

most of these burials are secondary interments, which according to him explains the incomplete nature of the human remains. Based on archeological information, these human remains are Native American. Herbert Kraft identified the human remains and associated funerary objects as “Middlesex” and “Adena-like” in an article he published in 1976, and as “Adena Middlesex” in the Seton Hall University’s accession records.

At an unknown date likely between 1950 and 1970, human remains representing, at minimum, one individual were removed from Mashipacong Island in Sussex County, NJ. The human remains were collected by Philip Launer and donated to Seton Hall University in 1988. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

Herbert Kraft’s 1985 archaeological survey of Mashipacong Island notes that the artifacts found on different parts of the island show that it was inhabited in the Archaic and Woodland periods. These human remains are believed to be Native American based on geographical information and because Launer focused exclusively on Native American archeology.

At an unknown date likely between 1940 and 1960, human remains representing, at minimum, one individual were removed from Skunk Run in Sussex County, NJ. According to a 1960 report by Philip Launer published in the *Bulletin of the Archaeological Society of New Jersey*, “on the upper terrace, a single burial with no grave goods was shattered by Mr. Mettler’s plow. The plow-shattered bones were collected (. . .)” and saved by Launer until they were donated to Seton Hall University in 1988. In 2015, the University’s archeological collection was transferred to the Walsh Gallery. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

The Skunk Run site is believed to be pre-contact in date. Point types collected by Launer suggest the site was inhabited in the Late Archaic to Middle Woodland periods. Launer believed the site was inhabited mostly in the Archaic period, but no date for the human remains was ever recorded in the University’s records. The human remains were determined to be Native American based on geographical information.

Between 1955 and 1958, human remains representing, at minimum, one individual were removed by unknown

individuals and under unknown circumstances from a site near Port Jervis in Orange, NY. In 1981, these human remains were donated to Seton Hall University, and in 2015, the University’s archeological collection was transferred to the Walsh Gallery. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present. The human remains were determined to be Native American based on geographical information.

#### **Determinations Made by the Walsh Gallery, Seton Hall University**

Officials of the Walsh Gallery, Seton Hall University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 20 individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 1,029 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

#### **Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Laura Hapke, Walsh Gallery, University Libraries, Seton Hall University, 400 South Orange Avenue, South Orange, NJ 07079, telephone 973-275-2165, email [laura.hapke@shu.edu](mailto:laura.hapke@shu.edu), by June 30, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Walsh Gallery, Seton Hall University is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2022.

**Melanie O’Brien,**

*Manager, National NAGPRA Program.*

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**BILLING CODE 4312-52-P**

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Ocean Energy Management**

[Docket No. BOEM-2022-0017]

#### **Pacific Wind Lease Sale 1 (PACW-1) for Commercial Leasing for Wind Power on the Outer Continental Shelf in California—Proposed Sale Notice**

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Proposed sale notice; request for comments.

**SUMMARY:** This document is the proposed sale notice (PSN) for the sale of commercial wind energy leases on the Outer Continental Shelf (OCS) in the Humboldt Wind Energy Area (WEA) and Morro Bay WEA offshore California. The Bureau of Ocean Energy Management (BOEM) proposes to offer multiple lease areas (Lease Areas) for sale in each WEA and to conduct simultaneous auctions for Lease Areas within each WEA using a multiple-factor bidding auction format. The PSN contains information pertaining to the areas available for leasing, certain provisions and conditions of the lease, auction details, lease forms, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution procedures. The issuance of any lease resulting from this sale would not constitute 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 BOEM decision on whether the proposed development should be authorized.

**DATES:** Comments should be submitted electronically or postmarked no later than August 1, 2022.

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 a California lease sale, your qualification materials must be submitted during the comment period and must be submitted electronically or postmarked no later than August 1, 2022.

**ADDRESSES:** Submit comments on the PSN in one of the following ways:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/>. In the search box on web page, enter BOEM-2022-0017 and click “search.” Follow the instructions to submit public comments.

- *Mail or other delivery service:* Enclose your comments in an envelope

labeled “Comments on California PSN,” and addressed to: Bureau of Ocean Energy Management, Pacific Regional Office, Mail Stop CM 102, 760 Paseo Camarillo (Suite 102), Camarillo, California 93010–6002.

**Qualifications Materials:** Prospective bidders who have not yet met the qualifications to participate in a California lease sale should follow the guidance provided at <https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/>.

For more information regarding the submission of public comments and qualification materials, see section V under the caption **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Sara Guiltinan, Bureau of Ocean Energy Management, Pacific Regional Office, Mail Stop CM 102, 760 Paseo Camarillo (Suite 102), Camarillo, California 93010–6002, (805) 384–6345, or [sara.guiltinan@boem.gov](mailto:sara.guiltinan@boem.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

*a. Call for Information and Nominations:* On October 19, 2018, BOEM published a call for information and nominations in the **Federal Register** (83 FR 53096) (“2018 Call”) that identified three geographically distinct Call Areas on the OCS offshore California, delineated as the Humboldt Call Area offshore the north coast and the Morro Bay Call Area and the Diablo Canyon Call Area offshore the central coast. Following the 2018 Call, the Morro Bay and Diablo Canyon Call Areas were initially assessed as incompatible for wind energy development by the U.S. Department of Defense (DoD). However, after the initial assessment, BOEM, the State of California, various California elected officials, the National Oceanic and Atmospheric Administration’s (NOAA’s) Office of National Marine Sanctuaries (ONMS), and DoD continued to have discussions and conduct stakeholder outreach in efforts to accommodate offshore wind development within and adjacent to the Morro Bay Call Area and DoD’s mission requirements. More information and results of these meetings and outreach can be viewed at: <https://www.boem.gov/renewable-energy/state-activities/public-information-meetings-and-outreach-efforts>.

In May 2021, the White House, the Department of the Interior, DoD, and the State of California announced an agreement to advance an area, known as the “Morro Bay 399 Area,” that could support approximately three gigawatts

of offshore wind on roughly 399 square miles (255,487 acres) off California’s central coast within and adjacent to the initial 2018 Morro Bay Call Area (<https://www.doi.gov/pressreleases/biden-harris-administration-advances-offshore-wind-pacific>).

On July 29, 2021, BOEM delineated the two extensions in the identified Morro Bay 399 Area, known as the East and West Extensions, in a published Call for Information and Nominations in the **Federal Register** (86 FR 40869) (“2021 Call”) to solicit public input and industry interest in the extensions.

In response to the 2018 Call and 2021 Call, BOEM received over 180 comments from the general public, representatives of fishing organizations and interests, offshore wind developers, other ocean industry groups, non-governmental organizations, universities, Tribal governments, local governments, Federal and State agencies, and other stakeholders. In addition to the comments received in response to the 2018 Call and 2021 Call, BOEM received input during outreach and engagement with Tribal governments, the State of California, and public stakeholders in over 80 meetings. The outreach effort and input received are documented in a California Offshore Wind Energy Planning Outreach Summary Report published in September 2018 (<https://www.boem.gov/renewable-energy/california-outreach-summary-report>) and an Outreach Summary Report Addendum published in June 2021 (<https://www.boem.gov/renewable-energy/state-activities/offshore-wind-outreach-addendum>).

A total of 23 offshore wind developers submitted nominations in response to the 2018 Call and 2021 Call with 10 nominations for the Humboldt Call Area and 17 nominations for the Morro Bay Call Area.

*b. Area Identification:* After the close of the 2018 Call and the 2021 Call comment periods, BOEM initiated the Area identification (Area ID) process. Through the Area ID process, BOEM considered information sources, such as: Comments and nominations received on the 2018 Call and 2021 Call; information from the BOEM California Intergovernmental Renewable Energy Task Force; input from California State and Federal agencies; input received via consultation meetings and written comment from federally recognized Tribes; input received via Tribal outreach meetings with federally and non-federally recognized Tribes; the California Offshore Wind Energy Planning Outreach Summary Report and Addendum; California Offshore Wind

Energy Gateway data and information (<https://caoffshorewind.databasin.org/>); outreach meetings and comments received under the California Energy Commission Notice of Availability of Outreach on Additional Considerations for Offshore Wind Energy off the Central Coast; comments from relevant stakeholders and ocean users, including the maritime community, environmental non-governmental organizations, offshore wind developers, and the commercial fishing industry; State and local renewable energy goals; and domestic and global offshore wind market and technological trends.

