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**Purchase of Offshore Wind Renewable Energy  
Certificates  
Draft Request for Proposals  
(RFP) No. ORECRFP18-1  
RFP Release Date: TBD**

**NOTICE:** *This draft ORECRFP18-1 is being issued by NYSEDA in order to allow review and comment by interested parties prior to the issuance of a formal Request for Proposals (RFP). Comments are due by Friday, October 5, 2018, and should be sent to [offshorewind@nyserda.ny.gov](mailto:offshorewind@nyserda.ny.gov) with the subject line “Draft ORECRFP18-1 Comments” Please note that all content in this DRAFT RFP and its attachments, appendices and exhibits is subject to revision. The content provided herein is subject to deletion or modification based on comments submitted by prospective Proposers, other entities or persons electing to respond to this DRAFT RFP, or for any other reason. Proposers should review the final RFP before preparing a Proposal.*

*NYSEDA does not intend to make comments public. If NYSEDA receives a request from a third party for comments received that have been marked “Confidential” or “Proprietary,” NYSEDA will process such request under the procedures provided by NYSEDA’s FOIL regulations (email [foil@nyserda.ny.gov](mailto:foil@nyserda.ny.gov) for additional information). See Section 8.1.*

The New York State Energy Research and Development Authority (NYSEDA) seeks to procure Offshore Wind Renewable Energy Certificates (“ORECs”)<sup>1</sup> as authorized by the New York State Public Service Commission’s [Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement](#), issued on July 12, 2018 in Case No. 18-E-0071. All Proposers are advised to review the Order and its Appendices before participating in this RFP.

**Proposals are due on TBD by 3:00 p.m. ET.**

**Proposals must be held firm and valid for 180 days from TBD.**

All relevant documents pertaining to this RFP are on available on the NYSEDA website at <https://www.nyserda.ny.gov/All-Programs/Programs/Offshore-Wind/Offshore-Wind-Solicitations/Generators-and-Developers>. Proposers are advised to check this website regularly for updates.

Questions about this RFP should be directed to Doreen Harris, Adrienne Downey, Allison Rose, or Matt Vestal (the Designated Contacts) at [offshorewind@nyserda.ny.gov](mailto:offshorewind@nyserda.ny.gov) (no phone calls). A Proposers Conference will be held on [TBD]. No communication intended to influence this procurement is permitted except by contacting the Designated Contacts through this email address. Contacting anyone

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<sup>1</sup> Please note that while the Order uses the generic term “credits,” the term “certificates” is used here, as successful proposers will be required to participate in NYGATS, and NYGATS uses the term “certificates.” NYGATS Certificates are minted on a one per MWh basis. Each NYGATS OREC Certificate will include a unique serial number.

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other than the Designated Contacts (either directly by the Proposer or indirectly through a lobbyist or other person acting on the Proposer's behalf) to influence the procurement may result in: (1) a Proposer being deemed a non-responsive offeror, and (2) the Proposer not receiving an award.

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## **ACRONYMS AND DEFINITIONS**

**Actual Production** – The amount of electric energy production from the Project, in MWh delivered to the Injection Point, for which NYSERDA is obligated to purchase the associated ORECs under Article II of the Agreement.

**Agreement** – Offshore Wind Renewable Energy Certificate Standard Form Purchase and Sale Agreement.

**Alternative Proposal** – a Proposal defined in Section 2.1.2.

**Annual OREC Cap** – The amount of ORECs equal to the product of 1.1 and the P10 Annual OREC Exceedance.

**Applicable OREC Price Method** – The method employed by NYSERDA in each month for determining the Monthly OREC Price as determined in Section 4.01 of the Agreement.

**Award Notification Date** – The date upon which NYSERDA provides written confirmation to a Proposer indicating that a Project has been selected for contract negotiations.

**Benchmark LNOC** – The confidential maximum price levels for the Fixed OREC and the Index OREC offers that NYSERDA will employ in its evaluation.

**BOEM** – The Bureau of Ocean Energy Management within the U.S. Department of the Interior.

**CES** – Clean Energy Standard.

**Commercial Operation** – A state of operational readiness under which (i) generating capacity is available and physically producing electric energy and associated ORECs, and (ii) all rights, abilities, permits and approvals to schedule and deliver energy to the Delivery Point have been obtained.

**Commercial Operation Date** – The date upon which the Project or the first portion of the Project enters Commercial Operation.

**Contract Delivery Term** – The period of performance under the Agreement. The Contract Delivery Term will commence on the first day of the month after any portion of the Project commences Commercial Operation and end at the earlier of (i) the date upon which the Contract Tenor has elapsed, or (ii) the Outer Limit Date.

**Contract Tenor** – The maximum duration of the Contract Delivery Term. The Contract Tenor shall be stated in years.

**Contract Year** – A 12-month period commencing with the beginning of the Contract Delivery Term and each anniversary thereof during the Contract Delivery Term. The phrase “Contract Year” followed by a number shall refer to a discrete Contract Year within the Contract Delivery Term such that “Contract

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Year 1” refers to the first 12-month period commencing with the beginning of the Contract Delivery Term, “Contract Year 2” refers to the second such 12-month period, and so on.

**Delivery Point** – For Projects that inject energy directly into the New York Control Area, the generator bus or location where (a) the administrator of the wholesale power market, or (b) the operator of the transmission/distribution utility, public authority or municipal electric company, measures, or otherwise determines, energy production from the Project. For Projects that inject energy outside of the New York Control Area, the generator bus or location where the NYISO measures energy delivery from the Project into the New York Control Area.

**Economic Benefits Plan** – A plan submitted as part of the Proposal, as further described in Appendix C.

**Economic Benefits Report** – An independently audited report, prepared pursuant to the Incremental Economic Benefits Reporting Standards and Agreed Upon Procedures Report (Appendix C) submitted by Seller to NYSERDA after the first three years of the Contract Delivery Term.

**Environmental Attributes** – All environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Eligible Production by a Selected Project, consistent with the delineation of attributes set forth in the Agreement.

**Fixed OREC Price** – A fixed, as-offer price in dollars per OREC as described in Section 4.02 of the Agreement.

**FOIL** – New York’s Freedom of Information Law, Public Officers’ Law Article 6.

**Index OREC Price** – An adjustable price in dollars per OREC that nets a fixed, as-offered strike price monthly against a reference price expressed in a market index as determined by NYSERDA pursuant to Section 4.03 of the Agreement.

**Injection Point** – For Selected Projects that interconnect directly into the New York Control Area, the Injection Point is the Delivery Point. For Selected Projects that interconnect outside of the NYCA, the Injection Point shall be the generator bus or the location where the administrator of the local control area measures energy delivery from the Selected Project into the local market.

