



# United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

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## Decision Memorandum

To: Elizabeth Klein  
Director, Bureau of Ocean Energy Management

From: Dr. James Kendall  
Regional Director, Gulf of Mexico Region

Subject: Gulf of Mexico Final Sale Notice

### 1. Purpose

This memorandum documents the analysis and rationale the Bureau of Ocean Energy Management (BOEM) used to develop recommendations for the Lease Areas to be included in the Final Sale Notice (FSN) for the Gulf of Mexico (GOM) offshore wind renewable energy lease sale on the Outer Continental Shelf (OCS), also known as Gulf of Mexico Wind Lease Sale 1 (GOMW-1). This memorandum also documents BOEM's decisions to exercise its authority under the Outer Continental Shelf Lands Act (OCSLA) to include certain stipulations in the leases that will be offered for sale in GOMW-1. Last, this memorandum requests your concurrence with proceeding with the publication of the FSN and lease auction procedures for the decision described below.

### 2. Decision Summary

As described in Table 1 and depicted in Figure 1, the recommended Lease Areas for the GOM FSN consist of 301,746 total acres. The size of the Lease Areas has not changed from the size of the areas proposed in the Proposed Sale Notice (PSN). The leases to be awarded, by themselves, do not authorize any activities on the OCS. The leases grant the lessees the exclusive right to submit plans (e.g., Site Assessment Plan (SAP) and Construction and Operations Plan (COP)) that, if approved after completing all necessary reviews and consultations under applicable Federal statutes, would allow offshore wind energy activities on the Lease Areas. The leases to be awarded would have an operations term of 33 years. Some noteworthy stipulations included in the leases concern reporting requirements; communications plans with Tribes, agencies, and fisheries; supply chain statement of goals; Project Labor Agreements (PLAs); protected species and benthic habitat; and transmission planning.

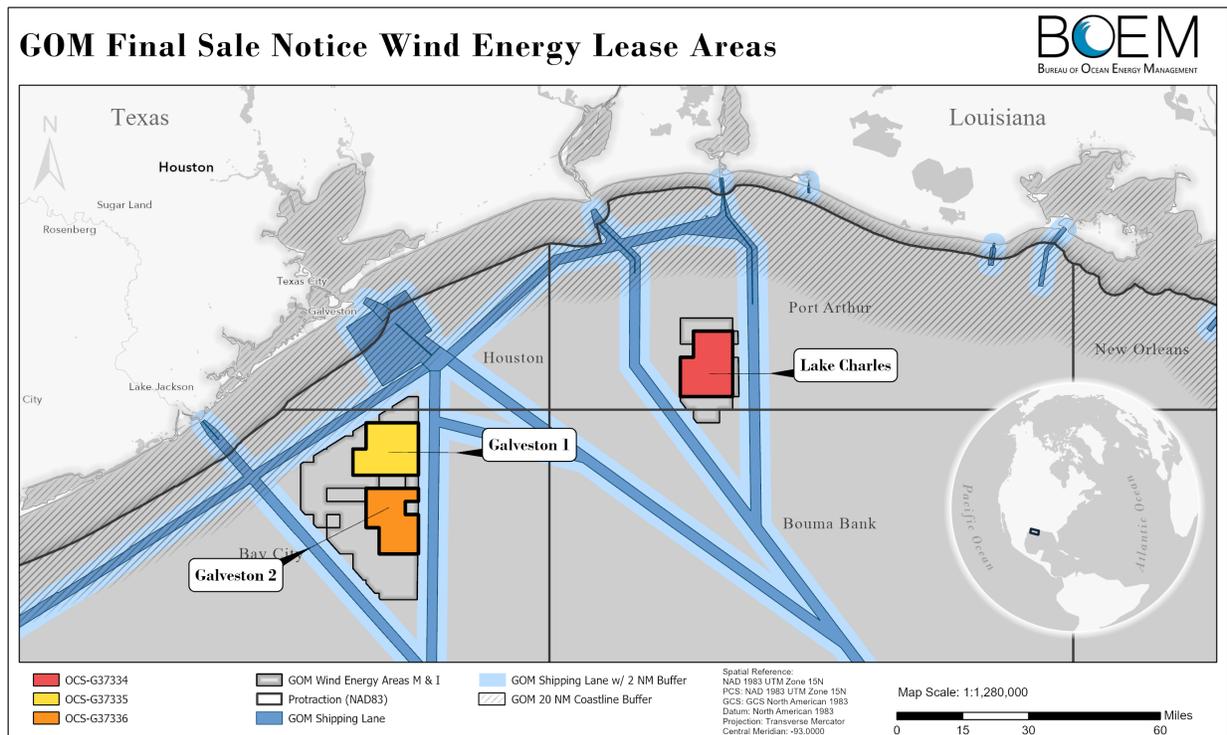
**Table 1: GOMW-1 Lease Area Descriptive Statistics**

	OCS-G37334 Lake Charles	OCS-G37335 Galveston I	OCS-G37336 Galveston II	TOTAL
Acres	102,480	102,480	96,786	301,746
Installation Capacity (MW) <sup>[1]</sup>	1,244	1,244	1,175	3,663
Homes Powered <sup>[2]</sup>	435,400	435,400	411,250	1,282,050
Power Production (MWh/y) <sup>[3]</sup>	4,358,976	4,358,976	4,117,200	12,835,152
Max Depth (meters)	25	36	36	
Min Depth (meters)	10	16	16	
Closest Distance to TX (nm)	79	28	39	
Closest Distance to LA (nm)	38			