BOEM also considered multiple existing uses of the California coast in developing the Call Areas and WEAs. BOEM found that existing uses and resources with the highest potential to be affected by offshore wind energy development activities in the Call Areas, relative to other uses and resources, include: (i) Commercial and recreational fishing; (ii) avian species; (iii) marine mammals; (iv) maritime navigation; (v) historic properties; (vi) visual impacts; (vii) DoD activities; (viii) places and resources of importance to Tribes; and (ix) other infrastructure. BOEM announced the Area ID by identifying within the Call Areas the Humboldt WEA on July 28, 2021, and the Morro Bay WEA on November 12, 2021. The Area ID announcements and maps of the WEAs are available at: <https://www.boem.gov/renewable-energy/state-activities/california>.

*c. Environmental Reviews:* On July 28, 2021, BOEM announced its intent to prepare an environmental assessment (EA) to consider potential environmental impacts from site characterization activities (*i.e.*, biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (*i.e.*, installation of meteorological buoys) associated with issuing any wind energy leases in the Humboldt WEA. As part of the EA process, BOEM sought comments on the issues and alternatives that should inform the EA and received 52 comments. The written comments, comment summaries, and public meeting recordings and transcripts are available at: <https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-area>. BOEM announced the availability of the draft Humboldt EA on January 11, 2022, and initiated a 30-day public comment period. BOEM received 43 comments on the draft Humboldt EA. Written comments are available at <http://www.regulations.gov/>, under Docket No. BOEM–2021–0085. Public meeting recordings and summaries are available

at: <https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-area>. The EA was subsequently revised based on comments received during the comment period and public meetings. The revised EA and the finding of no significant impact were published on May 5, 2022, and are available at: <https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-final-ea>.

Concurrently with its preparation of the Humboldt EA, BOEM conducted a consistency review under the Coastal Zone Management Act. The California Coastal Commission implements the Coastal Zone Management Act in California. BOEM submitted a consistency determination to the California Coastal Commission on January 24, 2022; Commission staff filed a Staff Report recommending conditional concurrence with BOEM’s consistency determination on March 17, 2022 (see Staff Report at <https://documents.coastal.ca.gov/reports/2022/4/Th8a/Th8a-4-2022%20staffreport.pdf>); and, on April 7, 2022, the Commission unanimously concurred with the staff’s conditional consistency recommendation. BOEM will update lease conditions to ensure that the activities authorized under the lease are consistent with the conditional concurrence of the Commission.

On November 12, 2021, BOEM announced its intent to prepare an EA to consider potential environmental impacts from site characterization activities (i.e., biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (i.e., installation of meteorological buoys) associated with issuing any wind energy leases in the Morro Bay WEA. As part of the EA process, BOEM sought comments on the issues and alternatives that should inform the EA and received 88 unique comments. Written comments are available at <http://www.regulations.gov/>, under Docket No. BOEM–2021–0044. Public meeting recordings and summaries are available at: <https://www.boem.gov/renewable-energy/state-activities/morro-bay-wind-energy-area>. BOEM announced the availability of the draft Morro Bay EA on April 6, 2022, and initiated a 30-day public comment period. On May 4, 2022, BOEM announced the extension of the comment period by 10 days in response to stakeholder request.

Concurrently with its preparation of the Morro Bay EA, BOEM conducted a consistency review under the Coastal Zone Management Act. BOEM submitted a consistency determination to the California Coastal Commission on April 15, 2022.

The Morro Bay EA will be concluded before and inform BOEM’s decision whether to proceed with the final sale notice (FSN).

BOEM prepared and executed a programmatic agreement (PA) to guide its consultations under section 106 of the National Historic Preservation Act. The PA provides for consultations to continue through BOEM’s decision-making process regarding the issuance of leases, right-of-way grants, and right-of-use and easement grants on the OCS offshore California. The PA also includes BOEM’s phased identification and evaluation of historic properties. BOEM is conducting consultations under the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act regarding potential impacts to listed species, designated critical habitat, and essential fish habitat. BOEM will continue to engage as required with Tribal governments throughout the wind energy authorization process, including through Government-to-Government consultation with federally recognized Tribes.

**II. Area Proposed for Leasing**

The areas available for sale are proposed to be auctioned as multiple leases within two California regions as listed in the table below.

Lease area name	Lease area ID	Acres
North Coast Region:		
Humboldt NE .....	OCS-P 0561	63,338
Humboldt SW .....	OCS-P 0562	69,031
Central Coast Region:		
Morro Bay NW .....	OCS-P 0563	80,062
Morro Bay C .....	OCS-P 0564	80,418
Morro Bay E .....	OCS-P 0565	80,418
<b>Total</b> .....		<b>373,268</b>

The proposed Lease Areas include the entirety of the Humboldt and Morro Bay WEAs. The WEAs were subdivided so that each proposed Lease Area:

- Is of roughly equal power generation potential and geographical size;
- is delineated in a manner to maximize energy generation; and
- facilitates fair return to the Federal Government pursuant to the OCS Lands Act through competition for commercially viable Lease Areas.

The Morro Bay WEA has been divided into three Lease Areas and the Humboldt WEA has been divided into two Lease Areas. The Lease Area delineations are based on findings of a National Renewable Energy Laboratory (NREL) study called “Assessment of

Offshore Wind Energy Leasing Areas for Humboldt and Morro Bay Wind Energy Areas, California,” available at: <https://www.nrel.gov/docs/fy22osti/82341.pdf>. The designation of final Lease Areas in the FSN will be informed by comments received in this PSN and other relevant data.

BOEM is aware of the proposed designation of the Chumash Heritage National Marine Sanctuary, an area comprising approximately 7,000 square miles off the central coast of California adjacent to the Morro Bay WEA. BOEM does not have authority under the OCS Lands Act to issue leases, right-of-way grants, or right-of-use and easement grants within any unit of the National Marine Sanctuary System. Potential bidders should note that future

designation of a National Marine Sanctuary adjacent to a Lease Area may have implications for development of OCS leases for commercial wind energy. BOEM is coordinating closely with the NOAA Office of National Marine Sanctuaries to advance offshore wind energy projects and conservation and restoration of ocean and coastal habitats. More information on the proposed designation of Chumash Heritage National Marine Sanctuary is available at: <https://sanctuaries.noaa.gov/chumash-heritage/>.

BOEM is also aware that the U.S. Coast Guard (USCG) is conducting a Port Access Route Study on the Pacific Coast from Washington to California (PACPARS) to evaluate safe access routes for the movement of vessel traffic

proceeding to or from ports along the western seaboard, and, specifically, to determine whether a Shipping Safety Fairway and/or routing measures should be established, adjusted, or modified. BOEM is coordinating closely with the USCG to address potential maritime impacts from any future offshore wind development in the Lease Areas. More information on the PACPARS is available at <http://www.regulations.gov/>, under Docket No. USCG–2021–0345.

BOEM is aware of two planned submarine cable systems that are scheduled for installation in cable corridors that overlap the proposed Lease Areas. A planned submarine telecommunications cable system, known as BIFROST, is expected to be installed in 2023 in a cable corridor that would overlap with the southern portion of the proposed Morro Bay E Lease Area. A planned telecommunications cable, known as ECHO, is expected to be installed in Eureka, California, in 2023 and would overlap with both proposed Humboldt Lease Areas.

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

**a. Map of the Areas 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/california>.

**b. Potential Future Restrictions to Ensure Navigational Safety:**

**i. USCG Navigational Safety Measures:** Potential bidders should note that the USCG is conducting a PACPARS to evaluate safe access routes for the movement of vessel traffic proceeding to or from ports or places along the western seaboard of the United States and to determine whether a Shipping Safety Fairway and/or routing measures should be established, adjusted, or modified. The PACPARS will evaluate the continued applicability of, and the need for modifications to, current vessel routing measures. The data gathered during the PACPARS may result in the establishment of one or more new vessel routing measures, modification of existing routing measures, or disestablishment of existing routing measures off the Pacific Coast between Washington and California. BOEM may

require mitigation measures in the construction and operations plan (COP) once the Lessee’s site-specific navigational safety risk assessment is available to inform BOEM’s decision-making. The PACPARS may result in additional navigational mitigation measures at the COP review stage.

**ii. Measures for Vessel Transit:** The information currently available does not indicate that vessel routing mitigation measures are warranted, but BOEM may nonetheless consider designating portions of the proposed Lease Areas as areas of no surface occupancy to facilitate vessel transit and continuance of existing uses. Vessels cross the Morro Bay WEA to enter the USCG Recommended Tracks within the Monterey Bay National Marine Sanctuary and traffic lanes outside the San Francisco Bay. Bidders should be aware that a lease stipulation may be included in the FSN that addresses vessel routing measures, depending on the outcome of additional discussions with the USCG, ocean users, and stakeholders, and consideration of comments submitted in response to this PSN.