**Incremental Economic Benefits** – Those economic benefits that a Proposer can demonstrate: (1) will accrue after an award under this RFP, and (2) would not have accrued but for the award of a contract under this RFP.

**Levelized Unit Net OREC Cost (LNOC)** – A means of comparing Proposals with different pricing structures, OREC quantity schedules, Commercial Operation Dates, and Contract Tenors, as described in Section 4.3.

**Long-Term Jobs** – Jobs lasting three or more years.

**LSE** – Load-serving entity.



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**Major Supplier** – A supplier of goods and services to the Proposer with an anticipated contract value of \$5 million or greater.

**Monthly OREC Price** – A price in dollars per OREC determined by NYSERDA for each month of the Contract Delivery Term. If the Applicable OREC Price Method is the Fixed OREC Price, the Monthly OREC Price shall be calculated pursuant to Section 4.02 of the Agreement. If the Applicable OREC Price Method is the Index OREC Price, the Monthly OREC Price shall be calculated pursuant to Section 4.03 of the Agreement.

**New York Control Area (NYCA)** – The geographic bounds of the electricity system that is under the control of the NYISO, which includes transmission facilities listed in the ISO/Transmission Owner Agreement Appendices A-1 and A-2, as may be amended from time to time.

**New York Generation Attribute Tracking System (NYGATS)** – The tracking system that records electricity generation attribute information within New York State, and processes generation attribute information from energy imported and consumed within New York State, as a basis for creating generation attribute certificates, including ORECs. NYGATS will create exactly one OREC per MWh of generation attributable to the Project and delivered to the Delivery Point.

**NYISO Capacity Market** – Collectively, the wholesale markets for capacity administered by NYISO.

**NYISO Energy Market** – Collectively, the wholesale markets for electric energy administered by NYISO.

**NYSERDA Consultants** – Consultants engaged by NYSERDA to assist with the evaluation of Proposals.

**Offer Capacity** – The electric generating capacity of the Project.

**Offshore Wind Generation Facility** – The installed wind turbine generators and all other associated offshore equipment and infrastructure located within the BOEM lease area.

**Offshore Wind Order** – The New York Public Service Commission’s [Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement](#), issued and effective on July 12, 2018 in Case No. 18-E-0071.

**Offshore Wind Renewable Energy Certificate (OREC)** – The electronic record of generation data created by NYGATS and representing all of the attributes, including all Environmental Attributes, of one MWh of electric generation from an Offshore Wind Facility delivered into the New York Control Area and registered with the NYGATS tracking system. The attributes represented in each OREC include all environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Eligible Production by a Project, including but not limited to: (i) any direct emissions or any avoided emissions of pollutants to the air, soil or water including but not limited to sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter and other pollutants; (ii) any direct or avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and other greenhouse gases (GHGs) that have been or may be determined by the United Nations Intergovernmental Panel on Climate

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Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (iii) all set-aside allowances and/or allocations from emissions trading programs made unnecessary for compliance in such program as a result of performance under the Agreement, including but not limited to allocations available under 6 NYCRR §§ 204, 237 and 238; and (iv) all credits, certificates, registrations, recordations, or other memorializations of whatever type or sort, representing any of the above.

**Outer Limit Date** – A backstop date upon which the Contract Delivery Term ends regardless of whether the full Contract Tenor has elapsed. If the Contract Tenor is 20 years, the Outer Limit Date is January 1, 2047. If the Contract Tenor is 25 years, the Outer Limit Date is January 1, 2052.

**P10 Annual OREC Exceedance** – An amount of electrical energy (in MWh), such that the estimated probability in any given year that generation from the Project delivered to the Delivery Point would exceed that amount is 10 percent.

**Project** – An Offshore Wind Generation Facility and the associated equipment, infrastructure, and support facilities necessary to construct, operate and deliver energy to the designated Delivery Point and the corresponding ORECs to an account designated by NYSERDA in the NYGATS.

**Proposal** – An offer to sell ORECs from an Offshore Wind Generation Facility for a given installed capacity, strike price, tenor, and Delivery Point that conforms to the requirements of this RFP.

**Proposer** – The business entity that submits a Proposal in response to this RFP.

**Reference Capacity Price** – A broad index of NYISO Capacity Market prices for NYISO Zones G to K as set forth in Section 4.03 of the Agreement.

**Reference Energy Price** – A broad index of NYISO Energy Market prices for NYISO Zones J and K as set forth in in Section 4.03 of the Agreement.

**Required Base Proposal** – A proposal of a required installed capacity range, 25-year tenor, and constant nominal Fixed OREC and Index OREC strike prices, as described in Section 2.1.2.

**Required Transmission Proposal** – A required technical configuration as described in Section 2.1.2 that includes a direct marine cable interconnection from the Offshore Wind Generation Facility to a point in NYISO Zone J or Zone K. The Offer Capacity of the Offshore Wind Generation Facility does not need to be an approximate 400 MW facility.

**Scoring Committee** – Members of NYSERDA Staff, New York State Department of Public Service Staff, and competitively-selected Independent Evaluators responsible for evaluating Proposals received through this RFP.

**Seller** – A Proposer selected by NYSERDA who has executed an Agreement to sell ORECs to NYSERDA pursuant to this RFP.

**Short-Term Jobs** – Jobs lasting less than three years.

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**TWG** – Technical Working Group.

**Verified Total Dollars** – The total dollar amount of Incremental Economic Benefits in Categories 1 and 2 verified by NYSERDA to have accrued to New York as a result of the development, construction, modification, interconnection, and operation of the Project from the Award Notification Date through the end of the first three (3) Contract Years.

## **1 INTRODUCTION**

### **1.1 New York's Clean Energy Standard and Offshore Wind Standard**

New York State has adopted some of the most ambitious clean energy goals in the nation, with the stated goal of reducing greenhouse gas emissions by 40% by 2030, and 80% by 2050. In concert with the State's greenhouse gas reduction goals, the New York State Energy Planning Board issued the 2015 State Energy Plan (SEP), which established that 50% of New York's electricity be derived from renewable energy sources by 2030 ("50 by 30" goal). On August 1, 2016, the New York State Public Service Commission (Commission) adopted a Clean Energy Standard (CES) to help achieve the SEP goals.<sup>2</sup>

Recognizing that New York has a substantial potential for offshore wind production, the Commission requested that NYSERDA perform a study to identify the appropriate mechanisms to achieve this potential and make recommendations for the Commission's consideration. On January 29, 2018, NYSERDA released the New York State Offshore Wind Master Plan (Master Plan), which presents a comprehensive roadmap to encourage the development of 2,400 MW of offshore wind by 2030. The Master Plan includes over 20 studies that gather data on environmental, social, economic, regulatory, and infrastructure issues relevant to offshore wind energy development, and cover a wide variety of topics related to siting, regulatory, wildlife, commercial, economic, and other important considerations. The Master Plan also includes the results of the State's extensive outreach efforts with interested agencies, entities, communities, and individuals, in order to achieve a balanced evaluation of the potential for offshore wind development.