[1] Megawatts (MW) based upon 3MW/sqkm

[2] Based upon 350 homes per MW

[3] Formula = Capacity (MW) \* 8760 (hrs/yr) \* 0.4 (capacity factor)

**Figure 1: Map of the Final Lease Areas in GOM**

### 3. Legal Background

Pursuant to OCSLA subsection 8(p)(1)(C), the Secretary of the Interior (Secretary), in consultation with the U.S. Coast Guard (USCG) and other relevant Federal agencies, may grant a lease, easement, or right-of-way on the OCS for activities that produce or support production of energy from sources other than oil and gas (43 U.S.C. § 1337(p)(1)(C)). The Secretary must ensure that activities under this subsection are carried out in a manner that provides for 12 goals,

including safety, protection of the environment, and consideration of other uses of the sea or seabed (43 U.S.C. § 1337(p)(4)(A)–(L)). These goals must be balanced, as there may be conflict or tension among them. The Secretary retains wide discretion to weigh those goals as an application of her technical expertise and policy judgment. *See* Department of the Interior Solicitor’s Opinion M-37067, *Secretary’s Duties under Subsection 8(p)(4) of the Outer Continental Shelf Lands Act When Authorizing Activities on the Outer Continental Shelf* (Apr. 9, 2021).<sup>1</sup> BOEM, on behalf of the Secretary, has issued regulations governing the leasing process and management of offshore renewable energy projects. *See* 74 Fed. Reg. 19,638 (Apr. 29, 2009).<sup>2</sup>

This memorandum addresses BOEM’s consideration of the goals listed in OCSLA subsection 8(p)(4), particularly environmental factors and multiple uses, at the FSN stage of the leasing process (43 U.S.C. § 1337(p)(4)(A), (B), (D), (F), (I), and (J)), as explained further in Section 4 of this memorandum below. Lease issuance is not the last stage at which BOEM will consider the goals under § 1337(p)(4). Issuance of a renewable energy lease, which does not authorize any activities on the lease, but authorizes only the submittal of plans for BOEM’s approval, does not constitute an irretrievable and irreversible commitment of resources. BOEM will conduct further analysis under OCSLA and the National Environmental Policy Act (NEPA), as well as other Federal statutes, if and when COPs are submitted.

#### **4. Description of the BOEM Competitive Lease Award Process**

##### **4.1 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 (CPA) and Western Planning Area (WPA) of the Gulf of Mexico, excluding the portions of those areas located in water depths greater than 1,300 meters. BOEM issued the RFI to identify potential opportunities for renewable energy development in the GOM and to gather additional information about possible constraints.

##### **4.2 Call for Information and Nominations to Area Identification**

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.<sup>3</sup> The Call Area comprised the area located seaward of the Gulf of Mexico Submerged Lands Act Boundary, bounded on the east by the north-south line located at 89.857° W longitude, and bounded on the south by the 400-meter bathymetry contour and the U.S. 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 (U.S.-Mexico Treaty), which took effect in January 2001.

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<sup>1</sup> <https://www.doi.gov/sites/doi.gov/files/m-37067.pdf>

<sup>2</sup> BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) recently issued a final rule to transfer existing safety, environmental oversight, and enforcement regulations from 30 CFR part 585, under BOEM’s purview, to 30 CFR part 285, under BSEE’s purview. This rule also moved certain sections pertaining to Alternate Use Right-of-Use and Easements (RUEs) from 30 CFR part 585 to a new 30 CFR part 586. *See* 88 Fed. Reg. 6376 (Jan. 31, 2023).

<sup>3</sup> <https://www.boem.gov/83-FR-15602/>

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

BOEM's process to identify draft 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 or natural resources.

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 Lake Charles WEA is located approximately 38 nautical miles (nm) off the coast of Lake Charles, LA, covers a total of 102,480 acres, and has the potential to power 435,400 homes with clean wind energy. The Galveston WEA is located approximately 28 nm off the coast of Galveston, TX, covers a total of 199,266 acres, and has the potential to power 846,260 homes. The Area ID announcement, the *Gulf of Mexico Area Identification Pursuant to 30 C.F.R. 585.211(b) Memorandum*, and a map of the WEAs are available at: . Methodology for defining the Final WEAs is available at:

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

### **4.3 Proposed Sale Notice**

On February 22, 2023, BOEM published a Proposed Sale Notice (PSN) for GOMW-1. The PSN provided detailed information about potential areas that could be available for leasing, possible lease provisions and conditions, auction details (e.g., criteria for evaluating competing bids and award procedures), and lease execution. The PSN included the Louisiana Coast Region (within the Lake Charles WEA) Lease Area, Lake Charles OCS-G 37334, which consists of 102,480 acres; the Texas Coast Region (within the Galveston WEA) Lease Area, Galveston I OCS-G 37335, which consists of 102,480 acres; and Lease Area, Galveston II OCS-G 37336, which consists of 96,786 acres.

The PSN for GOMW-1 identified specific topics and questions necessary to inform BOEM's decisions on multiple aspects of the lease sale. A summary of all comments received on the PSN is in the Response to Comments document available at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. Full versions of the comments are available at: <https://www.regulations.gov/document/BOEM-2023-0021-0001>.