**c. Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities:** In 2018, DoD reviewed the Humboldt and Morro Bay Call Areas (83 FR 53096) in support of BOEM’s efforts to deconflict potential wind energy development in the areas in northern and central California, respectively. DoD provided its assessment of the California Offshore Planning Areas, and the 2018 DoD assessment indicated that its mission activities along most of the central coast, including the Morro Bay Call Area, are incompatible with wind energy development. DoD determined that the Humboldt Call Area, located off the coast of northern California, was DoD-mission compatible, with site-specific stipulations.

On May 25, 2021, the Departments of the Interior and Defense and the State of California announced an agreement to accelerate wind energy offshore the central and northern coasts of California. The Department of the Interior, in cooperation with DoD and the State of California, identified the Morro Bay 399 Area that could support approximately three gigawatts of offshore wind on roughly 399 square miles off California’s central coast, northwest of Morro Bay. The announcement also acknowledged the critical nature of current and future military testing, training, and operations in the central coast and noted the parties’ commitment to ensuring long-term protection of military testing,

training, and operations in the area while pursuing new domestic clean energy resources. This announcement came after years of collaboration between the Departments of the Interior and Defense to find areas offshore the central coast of California that are compatible with DoD’s training and testing operations. The proposed Lease Areas offshore Morro Bay are all located within the Morro Bay 399 Area and have been determined by DoD to be suitable for development, with site-specific stipulations.

Prospective bidders should be aware that site specific stipulations may be required in consultation with DoD for development within the Lease Areas. For example, the North American Aerospace Defense Command mission may be affected by the development of the Lease Areas. BOEM will coordinate with DoD and the Lessee to deconflict these potential impacts throughout the project review stage. Mitigation measures or terms and conditions of a plan approval may result from this coordination effort.

**III. Participation in the Proposed Lease Sale**

**a. Bidder Participation:** Entities that are already qualified to participate in an upcoming sale through their response to a Call or 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.
547 Energy LLC .....	15123
Algonquin Power Fund (America) Inc ...	15090
Arevia Power LLC .....	15129
Avangrid Renewables, LLC .....	15019
Castle Wind LLC .....	15085
Central California Offshore Wind LLC ..	15110
Cademo Corporation .....	15093
Clearway Renew LLC .....	15109
EDF Renewables Development, Inc .....	15027
EDPR Offshore North America LLC .....	15074
Equinor Wind US LLC .....	15058
JERA Renewables NA, LLC .....	15131
Marubeni Power International, Inc .....	15128
Mission Floating Wind LLC .....	15087
Northcoast Floating Wind LLC .....	15088
Northland Power America Inc .....	15068
Orsted North America Inc .....	15059
Redwood Coast Energy Authority (RCEA) .....	15084
Redwood Coast Offshore Wind LLC .....	15106
RWE Renewables Development, LLC ..	15080
Shell New Energies US LLC .....	15140
US Mainstream Offshore, Inc .....	15120
wpd offshore Alpha, LLC .....	15060

All other entities who would like to participate in the proposed lease sale must submit the required qualification materials by the end of the 60-day comment period for this PSN.

**b. Affiliated Entities:** On the Bidder’s Financial Form (BFF), discussed in section V.(c)(i), below, eligible bidders

must list any other eligible bidders with whom they are affiliated. BOEM considers two entities to be affiliated if (a) one entity (or its parent or subsidiary) has or retains a right, title, or interest in the other entity (or its parent or subsidiary), including the ability to control or direct actions with respect to such entity, either directly or indirectly, individually or through any other party; or (b) the entities are both direct or indirect subsidiaries of the same parent company. BOEM further considers the following regarding affiliated entities:

i. BOEM considers two entities to be affiliated if ownership or common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another person constitutes control (person means any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity)). Ownership of less than 10 percent constitutes a presumption of non-control that BOEM may rebut.

ii. If there is ownership or common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another person, BOEM will consider each of the following factors to determine if there is control under the circumstances of a particular case:

a. The extent to which there are common officers or directors.

b. With respect to the voting securities, or instruments of ownership or other forms of ownership: The percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other persons, if a person is the greatest single owner, or if there is an opposing voting bloc of greater ownership.

c. Operation of a lease, plant, or other facility.

d. The extent of other owners' participation in operations and day-to-day management of a lease, plant, or other facility.

e. Other evidence of power to exercise control over or common control with another person.

BOEM solicits comments from stakeholders on this definition. See Section 4 below.

c. Affiliated eligible bidders are not permitted to compete against each other in either the North Coast or Central Coast auctions. However, one affiliate may participate in the North Coast and one in the Central Coast because they would not be bidding against each other. Where multiple affiliated bidders

have qualified to bid in the same lease sale, bidders must decide prior to the auction which one eligible affiliated bidder (if any) will participate in each of the two simultaneous auctions. If two or more affiliated bidders seek to participate in the auction for the same Region, BOEM will disqualify such bidders from the auction.

#### IV. Questions for Stakeholders

Stakeholders are encouraged to comment on any matters related to this lease sale that are of interest or concern. However, BOEM has identified certain issues as particularly important in developing this lease sale and encourages commenters to address these issues specifically.

a. *Number, Size, Orientation, and Location of the Proposed Lease Areas:* In this PSN, BOEM proposes five Lease Areas in California. BOEM is seeking feedback on the proposed number, size, orientation, and location of the Lease Areas and welcomes comments on which Lease Areas, if any, should be prioritized for inclusion, or exclusion, from this lease sale or future lease sales.

Considerations for the delineation of Lease Area may include: Equal commercial viability and size; prevailing wind direction and minimal wake effects; maximized energy generating potential; mooring system anchor footprints and extents; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure, and electrical grid interconnections; and fair return to the Federal Government pursuant to the OCS Lands Act through competition for commercially viable lease areas. Additional comments are welcome regarding other considerations for delineating Lease Areas.

b. *Engaging Underserved Communities:* Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," directs advancement of equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," establishes a policy to secure environmental justice and spur economic opportunity for disadvantaged communities through investing in and building a clean energy economy and making environmental justice part of every agency's mission.

Consistent with its statutory and regulatory authorities, BOEM is considering lease stipulations to ensure that communities, particularly underserved communities, are

considered and engaged throughout the offshore wind energy development process, that potential impacts and benefits from Lessees' projects are documented, and Lessees' project proposals are informed by or altered to address those impacts and benefits.

BOEM invites comments on the appropriate mechanisms and evaluation metrics for lease stipulations to benefit underserved communities, including how the stipulations would further development of the proposed Lease Areas and the purposes of OCS Lands Act. BOEM requests that commenters provide references to any studies that support their recommendations.

c. *Bidding Credits:* As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. The bidding system for this lease sale is proposed as a multiple-factor combination of a monetary bid and up to two non-monetary factors.

BOEM is proposing to grant bidding credits to potential bidders for commitments to:

(1) Support workforce training programs for the offshore wind industry and/or development of a U.S. domestic supply chain for the offshore wind industry, and

(2) establish a community benefit agreement (CBA) with a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development.

In previous commercial lease sales, BOEM has proposed non-monetary auction factors to enhance, through training, the offshore wind workforce or to stand up the domestic supply chain for offshore wind manufacturing, assembly, or services. For this sale, BOEM is also considering non-monetary auction factors to foster development of the Lease Area through cooperation with communities affected by activities on the OCS, as described in section V.(c)(iii) below. BOEM is also exploring an additional bidding credit, targeting other effects from OCS development, as described in section V.(c)(iv) below.