The Commission issued an [Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement](#) on July 12, 2018 (Offshore Wind Order).<sup>3</sup> The Offshore Wind Order adopts the goal of procuring Offshore Wind Renewable Energy Certificates (ORECs) associated with 2.4 GW of offshore wind capacity by 2030, in furtherance of the achievement of the CES. The Offshore Wind Order further authorizes NYSERDA to implement Phase 1 of an offshore wind procurement program, which consists of procuring ORECs associated with approximately 800 MW of offshore wind, to be contracted in 2018 and 2019, pursuant to methods and criteria prescribed therein. The Offshore Wind Order further permits NYSERDA to award more than 800 MW in contracts in this first round of the Phase 1 solicitation if sufficient attractive offers are received, in which case further Commission action would be required to authorize the 2019 procurement.

### **1.2 Background on NYSERDA**

NYSERDA was created in 1975 by the New York State Legislature as a public authority and public benefit corporation. Similar to NYSERDA's role in solicitations issued under the CES and the former Renewable

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<sup>2</sup> Case 15-E-0032, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016).

<sup>3</sup> Case 18-E-0071, In the Matter of Offshore Wind Energy, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement (issued July 12, 2018).

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Portfolio Standard Main Tier,<sup>4</sup> the Offshore Wind Order authorizes NYSERDA to act as the central administrator of the Offshore Wind Standard program.

Pursuant to the Offshore Wind Order, NYSERDA will purchase ORECs from the contracted project, on behalf of the Load Serving Entities (LSEs) in New York State, and will then sell the ORECs to the LSEs for compliance with the LSEs' offshore wind obligation. Each LSE will be obligated to purchase a percentage of ORECs purchased by NYSERDA in a year that represents the portion of the electric energy load served by the LSE in relation to the total electric energy load served by all LSEs operating in New York State during that period.

### **1.3 Schedule**

The schedule for ORECRFP18-1 is as follows (all times ET):

|  |   |
|--|---|
| RFP Release Date   | TBD   |
| Proposers' Conference                                      | TBD   |
| Due date for Notice of Intent to Submit Proposal           | TBD   |
| Deadline for submission of questions                       | TBD   |
| Supply Chain Symposium                                     | TBD   |
| Responses to written questions posted on NYSERDA's website | TBD   |
| <b>Deadline for NYSERDA Portal Registration</b>            | <b>TBD [7-10 days before proposal submission]</b> |
| <b>Deadline for Submission of Proposals</b>                | <b>TBD</b>  |
| NYSERDA notifies Proposers of award                        | April 2019  |
| Contract(s) executed                                       | June 2019   |

Please note that the above dates are subject to change. Notification of any changes to the RFP process or documents will be posted on NYSERDA's OREC procurement website at [website link to be provided] and sent via email to those parties who have submitted a Notice of Intent to Submit Proposal.

### **1.4 Notice of Intent to Submit Proposal**

Prospective Proposers are encouraged to submit a Notice of Intent to Submit Proposal, which is attached as Appendix A to this RFP. NYSERDA will email updates regarding this RFP to prospective Proposers who submit a Notice of Intent to Submit Proposal. This does not relieve prospective Proposers of their responsibility to check the NYSERDA OREC procurement website for news and updates. Prospective Proposers who submit a Notice of Intent to Submit Proposal are not obligated to submit a Proposal, and Proposals will be accepted from parties who do not submit a Notice of Intent to

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<sup>4</sup> Under the CES and former Renewable Portfolio Standard Main Tier, NYSERDA has supported the development of approximately 2,000 MW of operating land-based wind projects; additional renewable capacity of approximately 2,000 MW is contracted and is under development.

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Submit Proposal. The Notice of Intent to Propose form should be sent to no later than [TBD] to [offshorewind@nyserda.ny.gov](mailto:offshorewind@nyserda.ny.gov) using the subject line: Notice of Intent to Propose.

### **1.5 Proposal Fee**

Prior to the deadline for submission of Proposals, Proposers are required to pay a proposal fee which will be used by NYSERDA to offset the cost of the evaluation of Proposals. The basic proposal fee is \$300,000 which will cover the Required Base Proposal and the Required Transmission Proposal (if separate from the Required Base Proposal), as defined in Section 2.1.2. Alternative Proposals, as also defined in Section 2.1.2, are permitted. Each Alternative Proposal that has a different installed capacity, transmission system, delivery point, technical configuration, and/or expected Commercial Operation Date will require an additional \$40,000 proposal fee. Alternative Proposals that vary only the strike prices and/or Contract Tenor will require an additional \$20,000 proposal fee. The proposal fee will automatically be computed within the forms used to submit a Proposal.

All proposal fees must be clearly labeled with a unique Description/Reference described below.

#### Electronic Proposal Fee Instructions:

##### If paying via ACH:

Name of Bank: Bank of America  
For the Account of: NYSERDA MAC 30  
ABA #: 021000322  
Account #: 6010316543  
Description/Reference: (Proposer -Name of Project\_ ORECRFP18-1)

##### If paying via wire:

Name of Bank: Bank of America  
For the Account of: NYSERDA MAC 30  
ABA #: 026009593  
Account #: 6010316543  
Description/Reference: (Proposer - Name of Project\_ ORECRFP18-1)

##### If paying via Certified Funds:

If the Proposal Fee is provided via a cashier's check or other certified funds, the proposal fee must be payable to NYSERDA and clearly labeled with the Proposer name, name of Project and ORECRFP18-1.

Joanne Sullivan, ORECRFP18-1  
NYS Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

The proposal fee is non-refundable unless NYSERDA cancels this RFP. If this RFP is canceled by NYSERDA, uncommitted proposal fees will be returned. **In no other event will any portion of the proposal fee be refunded, regardless of whether or not a Proposal(s) is (are) selected by NYSERDA.**

## **1.6 Proposers' Conference and Communications with NYSERDA**

A Proposers' conference for interested persons will be held on [TBD]. Please [registration instructions to be provided]. The purpose of the Proposers' conference is to provide Proposers the opportunity to clarify their understanding of any aspect of this RFP. Prospective Proposers may ask questions during the Proposers' conference, and NYSERDA may respond orally. However, only written answers that are provided by NYSERDA in response to questions and posted on [insert website] will constitute official responses.

