction contractor will send an email to the authorized individuals, inviting

² FIDO-keys are produced by many manufacturers, such as Yubico and Google. They are widely available and can easily be purchased from Amazon, Best Buy, Walmart, or any other seller of electronics. The latest generation of the FIDO standard is FIDO2, and you should obtain the key compliant with FIDO2 authentication standard. Depending on the computer you use, you might need to obtain an adapter as FIDO-keys require a USB port.

them to practice logging into the auction website on a specific day in advance of the mock auction. The login.gov login process, along with the authentication for the auction helpdesk, will also be tested during the mock auction.

If an eligible bidder fails to submit a bid deposit or does not participate in the first round of the auction, BOEM will deactivate that bidder's 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 will 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 will use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM will 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 will have until the scheduled time to place bids. Bidders should do so according to the procedures described in the FSN and the Auction Procedures for

Offshore Wind Lease Sales. Information about the round results will be made available only after the round has closed, so there is no strategic advantage to placing bids early or late in the round.

The Auction Procedures for Offshore Wind Lease Sales will elaborate on the auction procedures described in this PSN. In the event of any inconsistency between the Auction Procedures for Offshore Wind Lease Sales, the Bidder Manual, 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 if 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. 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. 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. The auction help desk requires codes from the Google Authenticator app as part of its procedure for identifying individuals who call for assistance. **Prior to the auction,** all individuals listed on the BFF should download the Google Authenticator™ mobile app³ onto their smartphone or tablet.⁴ The first time the individual logs into the auction system, the system will provide a QR token to be read into the Google Authenticator™ app. This token is unique to the individual and enables the Google Authenticator™ app to generate time-sensitive codes that will be recognized by the auction system. When an individual calls the auction help desk, the current code from the app must be provided to the help desk representative as part of the user authentication process. BOEM will provide information on this process on its website.

d. *17.0 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 17.0 percent 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

³ Google Authenticator must be installed from either the Apple App Store or the Google Play Store.

⁴ Installing the app is only required if the Google Authenticator is not already installed on the smartphone or tablet.

BFF Addendum and the lease. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a conceptual strategy as described in the BFF Addendum.

- i. 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.
- ii. The Contribution to domestic supply chain development must result in 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; and either: (i) the demonstrable development of new domestic capacity (including vessels) or the demonstrable buildout of existing capacity; or (ii) 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.
- iii. Contributions cannot be used to satisfy private cost shares for any federal tax or other incentive programs where cost sharing is a requirement. No portion of the Contribution may be used to meet the requirements of any other bidding credits for which the lessee qualifies.

- iv. Bidders interested in obtaining a bidding credit could choose to contribute 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).
- v. 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 areas involving 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 an Indian Economic Enterprise⁵ in skills necessary in the offshore wind industry; 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.

- vi. 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 fabrication⁶; (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 or other equipment capable of lifting or moving foundations, towers, and nacelles quayside, or lift cranes on vessels with these capabilities; (vi) Port infrastructure

⁵ [https://www.bia.gov/sites/default/files/dup/assets/as-ia/ieed/Primer%20on%20Buy%20Indian%20Act%20508%20Compliant%202.6.18\(Reload\).pdf](https://www.bia.gov/sites/default/files/dup/assets/as-ia/ieed/Primer%20on%20Buy%20Indian%20Act%20508%20Compliant%202.6.18(Reload).pdf)

⁶ Tier-1 denotes the primary offshore wind components such as the blades, nacelles, towers, foundations, and cables. Tier 2 subassemblies are the systems that have a specific function for a Tier 1 component. Tier 3 subcomponents are commonly available items that are combined into Tier 2 subassemblies, such as motors, bolts, and gears.

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/or Indian Economic Enterprises; or (viii) Other supply chain development efforts that the lessee can demonstrate advance the manufacturing of offshore wind components or subassemblies or the provision of offshore wind services in the United States.