In a multi-factor auction, BOEM appoints a panel to review the requirements and restrictions of the non-monetary component(s) and the bidder's conceptual strategy, submitted with the BFF. Following the panel's review of the bidding credit conceptual strategy, BOEM would notify the bidder if it qualifies for a credit(s) prior to the mock auction. The bid made by a particular bidder in each round would

represent the sum of a monetary (cash) amount and non-monetary factors (bidding credit(s)). The structure of the proposed bidding credits is explained in the subsection below. BOEM would start the auction using the minimum bid price for each Lease Area and would increase those prices incrementally until no more than one active bidder per Lease Area remains in the auction. A bidder would be eligible to elect to qualify for one or both of the bidding credits. A work force training credit or supply chain development credit would be worth 20 percent of the cash bid. A bidder could commit to both workforce training and supply chain development,

but the total amount of the credit would still be 20 percent. The proposed CBA bidding credit would be worth 2.5 percent of the cash bid. If a bidder qualifies for all proposed bidding credits, the credits would be additive, for a total potential credit of maximum 22.5 percent of the cash bid. Bidders are encouraged to review the proposed BFF Addendum if they are interested in qualifying for these bidding credits.

i. *Bidding credit calculation:* Bidders interested in a bidding credit would have the option to qualify for:

1. Both proposed bidding credits described below for a cumulative 22.5 percent credit;

2. A workforce training and/or supply chain development credit (with the opportunity to target either workforce training, supply chain development, or a combination thereof) for a 20 percent credit; or

3. The CBA credit for a 2.5 percent credit.

BOEM provides the following example. For a cumulative 22.5 percent bidding credit with a \$50 million Asking Price, the bidding credit would be calculated within the auction software as follows:

$$\text{Cash Bid} = \left\{ \frac{\text{Asking Price}}{1 + \text{Credit}\%} \right\} = \left\{ \frac{\$50 \text{ million}}{1 + 22.5\%} \right\} = \$40,816,326.53$$

$$\text{Credit} = \$50 \text{ million} - \$40,816,326.53 = \$9,183,673.47$$

As proposed, only the 20 percent workforce training and/or supply chain development credit would require an explicit financial commitment. Under BOEM’s proposal, bidders seeking a

CBA credit would retain the flexibility to determine the optimal benefits (both monetary and non-monetary) on which the parties can agree. Thus, per the example above, the required financial

commitment for the workforce training and/or supply chain development credit would be calculated as follows:

$$\text{Commitment} = \text{Credit} * \frac{20\%}{\text{Total Credit}\%} * 80\% = \$9,183,673.47 * \frac{20\%}{22.5\%} * 0.8 = \$6,530,612.24$$

BOEM has prepared a table demonstrating the financial commitment calculations if a \$50 million asking price is paid for in part

with various bidding credits. Any financial commitment is calculated solely from the value of the 20 percent workforce training and/or supply chain

development bidding credit, with no financial commitment required for a CBA credit.

Bidding credits qualified for	Asking price	Cash bid	Percent credit	Credit value	Commitment (80% of the 20% credit)
Workforce Training/Supply Chain Development; Lease Area Use CBA (22.5%).	\$50 million .....	\$40,816,326.53	22.5	\$9,183,673.47	\$6,530,612.24
Workforce Training/Supply Chain Development (20%).	50 million .....	41,666,666.67	20.0	8,333,333.33	6,666,666.67
Lease Area Use CBA Credit (2.5%) .....	50 million .....	48,780,487.80	2.5	1,219,512.20	N/A

ii. *20 Percent Bidding Credit Either for Workforce Training or Supply Chain Development or a Combination of Both:* The proposed bidding credit would allow a bidder to receive a credit of 20 percent of its cash bid in exchange for committing to make a qualifying monetary contribution (“Contribution”) to programs or initiatives, as described in the BFF Addendum and lease, that either support workforce training programs for the offshore wind industry, support development of a U.S. domestic supply chain for the offshore wind industry, or support a combination of

both. To qualify for the credit, the winning bidder would be required to commit to make a financial Contribution of at least 80 percent of the bidding credit cash value toward a workforce training program and/or the development of a domestic supply chain, as described in the BFF Addendum and lease. The 80 percent Contribution of the bid credit value is designed to incentivize bidders to commit funds to workforce training and to develop the domestic offshore wind supply chain. The discount to the bid credit value recognizes the Lessee’s

administrative burden associated with fulfilling bidding credit requirements. A mathematical example is shown in section IV.(c)(i) above. If a bidder qualifies to bid for a Lease Area in both regions and seeks to qualify for a credit in both regions, the bidder must submit one bidding credit conceptual strategy, but identify any differences in the strategy for each region.

1. As proposed, the Contribution to workforce training must result in a better trained and/or larger domestic offshore wind work force that would provide for more efficient operations via

an increase in the supply of fully trained personnel.

2. The Contribution to domestic supply chain development must result in a more stable 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.

3. Bidders interested in obtaining the bidding credit could choose to commit to workforce training programs, domestic supply chain initiatives, or a combination of both. Bidders would be required to note, on the BFF, their commitment to earn the bidding credit. A bidder interested in using a bidding credit would be required to submit its bidding credit conceptual strategy with its BFF. The strategy would be required to describe the verifiable actions the Lessee would take and that would allow BOEM to confirm compliance when the Lessee submits its documentation. Bidders are encouraged to review the proposed BFF Addendum if they are considering qualifying for the bidding credit.

4. BOEM proposes to permit a Lessee to defer its payment fulfilling the commitment, with 25 percent due prior to the first COP submittal for the Lease Area, and the remainder due prior to the first Facility Design Report (FDR) submittal to BOEM. Lessees would be required to provide documentation showing that they had met the commitment and complied with the applicable bidding credit requirements no later than the submission to BOEM of the first COP (25 percent) and first FDR (remainder) for the Lease, as described below. Deferring the payment until the COP and FDR would enable the Lessee to identify programs or recipients best suited to meet the bidding credit purpose and goals, as described in the BFF Addendum.

5. As proposed, contributions to workforce training must consist of one or more of the following: (i) Contributions in support of 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) Contributions toward 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) Contributions toward training workers

in skills or techniques necessary to manufacture or assemble offshore wind components, subcomponents or subassemblies. Examples of these skills and techniques include welding; wind energy technology; hydraulic maintenance; braking systems; mechanical systems, including blade inspection and maintenance; or computers and programmable logic control systems; (iv) Contributions toward training in any other job skills that the Lessee can demonstrate are necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States.

6. As proposed, contributions to domestic supply chain development must consist of one or more of the following: (i) Contributions supporting the 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) Contributions to domestic tier-2 and tier-3 offshore wind component suppliers, including suppliers of components specifically needed to develop floating wind technology, and domestic tier-1 supply chain efforts, including quay-side fabrication; (iii) Contributions for technical assistance grants to help U.S. manufacturers re-tool or certify (*e.g.*, ISO-9001) for offshore wind manufacturing; (iv) Contributions for the development of Jones Act-compliant vessels for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (v) Contributions to establish 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; (vi) Other Contributions to supply chain development efforts that the Lessee can demonstrate further the manufacture of offshore wind components or subassemblies, or the provision of offshore wind services, in the United States.

7. *Documentation:* Under the proposed sale, if a lease is awarded pursuant to a winning bid that includes a bidding credit for workforce training and/or supply chain development, the Lessee must provide documentation to BOEM showing that the Lessee has met at least 25 percent of the commitment and complied with the applicable bidding credit requirements by no later than the submission of the Lessee's first COP, and must provide documentation that it has met the remainder of the commitment no later than the submission of the first FDR. As

proposed, the documentation must enable BOEM to objectively verify the amount of the Contribution and the beneficiary(ies) of the Contribution. At a minimum, the documentation submitted with the first COP, and that submitted with the first FDR, must include: All written agreements between the Lessee and beneficiary(ies) of the Contribution; all receipts documenting the amount, date, financial institution, and the account and owner of 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: The amount and date(s) of the Contribution; that the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and that all information provided is true and accurate. The documentation would need to describe how the funded initiative or program has advanced, or is expected to advance, U.S. offshore wind workforce training and/or supply chain development. The documentation should 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 must contain any information specified in the conceptual strategy that the Lessee submitted with its BFF. If the Lessee's implementation strategy has changed due to market needs or other factors, the Lessee must explain this change. As proposed, BOEM would reserve all rights to determine that the bidding credit has not been satisfied if changes relative to the Lessee's conceptual strategy, submitted with its BFF, do not meet the criteria for the bidding credit described in the lease.

8. *Enforcement:* The commitment for the bidding credit would be made in the BFF and would be included in a lease addendum that would bind the Lessee and all future assignees of the lease. If BOEM were to determine that a Lessee or assignee had failed to satisfy the requirements of the bidding credit, or if a Lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to the Office of Natural Resources Revenue (ONRR) with interest from the date of lease execution. The interest rate would be the underpayment interest rate identified by ONRR. BOEM could, at its sole discretion, extend the documentation

deadline beyond the COP, FDR or the 10-year timeframe.

iii. *Questions Regarding Bidding Credit for Workforce Training and/or Supply Chain Development:*

1. Is the proposed maximum 20 percent bidding credit for workforce training and/or supply chain development the optimal percentage to support workforce training and supply chain development? If not, please propose percentage(s) that may be optimal and explain why that level is most appropriate to drive the benefits intended by the credit while simultaneously supporting a competitive lease sale. Please also explain how your proposal better supports workforce training programs and/or development of a U.S. domestic supply chain for the offshore wind industry, and how it is consistent with the requirement that the government receive a fair return from the lease auction.

2. As proposed, the winning bidder would be required to commit to make a financial Contribution of at least 80 percent of the bidding credit cash value toward a workforce training program and/or the development of the domestic supply chain. BOEM solicits any views as to whether it should choose a Contribution threshold other than 80 percent, or should eliminate this Contribution discount on the bid credit value.