With the exception of the Proposers' conference, all pre-Proposal contacts with NYSERDA by prospective Proposers and interested parties regarding this RFP or related matters must be via email to the Designated Contacts at [offshorewind@nyserdera.ny.gov](mailto:offshorewind@nyserdera.ny.gov). Prospective Proposers are encouraged to submit written questions about this RFP with the subject line "OREC RFP Question" on or before the deadline for submission of questions listed in the schedule in Section 1.3. NYSERDA will answer questions submitted by that deadline by posting the questions and answers at [website link to be provided].<sup>5</sup>

## **1.7 Modification or Cancellation of the RFP and Solicitation Process**

The terms and conditions of this RFP may, at any time, be changed, postponed, withdrawn, and/or canceled, including any requirement, term or condition of this RFP, without any liability to NYSERDA, NYSERDA Consultants, or members of the Scoring Committee. Any changes to this RFP will be posted on the [procurement website, to be provided] and an email will be sent to all prospective Proposers who have submitted a Notice of Intent to Submit Proposal. Prospective Proposers are encouraged to check the website frequently to be advised of any RFP changes or other news.

## **1.8 Updates to the Proposal**

Proposers will not have an opportunity to refresh or restate Proposals after the Deadline for Submission of Proposals. If, prior to the Deadline for Submission of Proposals, a proposer wishes to modify a Proposal that was submitted before the Deadline for Submission of Proposals, Proposer should contact NYSERDA's Designated Contacts. However, Proposers may provide new information that was not available at the time of their Proposal submission or the Deadline for Submission of Proposals. For example, this may include updates on the status of obtaining permits, interconnection studies, or financing. Unless the information is provided at NYSERDA's request under Section 1.9, these updates are for informational purposes only and will not be treated by the Scoring Committee as a change or revision to the terms of the Proposal. If there are any material events that affect the validity of the Proposal, the Proposer must promptly notify NYSERDA in writing. NYSERDA reserves the right to consider these material changes during Proposal evaluation.

## **1.9 Requests for Additional Information**

Following the submission of Proposals, NYSERDA and the Scoring Committee may request clarification and additional information from Proposers at any time throughout duration of the evaluation process.

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<sup>5</sup> Questions solely regarding the calculation or payment of the proposal fee may be directed to the Designated Contacts at [offshorewind@nyserdera.ny.gov](mailto:offshorewind@nyserdera.ny.gov) and will be answered in confidence to the Proposer.

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Such information will be subject to protection of proprietary information as described in Section 8.1, consistent with other Proposal submission materials. Proposers that do not respond promptly to such information requests or do not provide adequate information may be eliminated from further consideration or have the information in their Proposals modified by NYSERDA or the Scoring Committee to allow a reasonable and appropriate evaluation.

### **1.10 Interviews with Proposers**

NYSERDA may request in-person interviews with any Proposer, to be scheduled at a mutually convenient time.



## **2 PROJECT ELIGIBILITY REQUIREMENTS**

### **2.1 Eligibility**

To participate in this RFP, all Proposals must demonstrate compliance with each of the eligibility requirements enumerated in this section 2.1 through 2.1.6. As used in this RFP, the term “Project” includes the Offshore Wind Generation Facility, along with all associated equipment, infrastructure, and support facilities necessary to develop, operate, transmit, and deliver energy from the Offshore Wind Generation Facility to the Delivery Point, and ORECs to an account designated by NYSERDA in the NYGATS.

#### **2.1.1 ORECs Offered**

NYSERDA is seeking to procure ORECs produced from one or more Offshore Wind Generation Facilities located in the ocean waters of the United States that become operational on or after January 1, 2015 and with approximately 800 MW of total installed capacity. NYSERDA may award contracts for ORECs from less than 800 MW or more than 800 MW of total installed capacity if the submitted Proposals justify the larger quantity.

The OREC production from the Offshore Wind Generation Facility offered to NYSERDA through this RFP, up to the Annual OREC Cap (defined in Section 4.2), may not be contractually committed to any other entity over the proposed Contract Delivery Term.

#### **2.1.2 Required and Alternate Proposals**

All Proposers must submit a Required Base Proposal but may also submit Alternative Proposals with varied parameters as described below.

- A **Required Base Proposal** must be for ORECs delivered from an approximately 400 MW Offshore Wind Generation Facility,<sup>6</sup> for a 25-year Contract Tenor. The Required Base Proposal must include both Fixed OREC and Index OREC pricing expressed as a constant nominal strike price over the Contract Tenor.
- A **Required Transmission Proposal** must be for ORECs delivered through a direct marine cable interconnection from the Offshore Wind Generation Facility to a point in NYISO Zone J or Zone K. The Required Transmission Proposal may be included as part of the Required Base Proposal but is not a mandatory component of the Required Base Proposal and may instead be submitted as a second required proposal. The Required Transmission Proposal does not need to be for an approximate 400 MW Offshore Wind Generation Facility but must include both Fixed OREC and Index OREC pricing over the Contract Tenor. The Required Transmission Proposal may be for either a 20-year or 25-year Contract Tenor and may offer constant nominal or non-decreasing nominal Fixed OREC and Index OREC Strike Prices.

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<sup>6</sup> The Required Base Proposal may reasonably deviate from the 400 MW target requirement if the design capacity of individual components of the Offshore Wind Generation Facility do not sum to exactly 400 MW. The allowed capacity range for the Required Base Proposal is between 380 and 420 MW.

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- **Alternate Proposals** may be for ORECs delivered from Offshore Wind Generation Facilities of other technical configurations or interconnection points, other installed capacity, or other expected Commercial Operation Dates. However, Proposals for less than 200 MW will not be eligible. Alternate Proposals may be for Contract Tenors of 20 or 25 years. Fixed OREC and Index OREC pricing for Alternative Proposals may be submitted in the form of either constant nominal strike prices or as a non-decreasing schedule of nominal strike prices by Contract Year. Each pair of annual price schedules will extend through the final delivery year for the Contract Tenor.

A Proposer may condition the acceptance of one Proposal based on the withdrawal or acceptance of other Proposals.

### **2.1.3 Pricing**

Each Proposal must include firm offer prices in two different forms: Fixed OREC pricing and Index OREC pricing. Under Fixed OREC pricing, the OREC price is equal to the corresponding Contract Year Fixed OREC Strike Price in the offer price schedule. Under Index OREC pricing, the OREC price varies monthly, and is equal to the corresponding Contract Year's Index OREC Strike Price minus the monthly Reference Energy Price and the monthly Reference Capacity Price, as further described in Section 4.1.2. For both forms of pricing, only constant nominal pricing or pricing that increases nominally by Contract Year, subject to a maximum of 2.0% annual nominal escalation, will be accepted. Proposals will be accepted with Contract Tenors of 20 or 25 years.