### **4.4 Final Sale Notice**

The FSN is the last step, before the sale itself, in the competitive lease award process. See 30 CFR 585.211(d). The FSN contains information pertaining to the areas available for commercial wind energy leasing on the OCS in the GOM. Specifically, the FSN includes details regarding certain provisions and conditions of the leases, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. BOEM

will offer three leases: Lease OCS-G 37334, Lease OCS-G 37335, and Lease OCS-G37336. These three Lease Areas have the potential to generate more than 12,835,152 megawatt hours per year of offshore wind energy, which could power over 1.2 million homes and potentially support thousands of new jobs. The issuance of any lease resulting from this sale would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, if submitted by the Lessee, would be subject to subsequent environmental, technical, and public reviews prior to a decision on whether the proposed development should be authorized. See Figure 1 for a map of the final Lease Areas.

## **5. Rationale for Size and Location of FSN Lease Areas**

After analysis of the information received in response to the Request for Information and nomination, the Call for Information and Nominations, and the draft WEAs, as well as from the GOM Intergovernmental Task Force engagement and public outreach, BOEM published the PSN on February 22, 2023. 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 scoping process for 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 completed 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, with a 30-day comment period, but in response to several requests, it was extended to a 45-day comment period. During this time, two public meetings were held, one on August 9, 2022, and one on August 11, 2022. The Final Environmental Assessment and Finding of No Significant Impact (FONSI) was published on May 26, 2023, and can be found at <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. BOEM will conduct additional environmental reviews upon receipt of a lessee's COP, if any leases issued from this sale reach that stage of development.

Throughout the leasing process, BOEM has continued to winnow down the suitable area for offshore wind development from the beginning stages of the RFI through the publication of the FSN. Through extensive stakeholder engagement and BOEM's partnership with National Centers for Coastal Ocean Science (NCCOS) to use spatial modeling, BOEM determined that the lease areas defined in the PSN did not need to be adjusted and are considered final in the FSN.

The Lease Areas in the FSN represent a balance of existing and future uses with the need for expeditious and orderly development of renewable energy. BOEM designated the three Lease Areas to ensure that each area has similar acreage, distance to shore, potential wake effects, energy generation potential, and commercial viability, while taking into consideration conflicting uses of these OCS areas and stakeholder concerns.

## **6. Lease Stipulations**

BOEM has included a series of lease stipulations for the leases offered in this sale to mitigate existing use conflicts and enhance the development process for all parties involved. Please see

the discussion below for a summary of lease stipulations that will be included in all leases issued as a result of this sale.

### **6.1 Reporting Requirements**

BOEM is building upon a previously used lease stipulation to require a progress report every six months and early and active information sharing, focused discussion of potential issues, and collaborative identification of solutions with affected Tribes and parties that may be affected by lessees' activities on the OCS, including but not limited to:

- Coastal communities
- Commercial and recreational fishing industries and stakeholders
- Educational and research institutions
- Environmental and public interest non-governmental organizations
- Federal, state, and local agencies
- Tribes
- Mariners and the maritime industry
- Ocean users
- Submarine cable operators
- Underserved communities, as defined in Section 2 of Executive Order 13985

Within the progress report, lessees will be required to identify Tribes and parties that may be affected by lessees' activities on the OCS and with whom the lessees engaged, provide updates on engagement activities, document potential adverse effects to the interests of Tribes and parties, document how, if at all, a project has been informed or altered to address those potential effects, document feedback from engagement regarding transmission planning prior to proposing any export cable route, provide information that can be made available to the public, and include strategies to reach potentially affected individuals with Limited English Proficiency.

Acknowledging that there is an existing and growing consultation burden placed on many affected Tribes and parties, the stipulation also requires, to the maximum extent practicable, that lessees coordinate with one another on engagement activities. The engagement stipulation requires lessees to engage in ways that minimize linguistic, technological, cultural, capacity, or other obstacles. The stipulation encourages lessees to work collaboratively with governments, community leadership and organizations, and Tribes and to develop specific frameworks for capacity building.

In addition, the stipulation requires that the progress report also address lease requirements for the development of communications plans with:

- Tribes (Native American Tribes Communications Plan, NATCP),
- Federal, state and local agencies (Agency Communications Plan, ACP), and
- Fisheries (Fisheries Communications Plan, FCP).

These plans serve to guide engagement activities with those groups, and the progress report must also include an update on activities executed under the lessee's survey plan(s). In addition, BOEM uses lease stipulations concerning progress reports with Tribal Nations and parties to

explicitly seek input and discussion surrounding transmission easements prior to proposing such easements.

Implementation of this stipulation will increase communication and accountability between the lessees, Tribes, BOEM, and other stakeholders.

## **6.2 Supply Chain Statement of Goals**

BOEM is committed to establishing a durable domestic supply chain that can sustain the U.S. offshore wind industry and support safe, expeditious and orderly development on the OCS. To advance this vision, BOEM has included a stipulation that requires the lessee to establish a statement of goals in which the lessee will describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind supply chain. The lessee must provide regular progress updates to BOEM on the achievement of those goals, and BOEM will make these updates publicly available.

## **6.3 Project Labor Agreements**

BOEM has included a stipulation that encourages lessees to make every reasonable effort to enter into PLAs covering the construction stage of any project proposed for the leased area. Offshore wind projects are large, complex construction efforts and are well suited for PLAs. PLAs generally require contractors working on the construction stage of a project to adhere to collectively bargained terms and conditions of employment, whether the contractors are union or non-union contractors. PLA clauses typically include prevailing wage provisions, no-strike clauses, dispute resolution procedures, and safety and training provisions.