3. What other activities should qualify for this bidding credit to best support a sustained and robust U.S. offshore wind supply chain, particularly a floating wind supply chain? For example, are there activities related to manufacturing, sourcing of raw materials and components, or other offshore wind-related industries that BOEM should consider as possibly qualifying for this credit? Please explain how the proposed qualifying activity supports the development of a domestic supply chain and how that support can best be documented.

4. Should the sale encompass a bidding credit for a bidder who proposes that its financial commitment include entering into a long-term contract for components needed to build or maintain its project that will also benefit the offshore wind industry as a whole, such as the construction of new manufacturing capacity or investment in expanding or re-tooling existing capacity? Are other effects of such contracts conducive to development of renewable energy on the OCS? How might the bidder document that its contract facilitated such development? Should BOEM require the manufacturer or bidder to demonstrate that the new or

expanded capacity also will be used to fulfill contracts with other developers? How much of the value of such a contract should count toward any potential credit, and why?

iv. *Lease Area Use Bidding Credit:* The second bidding credit proposed would allow a bidder to receive a credit of 2.5 percent of its cash bid in exchange for an existing CBA or a commitment to enter into a new CBA with a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development. The CBA is intended to mitigate potential impacts to the community or stakeholder group from renewable energy activity or structures on the Lease Area, and particularly to assist fishing and related industries to manage transitions, gear changes, or other similar impacts which may arise from the development of the Lease Area. To qualify for the credit, the bidder would be required to commit to the bidding credit requirements in the BFF and submit a strategy as described in the BFF Addendum. If a bidder were to qualify to bid for a Lease Area in both regions, and would like to qualify for a CBA credit in each of those regions, bidders need only submit a single Lease Area Use Bidding Credit conceptual strategy, including any measures tailored to the individual regions. The CBA(s) must be between the Lessee (or affiliated entity) and a qualifying community or stakeholder group in each region for which the bidder wishes to receive a credit. A mathematical example showing how this bidding credit would be calculated is available in section V.(c)(i) above.

1. As proposed, bidders interested in pursuing a bidding credit for this CBA must note on the BFF whether they have an existing CBA that conforms with BOEM's requirements or are instead making a commitment to enter into a CBA. Bidders seeking the bidding credit must submit their conceptual strategy with their BFF, further described below and in the BFF Addendum. The conceptual strategy would need to describe the verifiable actions that the Lessee intends to take that would enable BOEM to confirm compliance when the Lessee submits its documentation showing how it is satisfying the requirements for the bidding credit. A Lessee would be required to provide documentation showing that the Lessee has met the commitment and complied with the applicable bidding credit requirements no later than the submission to BOEM of the first FDR for

the lease. Deferring the fulfillment of the commitment until the first FDR would enable the Lessee to identify stakeholders with impacts in need of mitigation or the greatest potential to expedite or facilitate orderly OCS renewable energy development.

2. As proposed, a qualifying CBA must meet the following requirements: (i) The CBA must be an agreement between (a) the Lessee or its affiliated entity, or, if appropriate, its assignee(s), and (b) a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development; (ii) Specify the monetary, material, or other benefits provided, or to be provided, by the Lessee to the directly impacted community or stakeholder group; (iii) Indicate commitment of parties to collaboration and resolution of issues, communication methods, engagement methods, or educational opportunities for the impacted community or stakeholder group; (iv) Specify plans (or strategies) to mitigate potential impacts from the proposed development of the Lease Area on the community or stakeholder group.

3. No part of any CBA otherwise eligible for this credit may include exclusivity or preferential clauses that prevent or disincentivize an entity, community, or stakeholder from entering into similar agreements with other OCS lessees or potential lessees.

4. As proposed, a Lessee may enter into a CBA with a single counterparty or with multiple counterparties and may enter into more than one CBA.

5. *Documentation:* As proposed, if a lease is awarded pursuant to a winning bid that includes a CBA credit, the Lessee must provide written documentation to BOEM demonstrating execution of the CBA commitment no later than submission of the Lessee's first FDR. The documentation must enable BOEM to objectively verify the CBA has met all applicable requirements as outlined in the BFF Addendum and Lease. At a minimum, this documentation must include: All written agreements between the Lessee and beneficiary(ies), including the executed CBA; any receipts proving monetary contributions as required by the CBA, 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 CBA signatories or their assignees attesting to: The date the CBA was entered; explaining how the CBA addresses (or

will address) the potential impacts to the use of the geographic space of the Lease Area, or resources harvested from that geographic space, arising from the potential development of the Lease Area; and the truth and accuracy of all the information provided. The documentation must contain any information specified in the conceptual strategy that was submitted with the BFF. If the Lessee's conceptual strategy has changed due to market needs or other factors, the Lessee must explain this change.

6. *Enforcement*: The commitment for the Lease Area Use Bidding Credit will be made in the BFF and will be included in a lease addendum that binds the Lessee and all assignees of the lease. If BOEM were to determine that a Lessee or assignee had failed to satisfy the commitment at the FDR stage, 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 date of lease execution. The interest rate would be the underpayment interest rate identified by ONRR. BOEM could, at its sole discretion, extend the documentation deadline beyond the FDR or the 10-year timeframe.

v. *Potential Additional Credit*: BOEM is exploring whether it has the authority to pursue an additional bidding credit for a CBA addressing impacts attributable to potential offshore wind development not covered under the contemplated Lease Area Use Bidding Credit. BOEM is seeking comments on all aspects of this potential CBA and specifically on how it can be justified under the OCS Lands Act), for example:

1. What goals of the OCS Lands Act would be furthered by such a CBA? What restrictions, if any, does OCS Lands Act impose on such a CBA?

2. What benefits could be promoted by a more general CBA? Would a CBA be effective in promoting benefits, such as job creation, education opportunities, or increased engagement, that mitigate the potential impacts of the development of the Lease Areas?

3. What potential impacts should be addressed? What quantifiable impacts will be felt by local communities associated with cultural and visual resources, the human environment, or other resources? How might a CBA lead to expeditious and orderly development of offshore wind resources in the Lease Areas?

4. What types of groups or legally recognized entities should be eligible to enter into a CBA?

5. What are the key elements of a CBA that BOEM should consider? Should the requirements for eligibility for bidding credits for a CBA include transparency, coalition building, inclusiveness, or enhanced communication?

6. How can BOEM use this potential type of credit to encourage early community engagement, mutual benefits, and a long-lasting dialogue between a potential developer and community or stakeholder group? What types of agreements could BOEM promote that result in mutually beneficial outcomes to both the Lessee and community or stakeholder groups, or lead to expeditious and orderly development of offshore wind resources in the Lease Areas?

vi. *General Questions Regarding CBA credits*: BOEM is interested in comments answering the following questions in this section relevant to CBAs and the associated bidding credits as described in sections IV.(c)(iv) and IV.(c)(v) above.

1. How should BOEM evaluate the agreements? On what metrics can BOEM evaluate CBAs? How can BOEM verify actions to be undertaken pursuant to the CBA?

2. How and when should BOEM enforce and monitor CBA commitments?

3. What level of credit should BOEM offer in exchange for bidders entering into a CBA, and how does that level affect receipt of fair return to the United States?

4. If BOEM grants a bidding credit for a CBA, at what point in BOEM's renewable energy leasing process must the CBA be executed?

5. Should the two CBA credits BOEM discussed above be combined?

6. Should executed CBAs be posted publicly?

7. What disclosures/certifications should be required to be part of any CBA? Anything else BOEM should take into consideration when evaluating the use of CBAs?

8. Should BOEM explicitly allow a Lessee's CBA to include payments into a mitigation or innovation fund? For example, funds established or created to address fishermen's gear changes, technology improvements that minimize impacts, lost revenue, or other various impacts potentially resulting from the development of the Lease Area. If so, what metrics should BOEM use to evaluate whether the use of the fund is acceptable in meeting OCS Lands Act goals such as leading to expeditious and orderly development of the OCS?