### **2.1.4 Site Control**

Proposer must hold an irrevocable right or option to develop the entire Offshore Wind Generation Facility site footprint within a federal Bureau of Ocean Energy Management (BOEM) commercial wind energy lease area.

The Proposer must identify the proposed interconnection point, describe what rights the Proposer has to the interconnection point, and provide a detailed plan and timeline for the acquisition of any additional rights necessary for the interconnection and for the right-of-way for transmission radial line to the interconnection point. Such rights may be held by the Proposer or by a transmission developer who has formed a partnership with the Proposer.

### **2.1.5 Interconnection and Delivery**

Proposers must demonstrate that energy generated by the Offshore Wind Generation Facility can be delivered into the New York Control Area (NYCA). An Offshore Wind Generation Facility may interconnect in an adjacent Control Area (except in the case of the Required Transmission Proposal); such Proposals must address how the Proposer intends to fulfill the Electricity Delivery Requirements contained in Article III of the Agreement.

For the Required Transmission Proposal or for any proposal, including a direct interconnection to the NYCA, Proposers must have submitted a valid Large Facility Interconnection Request with NYISO. For Offshore Wind Generation Facilities that interconnect in an adjacent Control Area, Proposers must have submitted a similar interconnection request to ISO New England or PJM, as applicable.

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### **2.1.5.1 Conformance with NYGATS Operating Rules**

If awarded a contract, the Proposer must obtain a valid NYGATS ID for the Offshore Wind Generation Facility and operate in conformance with the NYGATS Operating Rules. Delivery of electricity during the Contract Delivery Term that complies with the Electricity Delivery Requirement contained in Article III of the Agreement will be sufficient to support the creation of ORECs by NYGATS and the implementation of the Forward Certificate Transfer of ORECs, up to the Annual OREC Cap, into NYSERDA's NYGATS Account. NYSERDA will make payment for ORECs from the Offshore Wind Generation Facility delivered to NYSERDA's NYGATS account.

### **2.1.6 Contract Delivery Term**

Each Proposal must specify an expected Commercial Operation Date. For a multi-phase installation, the Commercial Operation Date will be the date of operation of the first phase of installed capacity.

The Contract Delivery Term will commence on the first day of the month after the actual Commercial Operation Date and end after the term of the Contract Tenor or at the Outer Limit Date, whichever occurs first. The OREC production from the Offshore Wind Generation Facility offered to NYSERDA through this RFP, up to the Annual OREC Cap, may not be contractually committed to any other entity over the Contract Tenor.

## **2.2 Contract Commitments Relating to Considerations Identified in the Offshore Wind Order**

The Offshore Wind Order authorizes NYSERDA to include at its discretion, certain contract requirements in agreements resulting from this solicitation. NYSERDA has adopted the following requirements and has incorporated them into the Agreement.

### **2.2.1 Prevailing Wage Requirement**

Although this is not a public work covered by NYS Article 8, and unless otherwise provided in a PLA covering the construction on the Project, all laborers, workmen and mechanics (within the meaning of those terms under NYS Labor Law Article 8) performing construction activities with respect to the Project, including, but not limited to, the assembly, staging, installation, erection, related manufacturing and placement of the Project and its electrical interconnection as well as start-up and commissioning of the Project, whether through long-term or short-term employment, must be paid wages and benefits in an amount not less than the Prevailing Rates (as determined under NYS Section 220) that would be applicable to a public work in the area where the subject Project construction activities will occur. For construction activities in federal waters, the rates will be those applicable at the location of the port or ports from which the laborers, workmen or mechanics are based for purposes of that offshore work. This requirement applies: (1) to all laborers, workmen and mechanics performing construction activities, whether direct employees of the Seller or of Seller's subcontractor(s), and (2) regardless of whether or not such employment was claimed as an Incremental Economic Benefit in its Proposal.

### **2.2.2 Project Labor Agreement**

The Offshore Wind Order authorizes NYSERDA to consider the inclusion of a Project Labor Agreement (PLA) requirement in its RFP. As referenced here, a PLA refers generally to a collective bargaining

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agreement (including a pre-hire agreement) covering both contractors in the construction industry working on a Project and a bona fide building and construction trade labor organization representing the craft workers on that Project.

After consideration of the potential impact of a PLA, NYSERDA has concluded that a PLA, with appropriate terms, would serve the State's and public's interest. Accordingly, each Proposer shall be responsible for ensuring that good faith negotiations with the appropriate labor organizations for a PLA, to cover on-site construction activities relating to the Project, including but not limited to the staging, installation, erection and placement of the Project and its electrical interconnection as well as start-up and commissioning of the Project ("covered construction"), commence within 30 days of written notice of award by NYSERDA. Proposer may appoint or delegate to a contractor or third party the authority to conduct such negotiations and/or to execute the PLA; however, the responsibility will remain with proposer. The PLA must be applicable to all covered construction activities.

Such negotiations are to cover, at a minimum, the topics described below. In addition, as a condition of the award of this work, the successful Proposer shall be responsible for the finalization of a PLA with the appropriate labor organization(s), on terms satisfactory to NYSERDA, and covering at a minimum the topics described below (as well as any other provisions considered reasonably necessary by the successful Proposer) by December 31, 2019. Section 9.01(c) of the Agreement requires the Proposer to provide a copy of such PLA to NYSERDA for review and approval and, upon NYSERDA's approval, ensure execution of the PLA for covered construction on the Project, unless NYSERDA has extended the date or determined that satisfactory completion of PLA negotiations is no longer practicable.