- vii. 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 FDR for the lease. The documentation must allow BOEM to objectively verify the amount of the Contribution and the beneficiary(ies) of the Contribution.

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 the beneficiary(ies) of the Contribution 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 to 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.

- viii. 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 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.

- e. *Eight percent Bidding Credit for Fisheries Compensatory Mitigation Fund:* The second bidding credit proposed would allow a bidder to receive a credit of 8.0 percent of its 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 processing businesses engaged in the act of catching and marketing fish and shellfish for sale from the Central Atlantic. The term “for-hire recreational fisheries” refers to charter and headboat fishing operations involving vessels-for-hire engaged in recreational fishing in the Central Atlantic 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, such as the initiative by eleven East Coast states to establish a regional fund that would provide financial compensation for economic loss from offshore wind development off the Atlantic Coast. At a minimum, the compensation must address the following:

- i. Gear loss or damage; and
- ii. Lost fishing income in Central Atlantic wind energy Lease Areas.

The fisheries compensatory mitigation fund would assist commercial and for-hire recreational 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 Central Atlantic wind energy leases or easements. The fund must be established and the Contribution made before the lessee submits the lease's first FDR or before the fifth Lease Anniversary, whichever is sooner. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a conceptual 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 actions that the lessee intends to take that would allow BOEM to verify compliance when the lessee seeks to

demonstrate satisfaction of 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 or before the fifth Lease Anniversary, whichever is sooner.

- 2) As proposed, gear loss, 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 enough to recognize the multi-decade life of offshore wind projects in the Central Atlantic. 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 or other programs that better enable the fishing and offshore wind industries to co-exist;
- b. Offset the cost of gear upgrades and transitions for operating within a wind facility.

Any fund established or selected by the lessee to meet this bidding credit requirement must include a process for evaluating the actuarial

status of funds at least every five years and publicly reporting information on fund disbursement and administrative costs at least annually.

- 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. The Contribution may be used for fund startup costs, but the Fund should minimize costs by leveraging existing processes, procedures, and information from BOEM Fisheries Mitigation Guidance, the Eleven Atlantic States' Fisheries Mitigation Project, or other sources.
- 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 or before the fifth Lease Anniversary, whichever is sooner. 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:
 - a. The procedures 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);
 - b. 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 Central Atlantic;

- c.* All receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and
- d.* Sworn statements by the entity that made the Contribution, attesting to:
 - i.* The amount and date(s) of the Contribution;
 - ii.* That the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and
 - iii.* 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. If the lessee's implementation of its Conceptual Strategy changes due to market needs or other factors, the lessee would need to explain this change. BOEM reserves the right 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.

- 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” of 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 by the fifth Lease Anniversary, whichever is sooner, 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. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements by the time the first FDR is submitted, or the fifth Lease Anniversary, whichever is sooner. BOEM may, at its sole discretion, extend the documentation deadline beyond the first FDR or beyond the 5-year timeframe.

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:

- a. An express or tacit agreement among bidders not to bid in an auction, or to bid a particular price;
- b. An agreement among bidders not to bid against each other; or
- c. 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> 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 ten business days after receiving the lease copies, the provisional winner must:

- a. Execute and return the lease copies on the bidder's behalf;
- b. File financial assurance, as required under 30 CFR 585.515-537; and
- c. Pay by electronic funds transfer (EFT) the balance of the winning bid (winning monetary bid minus the applicable bid deposit and value of bidding credit, as

applicable). BOEM would require bidders to use EFT procedures (not <https://www.pay.gov>, the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained 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 to not 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/central-atlantic>.

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 requirement as a term or 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 Central Atlantic. 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

BOEM has the discretion to change any auction detail specified in the FSN, including the date and time, if events outside BOEM's control have been found to 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/central-atlantic>. Bidders should call BOEM's Auction Manager at (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 <https://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.

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.

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.

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 and Confidential Information

BOEM will protect privileged and 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. Tribes 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 Klein,
Director, Bureau of Ocean Energy Management.