9. Is offering a bidding credit to enter into a CBA the most effective method to encourage similar types of agreements

between developers and stakeholders or community groups, or is there a more effective format BOEM should consider? Commenters should consider that bidding credits must be consistent with BOEM's authority under the OCS Lands Act.

d. *Limits on the Number of Lease Areas per Bidder*: BOEM recognizes that the offering for sale of two regions (*i.e.*, Humboldt WEA and Morro Bay WEA), hundreds of miles apart, is novel. BOEM is proposing to allow each qualified entity to bid for one lease per region (North Coast Region and Central Coast Regions) and ultimately acquire one Lease Area per region via simultaneous auctions occurring at the same time, as described in section XII.(b)(i) below. BOEM is seeking feedback on this proposal, including feedback on how different leasing scenarios (*e.g.*, number of Lease Areas offered, size of Lease Areas, etc.) may influence the advisability of such a limitation.

e. *The Definition of "Affiliated Entities"*: BOEM is prohibiting "affiliated entities" from bidding against each other in an auction. This measure limits a single entity to bidding on and winning a single lease. BOEM seeks comments on the definition and concepts of affiliation contained in Section 3 of the Proposed Sale Notice. Furthermore, in past lease sales, BOEM's definition of "affiliated entities" was tied to direct or indirect ownership or control of one entity over another. This effectively prevented a bidder and several subsidiaries from bidding in the same lease sale. This definition, however, does not explicitly preclude bidding by multiple entities that have formed agreements with the effect of circumventing the spirit of a one-per-customer sale. For example, BOEM's prior auctions arguably did not cover a situation in which a bidder had obtained development rights in other bidders' projects. Accordingly, BOEM requests comment on revising the definition of "affiliated entities" for this sale to include bidders that have, prior to the auction, entered into agreement with each other that is related to the disposition of leases offered in either of the auctions. This change would likely be accompanied by a new requirement to disclose any agreements with affiliated bidders regarding the disposition of leases that may be acquired in the auction. BOEM invites comment on whether this adjustment to the definition of "affiliated" sufficiently promotes the objectives of a "one-per-customer" sale.

f. *Tribal Governments, Ocean Users, Underserved Communities, Agencies, and Other Stakeholders Engagement*

*and Reporting:* In an effort to require early and regular engagement with Tribal governments, ocean users, underserved communities, agencies, and other stakeholders that may be potentially affected by activities on the OCS (collectively “Tribes and parties”), BOEM is proposing to require a semi-annual progress report and minimum engagement requirements. Within the progress report, Lessees would be required to identify Tribes and parties potentially affected by proposed activities and provide updates on engagement activities, impacts on or benefits to the Tribes and parties from proposed activities, and how, if at all, a project proposal has been informed or altered to address those impacts or benefits, as well as any planned engagement activities during the next reporting period.

In acknowledgment of the existing and growing consultation burden placed on many Tribes and parties, the stipulation would also require, to the maximum extent practicable, that Lessees coordinate with one another on engagement activities. It is BOEM’s intention that this requirement to coordinate engagement apply not only to meetings proposed by Lessees, but also to reasonable requests to coordinate engagement made by Tribes and parties. For example, one possible lease stipulation to facilitate coordinated Tribal engagement could require Lessees to offer coordination meetings at regular intervals throughout the year (*i.e.*, quarterly, biannually, annually, etc.). Coordinated engagement among Tribal Nations and Lessees that may be required would not excuse BOEM from meeting its responsibilities to federally recognized Tribes under Executive Order 13175.

In addition, the proposed stipulation would require that the progress report incorporate separate lease requirements for the development of communication plans for fisheries, Tribes, and agencies, that would serve to guide engagement activities with those groups. Lastly, the progress report would be required to include an update on activities executed under any survey plan.

BOEM seeks comment on this progress report and engagement concept generally. BOEM also seeks specific comments on how to improve the frequency, duration, and sustainability of collaborative engagement among these parties; and on the contents, timing, and review of progress reports.

*g. Uniform Layouts:* BOEM seeks comment on whether BOEM should consider uniform and aligned turbine layouts in the Lease Areas. Would the establishment of uniform turbine

layouts negate the need for vessel transit measures and/or areas of no surface occupancy?

*h. Industry Standards for Environmental Protection:* Are there new industry standards (*e.g.*, technology standards, vessel standards, etc.) for environmental protection for any phase of development that BOEM should consider?

*i. Vessel Transit:* BOEM welcomes comments on measures to facilitate vessel transit and continuance of existing uses within the Lease Areas. Such measures may include areas of no surface occupancy where surface structures will not be permitted. If areas of no surface occupancy are warranted, BOEM welcomes comment on the preferred placement and orientation (*e.g.*, length, width, etc.) that would facilitate continuance of existing uses. BOEM asks commenters to submit technical and scientific data in support of their comments.

#### **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 potential execution of the lease 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 August 1, 2022. 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. The announcement will also be posted on the BOEM website at <https://www.boem.gov/renewable-energy/state-activities/california>.

Neither registration nor RSVP is required to attend the auction seminar.

*iii. Submit Qualifications Materials:* All qualification materials must be received by BOEM by August 1, 2022. This includes materials sufficient to establish a company’s legal, technical, and financial qualifications pursuant to 30 CFR 585.106–.107. To qualify to participate in this lease sale, qualification materials would need to be developed in accordance with the guidelines available at <https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/>. 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 XX entitled, “Protection of Privileged or Confidential Information.” Information that is not labeled as privileged or confidential would 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 its review 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 appropriate.

*iv. Publish FSN:* BOEM will publish the FSN in the **Federal Register**.

*c. FSN Waiting Period:* During the period between FSN publication and the lease auction (*i.e.*, minimum 30 days), qualified bidders would be required to take several steps to remain eligible to participate in the auction.

*i. Bidder’s Financial Form:* Each bidder would be required to submit a BFF to BOEM to participate in the auction. The BFF would be required to contain each bidder’s conceptual strategy for each non-monetary credit for which the bidder wishes to be considered, or qualifying Lease Area Use CBA if applicable. Each bidder would be required to submit to BOEM its BFF no later than the date listed in the FSN. BOEM may consider extensions to this deadline if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder’s control. The BFF will be available for download at: <https://www.boem.gov/renewable-energy/state-activities/california>.

As proposed, once BOEM has processed a BFF, the bidder would log into *pay.gov* to submit a bid deposit. For purposes of this auction, BOEM will not consider BFFs submitted by bidders for previous lease sales. Bidders must submit an original BFF signed by an authorized signatory by mail to BOEM’s Pacific Regional Office for certification. Digital signatures affixed to the paper copy would be acceptable until further notice.

1. Your submission should be accompanied by a transmittal letter on company letterhead.

2. The BFF would be required to be executed by an authorized representative listed in the bidder's legal qualifications. Each bidder would be required to sign the self-certification in the BFF truthfully, under threat of criminal penalty for false statements 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 would be required to submit a bid deposit of \$5,000,000 in order to bid for one Lease Area. If the FSN allows bidders to win up to two Lease Areas (one per region), a bid deposit of \$10,000,000 would be required to bid on two Lease Areas (one per region). Bid deposits would be due no later than the date specified in the FSN. Further information about bid deposits can be found below in section X entitled, "Bid Deposit."

d. *Notification of Eligibility for Non-Monetary Credits*: BOEM will determine bidder eligibility for bid credits in each auction in which the bidder participates and will notify each bidder of the agency's determination prior to the mock auction.

e. *Mock Auction*: BOEM proposes to 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, would conduct the auction as described in the FSN. The auction would occur no sooner than 30 days following publication of the FSN in the **Federal Register**. The estimated timeframes described in this PSN assume the auction would occur approximately 45 days after FSN publication. Final dates would be included in the FSN. BOEM would announce the provisional winners of the lease sale after the auction ends.

g. *From the Auction to Lease Execution*:

i. *Notice and Refunds to Non-Winners*: Once the provisional winners have been announced, BOEM would notify the other bidders, include a written explanation of why they did not win, and return their bid deposits.

ii. *Department of Justice (DOJ) Review*: DOJ would have 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C 1337(c).

iii. *Delivery of the Lease*: BOEM would send three copies of the lease to each winning bidder, with instructions on how to sign the lease. Each winning bidder would be required to pay the first year's rent within 45 calendar days after receiving the lease copies.

iv. *Return the Lease*: Within 10 business days of receiving the lease copies, each winning bidder would be required to file financial assurance, pay any outstanding balance of its bonus bids (*i.e.*, winning monetary bid less the applicable non-monetary bidding credit and bid deposit), and sign and return the three lease copies. A winning bidder would be allowed to request a deadline extension. BOEM could grant the request if BOEM determines the cause of the delay was beyond the winning bidder'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 obligations have been met, BOEM would determine, in its discretion, whether to sign and execute the lease.