BOEM has concluded that the use of PLAs when developing the leases at issue will potentially help achieve several of OCSLA's goals. Pursuant to 43 U.S.C. § 1332(6), operations on the OCS should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent occurrences that may cause damage to the environment or to property or endanger life or health. One way to promote the expansion of a workforce of well-trained personnel that is ready to construct offshore wind projects is through PLAs. OCSLA § 8(p)(4)(A) requires OCS activities to be carried out in a manner that provides for safety. The use of a PLA can help achieve this goal as well.

## **6.4 Protected Species and Benthic Habitat**

BOEM has completed a consultation with the National Marine Fisheries Service (NMFS) under section 7 of the Endangered Species Act (ESA). On December 14, 2022, NMFS issued a Letter of Concurrence in response to BOEM's request for informal programmatic consultation under section 7(a)(2) of the ESA for Gulf of Mexico wind energy lease issuance and associated site characterization and site assessment activities that are expected to occur following lease issuance. This programmatic consultation covers up to 18 offshore wind leases over the next 10 years in the Gulf of Mexico and geographically extends from the shoreline out to the 100 meter bathymetric contour within the Gulf of Mexico Call Area. As a result of this consultation, Project Design Criteria (PDC) and Best Management Practices (BMPs; collectively referred to as protocols) associated with the mitigation, monitoring, and reporting conditions have been developed for those data collection activities covered in the consultation. All applicable protocols will become provisions of all leases issued under this FSN in the Gulf of Mexico. The

letter of concurrence may be found here: <https://www.boem.gov/renewable-energy/state-activities/boem-gomr-ren-leasing-esa-usfws-concurrence>. The protocols may be found here: <https://www.boem.gov/regions/gulf-mexico-ocs-region/renewable-energy-esa-consultations-guidance>.

BOEM has completed an informal consultation with the Fish and Wildlife Service (USFWS) under section 7 of the ESA. On November 8, 2022, USFWS issued a Letter of Concurrence in response to BOEM’s request for consultation under section 7(a)(2) of the ESA for site characterization and site assessment activities that may occur following lease issuance. This programmatic consultation covers up to 18 offshore wind leases over the next 10 years in the Gulf of Mexico within the Gulf of Mexico Call Area. As a result of this consultation, Project Design Criteria (PDC) and Best Management Practices (BMPs; collectively referred to as protocols) associated with the mitigation, monitoring, and reporting conditions have been developed for those data collection activities covered in the consultation. All applicable protocols will become provisions of all leases issued under this FSN in the Gulf of Mexico. The letter of concurrence may be found here: <https://www.boem.gov/renewable-energy/state-activities/boem-gomr-ren-leasing-esa-usfws-concurrence>. The protocols may be found here: <https://www.boem.gov/regions/gulf-mexico-ocs-region/renewable-energy-esa-consultations-guidance>.

BOEM has completed an Essential Fish Habitat (EFH) consultation with NMFS, pursuant to section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). On December 14, 2022, NMFS issued a Letter of Concurrence in response to BOEM’s request for programmatic EFH consultation for “Offshore Wind Lease Issuance, Site Characterization, and the Site Assessment in the Gulf of Mexico.” This programmatic consultation covers up to 18 offshore wind leases over the next 10 years in the Gulf of Mexico Call Area. As a result of this consultation, Project Design Criteria (PDC) and Best Management Practices (BMPs; collectively referred to as protocols) associated with the mitigation, monitoring, and reporting conditions have been developed for those data collection activities covered in the consultation. All applicable protocols will become provisions of all leases issued under this FSN in the Gulf of Mexico. The letter of concurrence may be found here: <https://www.boem.gov/renewable-energy/state-activities/nmfs-letter-efh-boem-osw>. The protocols may be found here: <https://www.boem.gov/renewable-energy/state-activities/BMPs%20for%20ReN>.

## **6.5 Transmission Planning**

BOEM is continuing a planned approach to transmission and has included a transmission planning lease stipulation as follows:

“The Lessee must - to the extent that it is technically and economically practical or feasible - consider the use of cable corridors, regional transmission systems, meshed systems, or other mechanisms for transmission facilities proposed in a COP. Such consideration must be done in accordance with stipulation 3.1.1, which requires the Lessee to engage with Tribes and parties regarding transmission planning prior to proposing any export cable route. The foregoing does not prevent the Lessee from proposing the use of transmission systems traditionally constructed in a Project easement in any COP that the Lessee submits; nor does it prevent BOEM from requiring in a COP approval the use of cable corridors, regional transmission systems, meshed

systems, or other mechanisms for transmission facilities, if deemed technically and economically practical or feasible by BOEM.”

## **7. Auction Format**

Among BOEM’s goals is conveyance of renewable energy leases to those entities most likely to successfully develop the wind resources. BOEM must also comply with the statutory requirement to obtain a fair return on leased acreage. For the GOMW-1 auction, BOEM has elected to use a multiple-factor auction format, with a multiple-factor bidding system under 30 CFR 585.220(a)(4) and 585.221(a)(6). Multiple-factor auction formats allow BOEM to balance fair return on leased acreage with incentivizing initiatives that will aid in the expeditious and orderly development of the Outer Continental Shelf or other priorities under BOEM’s statutory requirements. Under this format, BOEM considers a combination of a monetary factor (cash bid) and a non-monetary factor (bidding credit) in determining the outcome of the auction. BOEM has selected a multiple-factor auction format to incentivize workforce training and domestic supply chain development, and compensation for potential negative impacts to commercial and for-hire recreational fisheries. BOEM’s decision to select these targeted factors is further addressed in Section 8 below, which describes in detail BOEM’s decision to offer certain bidding credits.