The PLA should contain:

1. Provisions that appropriately limit applicability of the PLA to on-site covered work on the Project (and not extending to any other work performed by Project contractors and subcontractors, or to the work of their affiliated entities), ensuring that Project contractors or subcontractors are not required to become a signatory to any other labor agreement, and appropriately providing for the supremacy of the PLA over any potentially conflicting labor agreements that might otherwise apply to contractors and subcontractors. The PLA must apply to all contractors and subcontractors, of whatever tier, performing construction work on the Project (subject to appropriate exceptions), and the PLA should be available to all contractors and subcontractors, of whatever tier, regardless of their union affiliation;
2. Provisions for appropriate union recognition and security (limited to Project work) and the referral of skilled craft workers, including provisions for staffing in the event qualified referrals are not reasonably available and for the reasonable use of a number of core employees by contractors and subcontractors (regardless of union affiliation and referral practices that might otherwise exist);
3. Comprehensive labor harmony provisions to ensure against Project disruption as a result of worksite disputes or other labor disputes of any kind;

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4. Comprehensive provisions for the resolution of workplace disputes through third party resolution, including provisions for the resolution of jurisdictional disputes (without Project disruption), and appropriate provisions for labor management cooperation;
5. Appropriate provisions to allow the cost effective and efficient coordination of multiple trades and contractors and subcontractors (notwithstanding any local labor agreements that might otherwise be applicable to contractors and subcontractors), as well as other appropriate management rights (such as adequately ensuring the Contractors'/subcontractors' choice of materials, techniques, methods, technology or design, or, regardless of source or location; use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices; the installation or use of materials, supplies or equipment regardless of their source (including as may be required by a vendor and/or to ensure warranty coverage); and to perform off-site work, subject to any restrictions imposed by law);
6. Appropriate provisions promoting MWBE employment, as well as the employment of New York workers and low-income workers;
7. Appropriate provisions for the use of apprentices; and
8. Appropriate provisions for rules governing worksite access and conduct.

### **2.2.3 Consultation with New York State Agencies**

Proposers must agree, if awarded a contract, to consult with certain New York State agencies during planning and development of the Offshore Wind Generation Facility, including the transmission radial line to the on-land interconnection point. The intention of these consultations is to provide the agencies with a greater understanding of the Project and inform the contract awardee about important resource considerations and the permitting approach early in the process, and to inform the approach with feedback from stakeholders and New York State agencies in an effort to reduce uncertainty, improve transparency, and minimize conflicts. Earlier informal consultations are advised to narrow issues and streamline the formal process. At a minimum, consultation will be required with the following agencies at the following times:

1. The New York State Department of State (DOS) will be consulted with respect to a project's consistency with the policies set forth in the State's Coastal Management Program;
2. The New York State Department of Environmental Conservation (DEC) will be consulted with respect to assessment and mitigation of potential environmental impacts, including but not limited to, water quality, air quality, benthic communities, fish, fisheries and wildlife impacts of the Project;
3. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) will be consulted with respect to the assessment and mitigation of effects on sites of historic or archeological significance;

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4. The New York State Department of Public Service (NYDPS) will be consulted with respect to a Project's electrical interconnection and any applicable regulatory requirements under the Public Service Law;
5. The New York State Office of General Services (OGS) will be consulted with respect to a Project's electrical interconnection involving State land; and
6. NYSERDA will be consulted as a point of contact with respect to a Project's general consistency with the New York State Offshore Wind Master Plan and stakeholder feedback.

More specifically, the required consultation will consist of the following steps:

1. At least 90 days prior to submitting a proposed Site Assessment Plan (SAP) to BOEM, a contract awardee will submit the draft proposed SAP to DOS, DEC, OPRHP, NYDPS, OGS, NYSERDA, and any other potentially involved state agency, to commence the formal consultation process with respect to the SAP as required under the contract. Each agency will provide to the contract awardee the agency's initial comments on the draft SAP – either jointly or individually – within 30 calendar days of receipt, allowing time for discussion and consideration of the draft SAP in response to any Entity's concerns prior to submission of the SAP to BOEM. The contract awardee then must meet or engage with those agencies that request a meeting at reasonable times and intervals in an effort to attempt to resolve any issues prior to the contract awardee's submission of the SAP to BOEM.

If a contract awardee has already submitted its SAP to BOEM at the time of its Proposal under this RFP or foresees that complying with this timing requirement may not be practicable due to federal timing requirements for submission of a SAP, the contract awardee should so state in its Proposal and propose an alternative process for consultation with the agencies. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.

2. At least 120 days prior to submitting a proposed Construction and Operations Plan (COP) to BOEM, a contract awardee will submit the draft proposed COP to DOS, DEC, OPRHP, NYDPS, OGS and NYSERDA, to commence the formal consultation process with respect to the draft COP as required under the Contract. Each agency will provide to the contract awardee the agency's initial comments on the draft COP – jointly or individually – within 30 days of receipt, allowing time for discussion and consideration of the draft COP in response to any Entity's concerns prior to contract awardee's submission of the COP to BOEM. The contract awardee then must meet or engage with those agencies that request such a meeting, at reasonable times and intervals in order to attempt to resolve any issues prior to the contract awardee's submission of the COP to BOEM. If a contract awardee has already submitted to BOEM a COP at the time of its Proposal under this RFP, or foresees that complying with this timing requirement may not be practicable due to federal timing requirements for submission of a COP, the contract awardee should so state in its Proposal and propose an alternative process for consultation with the agencies with

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respect to the COP. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.

3. The requirements and processes set forth in paragraphs 1 and 2 above will apply to any component (or draft of a component) of a SAP or a COP, respectively, that a contract awardee intends to submit to BOEM in advance of the entire draft SAP or COP, including, but not limited to, any required surveys or documentation required under the National Environmental Policy Act. Thus, the contract awardee will submit draft SAP components to the agencies 90 days in advance of submission to BOEM and will submit draft COP components to the Entities 120 days in advance of submission to BOEM. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.
4. Proposers are directed to reference Section 8.1, where the treatment of confidential information is discussed. The agencies will not disclose information generated by the agencies (such as comments on draft materials) that they determine contains confidential trade secret information provided by a contract awardee to third parties. Notwithstanding an assertion by a contract awardee that particular information constitutes confidential trade secret information exempt from FOIL, the agencies will make their own determinations as to how to comply with the law and whether a FOIL exemption applies. In order to do so, the agencies may request further information from a contract awardee about contract awardee's asserted justification for withholding designated information. Any agreement on the part of any agencies to exempt certain information from FOIL disclosure shall not bind any other agency and shall not diminish a contract awardee's obligation to make non-proprietary Site and Environmental Data available to the public. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.

### **2.2.4 Participation in Technical Working Groups**

Proposers must agree, if awarded an Agreement, to reasonably participate in the Environmental, Commercial and Recreational Fishing, Maritime, and Jobs and Supply Chain Technical Working Groups (TWGs) as directed by NYSERDA. This includes participation in TWG meetings and engaging with the relevant stakeholder groups within the TWG regarding the proposed Project.

### **2.2.5 Site and Environmental Data Transparency**

If awarded a contract, Proposers must agree to make publicly available any information or data and supporting metadata that is developed in furtherance of a Project and relates to environmental characteristics, or use by wildlife, of any offshore, nearshore or onshore areas, as well as any data sponsored or developed by a contract awardee relating to the potential impacts of the construction, operation, or decommissioning of a Project on the environment and wildlife of such areas (separately and collectively, "Site and Environmental Data"). Contract awardees will be required to make Site and Environmental Data publicly available on an ongoing basis as soon after collection as is practicable. Data



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typically classified as proprietary, such as metocean data and geophysical/geotechnical data, will not be considered Site and Environmental Data for purposes of this requirement.