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

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

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

a. *Required Plans for Potential Development of Executed Leases*: Under

30 CFR 585.601, if site assessment activities will be conducted, the leaseholder would be required to submit a SAP within 12 months of lease issuance. Approval of the SAP will initiate the Lessee's five-year site assessment term. If the Lessee intends to continue its commercial lease with an operations term, the leaseholder would be required to submit a COP at least six months before the end of the site assessment term.

b. *Proposed New or Revised Lease Stipulations*: BOEM proposes to include or revise the following lease stipulations or provisions from previous commercial leases as follows:

i. *Commercial Fisheries*: BOEM proposes to include a stipulation in the lease entitled "Commercial Fisheries," which would contain components of stipulations in prior commercial leases issued by BOEM, including a requirement for a Fisheries Communications Plan (FCP). BOEM is proposing to add elements to this stipulation in response to its extensive engagement with Tribal governments, the fishing industry, and governmental agencies. Major proposed revisions include: (i) Identifying dock space and transit routes that would minimize space use conflicts and potential impacts to protected species; (ii) minimizing both congestion and the creation of obstacles that could result in an increased risk of entanglement; (iii) to the extent practicable, prioritizing Federal and State climate change adaptation strategies for fisheries; and (iv) requirement that the Lessee contact potentially affected commercial fishing communities prior to submitting its COP to discuss potential conflicts between seasonal fishing operations and the Lessee's survey and development activities.

ii. *Protected Species*: In May 2022, BOEM published a Final Humboldt Wind Energy Area EA, that included the most current Measures to Minimize Potential Adverse Impacts to Birds and Typical Mitigation Measures for Protected Marine Species. BOEM proposes to include in the leases these measures, or the most current version of these measures from either the Final Morro Bay Wind Energy EA, or from consultation processes undertaken for/applicable to this lease sale, as appropriate. These measures for protecting birds and marine species are based upon the most up-to-date information. Any additional protective measures arising from consultation processes undertaken for/applicable to this lease sale would be incorporated into the leases.

iii. *Native American Tribes Communications Plan (NATCP)*: BOEM proposes to revise the NATCP requirements in previous commercial leases to require the Lessee to work with BOEM and the California Native American Heritage Commission to identify Tribes with cultural and/or historical ties to the Lease Areas and invite those Tribes to participate in the development of the NATCP. The NATCP would also include protocols for unanticipated discovery of any potential pre-contact archaeological resource(s).

iv. *Project Labor Agreements (PLAs) and Supply Chain*: BOEM is committed to a clean energy future, workforce development and safety, and the establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry. To advance this vision, BOEM is proposing two lease stipulations, one that would encourage construction efficiency for projects and the other that would contribute towards establishing a domestic supply chain:

1. The first stipulation would require Lessees to make every reasonable effort to enter into a PLA covering the construction stage of any project proposed for the Lease Areas. The PLA provisions for the construction of an offshore wind project would apply to all contractors.

2. The second stipulation would require Lessees to establish a Statement of Goals in which the Lessee would describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The Lessee would be required to provide regular progress updates on the achievement of those goals to BOEM, and BOEM would make those updates publicly available.

v. *Research Access*: This stipulation would make explicit BOEM's reservation of the right to access the lease area for purposes of future research and other activities.

vi. *Archaeological Survey Requirements*: BOEM proposes a modification of BOEM's prior lease stipulations regarding archaeological survey requirements. The revised

stipulation would require that the Lessee provide a description of the methods it uses to conduct archaeological surveys in support of Plans (*i.e.*, SAP and/or COP), in addition to survey results. The Lessee would be required to coordinate a Tribal pre-survey meeting with Tribes identified by BOEM and in the NATCP. In the post-review discovery clauses, the revised stipulation would require that, in the event of unanticipated discovery of a potential archaeological resource, the Lessee would immediately halt bottom-disturbing activities within the area of discovery by a minimum of 50 meters (164 feet), and the avoidance distance must be calculated from the maximum discernible extent of the archaeological resource. The revised stipulation would also add a requirement in the post-review discovery clauses that the Lessee refer to the NATCP for additional guidance on notifications.

#### VIII. Lease Financial Terms and Conditions

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

a. *Rent*: Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of \$3 per acre would be due within 45 calendar days after the Lessee receives the lease copies from BOEM. For example, for a 69,031-acre lease (the size of OCS-P 0562), the rent payment will be \$207,093 per year until commercial operations begin. Thereafter, annual rent payments would be due on the anniversary of the effective date of the lease (the "Lease Anniversary"). Once commercial operations under the lease begin, BOEM would charge rent only for the portions of the Lease Area remaining undeveloped (*i.e.*, non-generating acreage).

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 would be required to pay rent for any project easement associated with the lease. Rent would commence on the date that BOEM approves the COP (or modification thereof) that describes the project easement as outlined in 30 CFR 585.500(a)(5) and 585.507(b). Annual rent for a project easement is \$5 per acre, subject to a minimum of \$450 per year.

b. *Operating Fee*: For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM would apply 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 would be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment would be due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments would be due on or before the Lease Anniversary.

The subsequent annual operating fee payments would 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 would be the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 976 megawatt (MW) wind facility operating at a 40 percent capacity (*i.e.*, capacity factor of 0.4) with a regional wholesale power price of \$40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 976 \text{ MW} \times 8,760 \frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$40}{\text{MWh}} \text{Power Price} \times 0.02 = \$2,736,820.22$$

i. *Operating Fee Rate*: The operating fee rate would be the share of imputed wholesale market value of the projected annual electric power production due to ONRR as an annual operating fee. For

the Lease Areas, BOEM proposes to set the fee rate at 0.02 (*i.e.*, 2 percent) for the entire life of commercial operations.

ii. *Nameplate Capacity*: Nameplate capacity would be the maximum rated

electric output, expressed in MW, that the turbines of the wind facility under commercial operations can produce at their rated wind speed, as designated by the turbine's manufacturer. For

example, if the Lessee installed 100 turbines, and each is rated by the manufacturer at 12 MW, the nameplate capacity of the wind facility would be 1,200 MW.

iii. *Capacity Factor*: The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero (0) and one (1). There are several reasons why the amount of power delivered is less than the theoretical 100 percent of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and downtime for maintenance or other purposes also affect the capacity factor.

BOEM proposes to set the capacity factor at 0.4 (*i.e.*, 40 percent) for the year in which the commercial operation date occurs and for the first six full 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, would be determined at the time each annual operating fee payment is due. For the leases offered in this sale, BOEM proposes to use the annual average of CAISO North of Path 15 (NP15) market hub price. Aggregated data from commercial subscription services such as S&P Global Market Intelligence Platform or Hitachi ABB Velocity Suite can also be used and may be posted by BOEM for reference.

c. *Financial Assurance*: Within 10 business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, each 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 provisionally winning bidders to discuss the financial assurance instrument 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 would 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/california>.

**IX. Bidder’s Financial Form**

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

**X. Bid Deposit**

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

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

If BOEM offers a lease to a provisionally winning bidder and that bidder fails to timely return the signed lease, establish financial assurance, or pay the balance of its bid, BOEM would retain the bidder’s \$5,000,000 bid deposit for one Lease Area or \$10,000,000 bid deposit for two Lease Areas (one per region). In such a circumstance, BOEM would reserve the right to offer a lease to the next highest bidder as determined by BOEM.

**XI. Minimum Bid**

The minimum bid is the lowest bid BOEM would accept as a winning bid, and it is where BOEM would start the bidding in the auction. BOEM proposes a minimum bid of \$100.00 per acre for this lease sale. See chart in section XII.(b) below for total minimum bids for each lease to be offered in these sales.

**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 bidding auction 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 a monetary (cash) amount and a non-monetary factor (bidding credit). BOEM proposes to start the auction using the minimum bid price for the Lease Areas and to increase that price incrementally until no more than one active bidder per Lease Area remains in the auction.

b. *The Auction*: Using an online bidding system to host the auction, BOEM would start the bidding for Leases OCS–P 0561 through 0565, as described below.

Lease area name	Lease area ID	Acres	Minimum bid
North Coast Region:			
Humboldt NE .....	OCS–P 0561	63,338	\$6,333,800
Humboldt SW .....	OCS–P 0562	69,031	6,903,100
Central Coast Region:			
Morro Bay NW .....	OCS–P 0563	80,062	8,006,200
Morro Bay C .....	OCS–P 0564	80,418	8,041,800
Morro Bay E .....	OCS–P 0565	80,418	8,041,800
Total .....	.....	373,268	.....