In the PSN, BOEM proposed two simultaneous auctions, one for the two Lease Areas offshore Texas and another for the Lease Area offshore Louisiana. BOEM also proposed that a bidder would be allowed to win a lease in both regions. BOEM received overwhelming comments from industry urging BOEM not to make distinctions between the Lease Areas offshore Texas and Louisiana within the auction process. Further, there were many comments supporting a single lease auction format that maximizes the number of leaseholders. BOEM agrees that offering all available Lease Areas in a single auction will ultimately lead to a more efficient outcome. Accordingly, the auction format has been revised in the FSN to a single auction, offering three lease areas and limiting bidders to winning a single lease area. The auction result is expected to yield at least three different lessees, which should provide competition for potential state offtake agreements or other competitive offshore wind energy projects.

In addition, affiliated entities are not permitted to bid against one another. In the case of two or more affiliated entities qualifying for the auction, only one will be permitted to participate.

Allowing the competitive market to determine the value of each individual area will facilitate efficient development of OCS wind resources and award leases to companies that are most likely to develop their lease areas in a timely manner.

## **8. Bidding Credits**

For the GOMW-1 Final Sale Notice, BOEM is offering two bidding credits. The first (20 percent of the cash bid) bidding credit is for committing to contributing to workforce training and/or supply chain development, or both. The second bidding credit (10 percent of the cash bid) is for contributing to a GOM Fisheries Compensatory Mitigation Fund. Assuming a cumulative bid amount for all three lease areas is between \$150 million and \$500 million and that each winning bidder receives both bidding credits, BOEM estimates the value of the total combined 30 percent bidding credit could be between \$35 million and \$115 million. The actual value will depend on the winning bids in the auction and whether winning bidders received both bidding credits.

Additional information on the justification for the amount of the bidding credits is included in Section 11.

The workforce training and/or supply chain development bidding credit allows a bidder to receive a credit of 20 percent of its cash bid in exchange for financial commitments to an offshore wind workforce training program and/or to the development of the offshore wind domestic supply chain.

This credit is designed to enhance, through training, the offshore wind workforce or to stand-up the domestic supply chain for offshore wind technology, manufacturing, assembly, or services. The existing GOM upstream oil and gas industry has the industrial capacity and technical know-how to construct foundations and other components of offshore wind farms. The experienced offshore oil and gas workforce is well-suited to also contribute to offshore wind manufacturing, assembly, construction, and operations. The bidding credit incentive will assist both the GOM workforce and industrial sector transition and further the development of offshore wind in the GOM.

The Contribution to workforce training will result in a better trained, larger domestic offshore wind workforce that would allow for more efficient operations via increasing the supply of fully trained personnel. Workforce training efforts could include union apprenticeships or other technical training programs focused on providing skills necessary for manufacturing or assembling offshore wind components, or the construction, operation, maintenance, or decommissioning of offshore wind energy projects. Trainees cannot be contractually required to enter into employment agreements with either the Lessee making the Contribution or the entity providing the training.

The Contribution to domestic supply chain development will result in a more robust domestic offshore wind supply chain by reducing the upfront capital or certification cost for manufacturing offshore wind components. Supply chain development efforts could include the building or retrofitting of facilities, the purchase of capital equipment, and/or certification of existing manufacturing facilities. The Contribution is required to benefit the offshore wind supply chain for all potential purchasers of offshore wind services, components, or subassemblies, not solely for the Lessee's project.

Addendum "C" of the Lease provides additional examples of efforts in support of workforce training programs and a domestic supply chain that would be eligible for the bidding credit. The Lessee, its parent company, or its affiliated entities are not permitted to retain an ownership/equity interest in the entity receiving the Contribution, a discount to the market price for goods or services provided by the recipient, or other preferential treatment, but can purchase offshore wind goods or services from the recipient at market rates.

The second bidding credit allows a bidder to receive a credit of 10 percent of its cash bid in exchange for an equivalent cash commitment to a GOM Fisheries Compensatory Mitigation Fund (Fisheries Fund). This credit is designed to facilitate BOEM's mission as outlined in OCSLA. Section 8(p) of OCSLA requires BOEM to ensure that BOEM-authorized activities are carried out in a manner that provides for prevention of interference with reasonable uses (as determined by the Secretary). It also requires BOEM to consider other uses of the sea including use for a fishery. BOEM follows a mitigation hierarchy for offshore wind leasing and permitting that seeks to avoid, minimize, and offset impacts to users of the geographic space expected to be

impacted by potential offshore wind development. Through the leasing process, BOEM sought to avoid OCS areas with the greatest conflicts from other uses. The COP review and subsequent NEPA analysis and decisions will work to further minimize conflicts. This Fisheries Fund will provide certainty to fisheries stakeholders and assist in the remaining component of the mitigation hierarchy through offsets or mitigation.

Prior to the auction, bidders will submit to BOEM a Bidder's Financial Form (BFF), in which they will inform BOEM of their decision to commit to the efforts for which the bidding credit(s) can be awarded. In order to receive bidding credits, bidders must submit to BOEM, with their BFFs, a conceptual strategy for each bidding credit. Conceptual Strategies must address how the Lessee plans to meet the criteria described in the Lease and must describe objective, quantifiable, and verifiable steps that would allow BOEM to confirm compliance with the bidding credit(s) when required documentation is submitted.