Real or nearly real-time reporting of marine mammal sighting and detections may be required and the timing of the availability of other data will be determined through consultations with DOS, DEC or NYSERDA, either individually or as a group. Other environmental data must be made available as soon after collection as is reasonable, on an ongoing and routine basis as appropriate to the collection method and as discussed with DOS, DEC, NYDPS, or NYSERDA, either individually or as a group.

Contract awardees may choose to use existing publicly accessible data repositories and/or developer sponsored websites as venues to host the data and metadata. The intention of this requirement is to allow independent data users the opportunity to develop an understanding of the environmental characteristics of potential offshore wind energy development areas, including areas within which Projects may be located, and to independently assess the impacts of offshore wind energy development on those characteristics in a timely manner. Site and Environmental Data includes information that a contract awardee develops before, during, and after this RFP process, and includes, but is not limited to, information relating to the following topics:

1. Air quality and emissions
2. Water quality
3. Fish and fish habitats
4. Birds and bats
5. Marine mammals and sea turtles
6. Benthic communities

### **2.2.6 Lighting Controls**

If awarded a contract, Proposers must agree to install lighting controls to minimize nighttime visibility. NYSERDA will require that any wind turbines installed by a contract awardee in furtherance of such Contract employ aircraft detection lighting systems (“ADLS”) in order to meet Federal Aviation Administration obstruction lighting requirements while minimizing lighting-related visual impact and impacts on avian species. In the event that ADLS systems do not meet Federal Aviation Administration Requirements or another technology produces a better outcome, the best available approved technology may be used upon consultation and approval of NYSERDA. Inclusion of ADLS, or an alternative approved by NYSERDA, in a contract awardee’s COP submitted to BOEM will also be a requirement of any Contract.

### **2.2.7 Fisheries Mitigation**

Proposers must submit with their Proposal, and subsequently develop and implement a Fisheries Mitigation Plan, further described in Section 6.4.12 and Appendix D.

### **2.2.8 Environmental Mitigation**

Proposers must submit with their Proposal, and subsequently develop and implement an Environmental Mitigation Plan, further described in Section 6.4.13 and Appendix E.



**2.2.9 New York State Supplier Opportunity**

If awarded a contract, Proposers must agree to provide New York companies with the opportunity to offer to provide goods and services to developers of the Project for which there is capability in New York State. Proposer must communicate all opportunities for contracts with an anticipated contract value of \$10 million or greater not already committed at the time of offer submission to a New York State vendor list maintained by NYSERDA and provided to contract awardees, except for the provision of goods and services that cannot practically be performed by the New York State supply chain at this time. The opportunity may come from goods or services directly tendered by the Proposer or from goods and services tendered by its Major Suppliers.

If selected for an award, Proposer will be required as a part of the Monthly Reports to be provided under Section 6.01 of the Agreement.

### **3 NON-PRICE EVALUATION**

#### **3.1 Overview**

The Scoring Committee will evaluate Proposals to determine whether they meet each of the eligibility requirements defined in Section 2.1. Proposals that fail to meet these requirements may be ineligible for an award. Proposals that meet the eligibility requirements will be scored and ranked with respect to three components as defined in the Offshore Wind Order.

In addition to the evaluation of the Offer Strike Prices that merit 70 points, NYSERDA will employ a scoring system that weights non-price factors, for a maximum total of 100 points, as follow:

1. Project Viability: 10 points – Non-Price Evaluation
2. New York Economic Benefits: 20 points – Non-Price Evaluation
3. Offer Strike Prices: 70 points – Price Evaluation

The Scoring Committee will award points for the non-price evaluation components of each Proposal (project viability and New York economic benefits).

#### **3.2 Project Viability**

The project viability evaluation considers a series of factors that demonstrate whether the proposed Project can reasonably be expected to be in service on or before the proposed Commercial Operation Date. To maximize the score received under this scoring component, Proposers must provide evidence that Project development plans are sufficiently mature, and technically and logistically feasible, that the Proposers have sufficient experience, expertise, and financial resources to execute the development plans in a commercially reasonable and timely manner, and that the Project as proposed can be developed in a manner which is sensitive to ocean users and coastal communities.

Specific categories to be evaluated by the Scoring Committee include:

##### **3.2.1 Permitting Plan and Status**

Proposers must demonstrate a complete, credible and achievable plan for successfully obtaining necessary permits within the proposed Project milestones. All required federal, regional, state and local permits must be identified, and the status of each permit must be provided. Proposers must also provide information describing the extent to which support or opposition to the Project may materially affect the Project's permitting approval timelines.

##### **3.2.2 Financing Plan**

Proposers must demonstrate that they have completed sufficient due diligence regarding the formulation of a credible project financing plan. A demonstration of recent experience in successfully financing like technology of comparable size and complexity will be viewed favorably.

##### **3.2.3 Developer Experience**

The Proposer must demonstrate that the development team has sufficient relevant experience and expertise to successfully finance, develop, construct, operate and maintain its Project. Financing, development, and construction experience can be established by demonstrating that principals of the

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development team have undertaken relevant project management responsibilities, including: (1) successful development, construction, and operation of a similar type of project within or outside of the U.S.; or (2) successful development, construction, and operation of one or more projects of similar size or complexity or requiring similar skill sets, including experience in New York.

### **3.2.4 Proposed Technology**

The Proposer must demonstrate that the technology it proposes to use is technically viable, and that the primary components can be procured to meet the required development schedule. Technical viability may be demonstrated by showing that the technology is commercially available, is reasonably expected to be commercially available prior to the commencement of Project construction or has been used successfully on other similar projects in the U.S. or outside the U.S. in commercial operation. The Proposal must also provide a reasonable timeline and plan for procuring the primary components from identified suppliers.

### **3.2.5 Development and Logistics Plan**

The Proposer must demonstrate the logistical viability of the Project through a construction plan covering the necessary specialized equipment (*e.g.*, vessels), and applicable maritime law (*e.g.*, Jones Act compliance) to complete project development. The Proposer must demonstrate that it has a plan to secure marine terminal facilities necessary for staging and deployment of major components to the Project site.

### **3.2.6 Interconnection and Delivery**

Proposer must provide a detailed plan and a reasonable timeline to complete the interconnection process with NYISO for direct interconnection(s) to the NYCA and, if applicable, for any other interconnecting authority in an adjacent Control Area. The timeline must be consistent with meeting the overall development schedule and proposed Commercial Operation Date. Proposer must detail the status (and results, if applicable) of interconnection application and studies, as further described in Section 6.4.7.