The precise auction process will depend on limitations, to be established in the FSN, on the number of Lease Areas a bidder can bid for and win. BOEM is proposing that bidders will be able to bid for at most one Lease Area in the offered Central Coast Region at a time and for at most one Lease Area in the offered North Coast Region at a time. Ultimately, a bidder could win a maximum of one Lease Area in the Central Coast Region and one Lease Area in the North Coast Region, as described in section XIII.(b)(i), below. BOEM also requests comments on an alternative limitation, whereby bidders would be permitted to bid for at most one Lease Area in total at a time, and ultimately win at most one Lease Area in total, as described in section XIII.(b)(ii), below.

i. *If bidders are allowed to bid for and win one Lease Area per region:* The two regions (North Coast and Central Coast) would be offered in two separate auctions that would run simultaneously. A bidder would need to indicate in its BFF which region's auction it is entering (or select both) and it would need to submit a deposit for each region's auction that it is entering. Bidders eligible to bid in each auction must select the correct region's page from the auction homepage before placing a bid. A bidder's eligibility is region-specific. There would be no switching between regions. Thus, if a bidder elects to bid in only one region, it may not bid in the other region at any time in the auction. Once a bidder places an exit bid in a region (or submits no bid in the region at all, in a round when the bidder is eligible to bid), it would become ineligible to continue to bid in that region.

Alternatively, BOEM is considering administering the auction as described in section XIII.(b)(ii) below.

ii. *If bidders are allowed to bid for and win only one Lease Area:* All of the Lease Areas would be offered in a single auction, and there would be no distinctions made between the North Coast and Central Coast Regions within the auction process. A bidder would not be required to select in its BFF the region in which it is bidding and would supply a single deposit. Under this proposal, a bidder could bid for at most one Lease Area at a time and ultimately win at most one Lease Area, but a bidder could switch its bids among Lease Areas between rounds.

iii. *Regardless of whether BOEM ultimately structures the lease sale as described in (i) or (ii), above, BOEM proposes to apply the following auction rules:* Each auction would be conducted in a series of rounds. At the start of each

round, BOEM would state an asking price for each Lease Area. If a bidder is willing to meet that asking price for one of the Lease Areas, it would indicate its intent by submitting a bid equal to the asking price. A bid at the full asking price is referred to as a "live bid." To participate in the next round of the auction, a bidder would be required to have submitted a live bid for one of the Lease Areas (or have a carried-forward bid) in each previous round.

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

A bidder that submitted a contested live bid in the previous round would be free to bid on any Lease Area in the given auction in the next round, at the new asking prices.

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

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

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

An auction would end when a round occurs in which each of the Lease Areas in the auction receives one or zero live bids (including carried-forward bids), regardless of the number of exit bids on any Lease Area. If the North Coast Region and Central Coast Region are offered in two separate auctions, then one of these separate auctions may end before the other. After the bidding ends, BOEM would determine the provisionally winning bid for each Lease Area in the given auction by the following two-stage procedure, applying the procedure separately to each auction if there are two separate auctions.

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

In stage two, BOEM would assign to provisionally winning bidders all Lease Areas that were not so assigned to provisionally winning bidders in stage one (either because a Lease Area received two or more identical highest exit bids in the final round or because it received no bids in the final round). BOEM would, in stage two, consider bids from all bidding rounds for Lease Areas that were not assigned in stage one from bidders not assigned a Lease Area in stage one. BOEM would select the combination of such bids that maximizes the sum of the bid amounts of the selected bids, subject to the following constraints: (1) Each Lease Area that received multiple highest exit bids in the final round (but no live bid) must be assigned to one of the bidders that submitted the highest exit bid; (2) at most one bid from each bidder can be selected; and (3) at most one bid for each Lease Area can be selected. If there is a unique combination of bids that solves this maximization problem, then these bids would be deemed to be the

remaining provisionally winning bids. If two or more combinations of bids tie by producing the same maximized sum of bid amounts, the auction system would select one of the combinations by use of pseudorandom numbers. The provisional winners would pay the amounts of their provisionally winning bids, or risk forfeiting their bid deposits. A provisional winner will be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder must sign the applicable lease documents, establish financial assurance, and submit the balance (if any) of its bonus bid (*i.e.*, winning monetary bid less the applicable non-monetary bidding credit and bid deposit) within 10 business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM would reserve the right not to issue the lease to a provisionally winning bidder if that bidder fails to: Timely return the signed lease form, establish adequate financial assurance, pay the balance of its winning bid, or otherwise fail to comply with applicable regulations or the terms of the FSN. In that case, the bidder would forfeit its bid deposit.

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

*c. Additional Information Regarding the Auction Format:*

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

The auction system would require software tokens for two-factor authentication. To set up the tokens, authorized individuals would download an app onto their smartphone or tablet with a recent operating system. One of the emails sent to authorized

individuals would contain instructions for installing the app and the credentials needed to activate the software token. A short telephone conversation with the auction contractor could also be needed to use the credentials. The login information, along with the tokens, would be tested during the mock auction. If an eligible bidder failed to submit a bid deposit or did not participate in the auction, BOEM would de-activate that bidder's tokens and login information.

*ii. Timing of Auction:* The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.

*iii. Messaging service:* BOEM and the auction contractors would use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM could change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it would use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM would also use the messaging system for other updates during the auction.

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

The ASTS elaborates on the auction procedures described in this PSN. In the event of any inconsistency between the Bidder Manual, the ASTS, and the FSN, the FSN would be controlling.

*iv. Alternate Bidding Procedures:* It would be the responsibility of the bidder to ensure it has a working internet connection and backup procedures in place in case its internet connection is disrupted during the auction. Such backup procedures may include redundant internet connections, multiple individuals authorized to place bids on behalf of the company, geographically dispersing individuals who are authorized to bid (with different internet connections), or placing bids using a mobile data connection. The bidder would be responsible for testing its backup procedures ahead of time. This could be done during the mock auction, for example.

### **XIII. Rejection or Non-Acceptance of Bids**

BOEM would reserve 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 would be subject to Federal antitrust laws. Following the auction, but before the acceptance of bids and the issuance of the lease, BOEM would "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 provisionally winning bidder is found to have engaged in anti-competitive behavior in connection with this lease sale, BOEM will reject its provisionally winning bid. Compliance with BOEM's auction procedures and regulations would not be an absolute defense to violations of antitrust laws.

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

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

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

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

### **XV. Process for Issuing the Lease**

Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM would issue three unsigned copies of the lease to each provisionally winning bidder. Within 10 business days after receiving the lease copies, the provisionally winning bidders would be required to:

1. Sign and return the lease copies on the bidder's behalf;
2. File financial assurance, as required under 30 CFR 585.515–537; and

3. Pay by electronic funds transfer (EFT) the balance (if any) of the bonus bid (winning monetary bid less the applicable non-monetary bidding credit and bid deposit). BOEM would require bidders to use EFT procedures (not *pay.gov*, the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the “Instructions for Making Electronic Payments” available on BOEM’s website at: <https://www.boem.gov/renewable-energy/state-activities/eft-payment-instructions-ca>.

BOEM would not execute the lease until the three requirements above have been satisfied. BOEM could extend the 10 business-day deadline if BOEM determines the delay was caused by events beyond the provisionally winning bidder’s control.

If a provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right not to issue the lease to that bidder. In such a case, the provisionally winning bidder would forfeit its bid deposit. Also, in such a case, BOEM reserves the right to identify the next highest bid for that Lease Area submitted during the lease sale by a bidder who has not won one of the other Lease Areas and to offer the lease to that bidder pursuant to its bid.

Within 45 calendar days after receiving the lease copies, each provisionally winning bidder would be required to 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 would be required to 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/california>.

#### **XVI. Non-Procurement Debarment and Suspension Regulations**

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

#### **XVII. Final Sale Notice**

The development of the FSN would be informed through the EAs, 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 in the Lease Areas offshore California. The FSN will be published in the **Federal Register** at least 30 days before the lease sale is conducted and will provide the date and time of the auction.

#### **XVIII. Changes to Auction Details**

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

#### **XIX. Appeals**

The bid rejection procedures are provided in BOEM’s regulations at 30 CFR 585.225 and 585.118(c). Under 30 CFR 585.225:

(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, under 30 CFR 585.118(c)(1). The Director will send you a written response either affirming or reversing the rejection.

The procedures for requesting reconsideration of a bid rejection are described in 30 CFR 585.118(c).

#### **XX. Public Participation**

BOEM does not consider anonymous comments; please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personal identifiable information (PII) included in your comment, may be made publicly available. All submissions from identified individuals, businesses, and

organizations may be available for public viewing on [regulations.gov](https://www.regulations.gov).

In order for BOEM to withhold from disclosure your PII, you must identify any information contained in your comment that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the PII disclosure, such as embarrassment, injury, or other harm. BOEM is unable to guarantee that your PII will be protected from public disclosure because a court may determine that the benefits of disclosure about who may influence public policy outweigh possible harms.

#### **XXI. Protection of Privileged or Confidential Information**

BOEM will protect privileged or confidential information that you submit consistent with the Freedom of Information Act (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 is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

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

**Amanda Lefton,**

*Director, Bureau of Ocean Energy Management.*

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