Documentation demonstrating payment of the full Contribution must be provided to BOEM no later than the date on which the Lessee submits to BOEM the first FDR for the project. The documentation must contain and elaborate on the information called for in the Conceptual Strategy submitted with the BFF to allow BOEM to confirm compliance with the bidding credit criteria provided in sections 8 and 9 of Addendum C of the Lease.

## **9. Lease and Fiscal Terms**

BOEM's regulations initially default to a 25-year operations term. However, BOEM has recognized an increased term length is appropriate due to increased longevity of projects and the time in the operations term that will be taken by construction and post-COP approval activities. Thus, in the GOMW-1 lease sale, BOEM is offering leases with a 33-year operations term.

The operating fees for leases issued under this auction will be calculated using the ERCOT (Galveston leases) and Louisiana MISO (Lake Charles lease) average price per MW from the Enerfax power prices dataset within Hitachi's ABB Velocity Suite. Aggregated data from commercial subscription services, such as the S&P Global Market Intelligence Platform, can also be used by the Lessee.

BOEM has also reduced the initial operating fee capacity factor from the PSN (proposed 40 percent) to 30 percent in the FSN. The initial capacity factor is intended to conservatively approximate a wind project's capacity for the operating fee calculation. Without actual operational OCS wind energy projects for reference, BOEM has used conservative initial capacity factors so lessees are not locked into capacity factors that may be greater than actual project generation.

BOEM expects the actual capacity factor for GOM wind projects to be in the range of 35-40 percent. So, an initial GOM lease capacity factor of 30 percent is 5 to 10 percentage points less than the expected capacity factor. In comparison, Atlantic projects are expected to have a capacity factor ranging from 46 to 52 percent. The initial capacity factor for all Atlantic leases is 40 percent, which is 6 to 12 percentage points less than the expected capacity factor. With the information presently on hand for analysis, BOEM believes that the lower wind speeds estimated for GOMW-1 necessitates a slight reduction in the initial operating fee capacity factor in order to treat all lessees equitably.

## 10. Fair Return and Bidding Credits

In developing the auction design for offshore wind leasing, BOEM contracted with Power Auctions for guidance. The Power Auctions study found that a common practice among Federal agencies is to provide discounts of 25 percent or less of the bid in Federal auctions. While some exceptions to this practice exist, such exceptions are typically reserved for issues of critical importance to the United States (e.g., the Department of Defense providing a larger “discount” in contracting for domestic firms). Power Auctions found that bidding credits work best when they are kept to a ‘modest amount’ to maintain the efficiency of the auction and prevent some bidders from abandoning the auction if they do not have a credit.<sup>4</sup> Power Auctions highlights the difficulty of determining bidding credit values on page 17 of its study:

*It is impossible to determine in an objective manner what these values should be – they can be assessed based on the relative importance of the factors, but this, and the total percentage assigned to bidder discounts is somewhat subjective. Note that the percentage discounts in one lease area may be different than the discounts for another lease area, depending on state-specific issues. Our auction research, design and implementation experience allows us to opine on the effect of bidder discounts on auction efficiency; the exact factors used to determine the bidder discount should be determined by [BOEM] and other industry experts.*

OCSLA section 8(p)(4)(h) requires BOEM to obtain a “fair return” for its offshore wind leases. “Fair return” is not defined in OCSLA or in BOEM’s renewable energy regulations, and there is no applicable legislative history to provide guidance as to its meaning. BOEM thus has discretion in interpreting this term. For its renewable energy leases, BOEM ensures that the taxpayer receives a fair return for the use of the OCS through a series of required payments, including up-front bonus bids, acreage-based rentals for the predevelopment phase, and a share of revenues in the form of operating fees during project operations. BOEM has discretion in determining “a fair return to the United States for any lease,” and receipt of fair return is one factor that must be balanced when making leasing decisions.

Solicitor’s Opinion M-37067 provides context for the Secretary’s consideration of the section 8(p) factors and his or her discretion on balancing among the factors. In cases where each of the factors cannot be optimized, the Secretary must balance them. The balancing requirement suggests that any reduction in financial return to the taxpayer must arise from the balancing of fair return with the other section 8(p) factors. Therefore, bidding credits must help the Secretary implement these other factors.

BOEM has traditionally limited non-monetary factors to no more than 25 percent of the bid price but also considers market and stakeholder needs. For this GOMW-1 lease sale, the workforce training/supply chain and Fisheries Fund bidding credits would total 23.1 percent of the bid price

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<sup>4</sup> Lawrence M. Ausubel & Peter Cramton, 2012. "Multiple Factor Auction Design for Wind Rights," Papers of Peter Cramton 11acmf, University of Maryland, Department of Economics - Peter Cramton, revised 2012. [https://www.boem.gov/sites/default/files/uploadedFiles/BOEM/Renewable\\_Energy\\_Program/Regulatory\\_Information/AusubelCramtonPaper2.pdf](https://www.boem.gov/sites/default/files/uploadedFiles/BOEM/Renewable_Energy_Program/Regulatory_Information/AusubelCramtonPaper2.pdf).

(30 percent of the cash bid). <sup>5</sup> Limiting the bidding credits in this sale to 23.1 percent of the bid price is consistent with Congress' intent to direct wind energy leasing revenues to the General Fund pursuant to section 9 of OCSLA (43 U.S.C. § 1338), while at the same time allowing BOEM to use monetary bidding incentives to further OCSLA goals, such as protecting the environment, furthering the expeditious and orderly development of OCS resources, and achieving fair return. Assuming a cumulative bid amount for all three lease areas is between \$150 million and \$500 million, if all lessees receive all credits, between \$115 million to \$385 million would be deposited into the General Fund by limiting the bidding credits to 23.1 percent of the bid price. This framework allows the Secretary to balance some of the return from leasing with the achievement of other OCSLA goals, while still retaining significant financial return to the taxpayer.

In sum, the bidding credits offered in GOMW-1 are designed to support the development of offshore wind and provide compensatory mitigation to impacted stakeholders. BOEM has determined that the combination of an aggregate bidding credit of 30 percent of the cash bid (equivalent to 23.1 percent of the total bid) and the cash bid component provides fair return to the United States. The fair return to the United States is achieved through both the cash component of the bid (through revenue to the U.S. Treasury), as well as the non-monetary components (through the advancement of domestic offshore wind and other section 8(p)(4) factors that benefit the United States).

### 10.1 Maintaining Competition

As OCSLA states, “the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs” (43 U.S.C. § 1332(3)). The bidding credits proposed in the GOMW-1 are designed to be accessible and executable by all qualified bidders. The auction is held after all bidders have been informed whether they qualify for bidding credits. From a competitive standpoint, any bidding credit that would apply only to specific bidders could impact the auction's competitiveness. For example, a bidding credit that was designed to give only small businesses a credit could result in an inefficient outcome. If non-small businesses are required to pay significantly more than the small business, the lease would either be awarded to the small business, that might not be the most efficient developer of the lease, or the non-small business would be required to pay significantly more for the right to the lease. The design of the GOMW-1 bidding credits maintains competition and affords all bidders a level playing field.

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<sup>5</sup> *Bidding credit calculation example:* For a cumulative 30 percent of cash bid bidding credit with a \$50 million Asking Price, the bidding credit will be calculated (subject to rounding) as follows:

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

"Imputed" High Bid	Cash Bid	Bid Credit %	Credit	% of High Bid
\$50,000,000	\$38,461,538	30.00%	\$11,538,462	23.08%

## **11. Justification for Specific Bidding Credit Percentages**

BOEM has determined that a bidding credit of 23.1 percent of the bid price is reasonable for this GOMW-1 offshore wind lease sale. Also, as described earlier, BOEM has determined that workforce training, domestic supply chain development, and a Fisheries Compensatory Mitigation Fund are important components of a successful offshore wind industry as they foster expeditious and orderly development, growth of a safe and well-trained work force, and considerations of other uses of the OCS including use as a fishery.

For GOMW-1, the Gulf of Mexico Region and BOEM's Economics Division recommend that workforce development and domestic supply chain would receive a bidding credit of 20 percent of the cash component, and GOM Fisheries Compensatory Mitigation Fund would receive a bidding credit of 10 percent of the cash component. BOEM determined that, because the needs for workforce training and domestic supply chain are great and required for development of the offshore wind industry, the majority of the credit should be allocated there. BOEM has, therefore, allocated two-thirds of the non-monetary bid component to these purposes and the remaining one-third to offset regional fisheries impacts resulting from offshore wind. Explanations for those percentages are provided in the following sections.

### **11.1 20 Percent Non-Monetary Component Allocated to Workforce Development and Domestic Supply Chain Bidding Credit**

Offshore wind is a nascent industry with significant promise to contribute to the increasing demand for renewable energy to meet climate goals. Providing incentives in the form of bidding credits to drive investments in supply chain and workforce training is consistent with BOEM's mission of furthering the expeditious and orderly development of offshore wind resources on the OCS. The GOM upstream oil and gas industry is well equipped to provide a way to transition a portion of the workforce and industrial capacity to offshore wind. Currently, however, there is a limited existing supply chain for offshore wind and a limited trained workforce, and establishing them will require significant investment. It is therefore reasonable to allocate the largest bidding credit to these efforts. Moreover, the vast need for a skilled offshore wind workforce, along with needs for Jones Act compliant offshore wind vessels and industrial capacity for manufacturing and assembly, signify the ability of the industry to absorb a large bidding credit. Investments made pursuant to the workforce training/supply chain development bidding credit would facilitate substantial economic development that benefits the United States.

Billions of dollars in investments will be required to stand-up an offshore wind supply chain in the United States and could ultimately support between 12,300 and 49,000 annual, full-time-equivalent manufacturing and assembly jobs.<sup>6</sup> Bidding credit funds even if the GOMW-1 sale exceeds expectations will provide only a small part of the investment required, but are a helpful contribution toward developing a domestic offshore wind supply chain and workforce.

Given the great need for a domestic offshore wind workforce and domestic supply chain, as well as the expense and time required to develop them, BOEM finds that allocating two-thirds of the bidding credit (20 percent of the cash component) to their development is reasonable to encourage expeditious and orderly development.

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<sup>6</sup> Shields, Matt, Ruth Marsh, Jeremy Stefek, Frank Oteri, Ross Gould, Noe Rouxel, Katherine Diaz, et al. 2022. The Demand for a Domestic Offshore Wind Energy Supply Chain. Golden, CO: National Renewable Energy Laboratory (NREL). NREL/TP-5000-81602. <https://www.nrel.gov/docs/fy22osti/81602.pdf>.

### **11.2 10 Percent Non-Monetary Component Allocated to Contributing to a Fisheries Compensatory Mitigation Fund Bidding Credit.**

BOEM also recognizes the potential impacts from offshore wind projects to fishing and shrimping interests. BOEM used its best judgment to determine that 10 percent is a reasonable percentage for the Fisheries Fund bidding credit. This is half the total value going toward domestic supply chain and work force development needs and is expected to provide a reasonable amount toward long-term GOM compensatory mitigation.

While the greatest impacts to fisheries are expected during construction and within the first 5 years of operations, there could be impacts at any time during the 40 year life of the lease. Additionally, BOEM expects potential impacts from future GOM wind leasing as areas to be leased in the future may have more conflicts with fishing and shrimping. As such, the fund could serve as a regional vehicle that would account for and manage compensatory mitigation to fishers impacted by activities from development activities resulting from this lease sale, as well as any future offshore wind activity in the GOM.

Potential impacts on the local fishing and shrimping communities may include managing transitions, gear changes including the necessity for new navigational aids, change in income, loss of fishing opportunity, change of fish behavior, etc. Through the bidding credit, fishing and shrimping communities can be assured compensatory mitigation is available for lost income, as well as gear damage and loss. If sufficient funds remain available, the Fund can also promote participation of fishers and fishing communities in the offshore wind project development process. The initial Contribution to the Fund from leases issued in this sale will also be used to cover startup costs.

## **12. Consultations**

In addition to the protected species and benthic habitat consultations described in Section 6.4 above, BOEM performed consultations and other activities to comply with the Coastal Zone Management Act (CZMA) and the National Historic Preservation Act (NHPA).

BOEM has completed consultation with the appropriate State agencies responsible for coordinating Louisiana's and Texas' respective coastal management programs to comply with the federal consistency provisions under 15 CFR part 930 subpart C of the CZMA. On February 22, 2023, BOEM provided a consistency determination (CD) for GOMW-1 to the Louisiana Office of Coastal Management and Texas General Land Office. Both the Louisiana Office of Coastal Management and Texas General Land Office provided a letter notifying BOEM of their concurrence with the CD on April 13, 2023, and April 21, 2023, respectively.

Regarding Tribal consultation, the following Tribes have been engaged on this action at various stages through formal and informal meeting and consultation opportunities: Absentee Shawnee Tribe of Indiana; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Apache Tribe of Oklahoma; Caddo Nation of Oklahoma; Cheyenne and Arapaho Tribes of Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Comanche Nation of Oklahoma; Coushatta Tribe of Louisiana; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians; Muscogee (Creek) Nation; Poarch

Band of Creek Indians; Seminole Nation of Oklahoma; Seminole Tribe of Florida; Shawnee Tribe; Tonkawa Tribe; and Tunica-Biloxi Tribe of Louisiana.

Information sharing meetings to provide project updates to Tribes and invite separate government-to-government consultations were held in June 2021, April 2022, August 2022, and November 2022. Tribes also have been invited to join the Gulf of Mexico Intergovernmental Renewable Energy Task Force. Task Force meetings were held in June 2021, February 2022, July 2022, and April 2023. Four Tribes have accepted membership on the Task Force.

A government-to-government meeting was held in January 2022, and was attended by the Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, and Choctaw Nation of Oklahoma. Tribal comments and questions at that meeting were focused on potential impacts to cultural resources that were considered as part of the Section 106 process (see below). No Tribes have expressed concerns or requested additional government-to-government consultations associated with a proposed wind energy lease sale in the GOM Call Area. BOEM will continue to provide updates to all Tribes identified above and invite further consultation at Tribes' request.

Regarding Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and its implementing regulations (36 CFR part 800), BOEM initiated consultations for this undertaking through letters on July 1, 2022, with the Louisiana State Historic Preservation Office, Texas State Historic Preservation Officer, Advisory Council on Historic Preservation, and multiple federally recognized Tribes. BOEM further identified potential consulting parties pursuant to 36 CFR 800.3(f) through a July 1, 2022, and subsequent August 16, 2022, letters to over 40 entities—including Federal agencies, certified local governments, historical preservation societies, museums, and State-recognized Tribes—to solicit public comment and input regarding the identification of, and potential effects on, historic properties for the purpose of obtaining public input for the Section 106 review (36 CFR 800.2(d)(3)) and to invite the recipients to participate as a consulting party. Nine recipients accepted consulting party status.

BOEM prepared a Finding of No Historic Properties Affected (Finding), consistent with 36 CFR 800.4(d)(1), which was provided to the consulting parties on January 26, 2023. BOEM received concurrence on the Finding from the Texas State Historic Preservation Office, Louisiana State Historic Preservation Office, National Park Service, and Choctaw Nation of Oklahoma. The Choctaw Nation of Oklahoma further requested that the Tribe be provided copies of the survey reports conducted as part of the undertaking and that they be notified if Native American artifacts or human remains are encountered. The National Park Service further requested to consult during future site- and plan-specific Section 106 reviews that would take place when facility construction and transmission cable corridors are proposed by a lessee.

### **13. Director Concurrence**

<input type="checkbox"/> Yes	Proceed with the publication of the FSN and lease auction procedures to lease a total area of 301,746 acres offshore in the Gulf of Mexico, as described in Table 1 and depicted in Figure 1 of this Decision Memorandum. The three leases to be awarded, by themselves, will not authorize any activities on the OCS, but grant the exclusive right to submit plans (e.g., SAP and COP) that, if approved after completing all necessary reviews and consultations under applicable Federal statutes, would allow offshore wind energy activities on the Lease Areas. The leases to be awarded will have an operations term of 33 years and will include the stipulations described in this Decision Memorandum and the FSN, and included in the draft leases published with the FSN.
<input type="checkbox"/> No	

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Elizabeth Klein  
 Director, Bureau of Ocean Energy Management