NYSDA is seeking ORECs from Offshore Wind Generation Facilities that are able to deliver their energy to an identified Delivery Point within NYCA over the Contract Delivery Term, in accordance with the Electricity Delivery Requirement contained in Article III of the Agreement. The Proposer is obligated to demonstrate how this requirement will be satisfied. NYSDA will not be responsible for any wheeling charges or any other transmission or administrative related cost levied by an adjacent Control Area associated with delivery of energy to the NYCA, other than payment of the contractually determined OREC Price.

### **3.2.7 Proposed Commercial Operation Date**

Proposer must provide a proposed Commercial Operation Date, accounting for the permitting, financing, interconnection, and other development milestones associated with the Proposal.

The Proposal must demonstrate that the Project can reasonably be permitted, developed, financed, and constructed within the proposed Project schedule. The Proposer must submit reasonable milestones that are achievable, thereby placing the Project on an achievable milestone schedule to support the

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proposed Commercial Operation Date. Proposals with an earlier proposed Commercial Operation Date may receive higher project viability scores so long as the Scoring Committee concludes that the proposed Commercial Operation Date is reasonable and is supported by the overall Proposal, including the Project Schedule submitted by the Proposer in accordance with Section 6.4.9 of this RFP.

### **3.2.8 Community Outreach**

The Proposal must present a reasonable community outreach plan with a thoughtful approach to build Project support and respectfully respond to opposition. Proposers awarded a contract are encouraged to consult with NYSERDA before and during the implementation of their community outreach plans and will be required to update NYSERDA on their community outreach progress and plans in their quarterly progress reports. Thoughtful community outreach plans may include: a description and analysis of affected communities; a plan for regionally targeted education and marketing strategies that include advertisements and/or direct mailings, outreach events and activities such as exhibiting at local events, hosting open houses, and targeted engagement with local community groups. Community outreach plans should also demonstrate consideration for engagement of priority or disadvantaged populations located near Project sites.

### **3.2.9 Fisheries and Environmental Mitigation Plans**

Proposers must provide a fisheries mitigation plan that demonstrates a full understanding of the potential impact of the Offshore Wind Generation Facility on commercial and recreational fishing and provides a feasible plan to mitigate such impacts. Proposers must also provide an environmental mitigation plan that demonstrates an understanding of environmental impacts during construction and operation of the Offshore Wind Generation Facility and provides a feasible plan to mitigate such impacts.

### **3.2.10 Visibility and Viewshed Impacts**

Proposers must address a Project's visibility from shore as described in Section 6.4.15, with more stringent requirements placed on Projects proposed to include turbines less than 20 statute miles from a shoreline.

### **3.2.11 Wind Resource Assessment**

The Proposal must demonstrate the credibility of the energy resource assessment and production profile, sufficient to demonstrate financeability and support the purported environmental and reliability benefits.

## **3.3 New York Economic Benefits**

Inclusion of the New York economic benefits evaluation criteria reflects the importance of positive impacts of the OREC procurement on New York State's economy, and the long-term benefits that a mature, locally-based industry can sustain. The Incremental Economic Benefits relate to the development, construction, and operation of the Project, investments in infrastructure and supply chain, and related input activities in New York State.

Three general New York economic benefits categories will be considered by the Scoring Committee:

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Category 1: Project-specific spending and job creation in New York State.

Category 2: Investment in offshore wind-related supply chain and infrastructure development in New York State.

Category 3: Input activities that provide opportunities for the New York offshore wind supply chain, workforce, and research and development.

The Scoring Committee will consider the support for each claim provided in an Economic Benefits Plan submitted with the Proposal. The Incremental Economic Benefits must be quantifiable and verifiable. For evaluation purposes, additional weight will be attributed by the Scoring Committee to those expenditures and investments that are firm and credible and that create persistent and sustainable institutional or worker capabilities in New York State, as well as those expenditures and investments expected to lower the cost of future offshore wind projects, both to the State and the region.

Proposals may include Incremental Economic Benefits that are dependent on support, funding, or cooperation from New York State. Any claim contingent on action from New York State should align with needs identified by New York State through its Jobs and Supply Chain Technical Working Group, as well as the strengths of New York State to support those needs. The Scoring Committee will attribute greater weight to those Incremental Economic Benefits that are not dependent on action from New York State.

For Categories 1 and 2, to facilitate comparison by the Scoring Committee between Project submissions with larger or smaller Offer Capacities, the total of such adjusted claimed expenditures and investments will be unitized by dividing each Proposal's eligible claims by the Offer Capacity offered in the Proposal.

In Category 3, Proposals will be assessed on the scale of the likely impact of the proposed actions and the firmness of the commitments. Proposals will be scored on the number, range, maturity, firmness, and credibility of the commitments being made and the scale of the potential benefits. Actions with unambiguous quantitative metrics will be scored more favorably. In awarding points in Category 3, the Scoring Committee will consider the:

1. nature, quantity and importance of the proposed claims;
2. effectiveness of the approach to creating the proposed claims;
3. supporting documentation to substantiate the nature, firmness and maturity of their commitments, including, for example, letters of support, memoranda of understanding, letters of intent, option agreements, or binding contracts;
4. Proposer-specified metrics to support the claims; and
5. Proposer-specified alternative compliance measures to remedy shortfalls in the delivery of total claims.

Independent audit and verification of the actual Incremental Economic Benefits of the Project that accrue to New York State, and comparison to the level of claimed Incremental Economic Benefits, will be required after the first three years of the Contract Delivery Term, as described in Appendix C.

## **4 OFFER PRICING STRUCTURE AND PRICE EVALUATION**

Two separate offer prices are required for each Proposal. One offer will be for a Fixed OREC price, and the other will be for an adjustable OREC price based on an offer strike price using an Index OREC price. The two offers will be weighted according to the procedure noted in Section 4.3, and the price component of the offer will be scored based on the combined weighted value of both offers.

NYSERDA may select either price structure as the Applicable OREC Price Method. NYSERDA's decision will be based upon NYSERDA's projection of the different relative costs of the Fixed ORECs and Index ORECs over the life of the contract compared to NYSERDA's projection of the different relative price risks of the Fixed ORECs and Index ORECs over the life of the contract.

If NYSERDA selects the Fixed OREC Price, the Fixed OREC Price shall remain the Applicable OREC Price Method for the entire Contract Delivery Term. If NYSERDA selects the Index OREC Price, the Index OREC Price shall remain the Applicable OREC Price Method unless and until such Index OREC Price is invalidated, as further described in Section 4.01 of the Agreement.

### **4.1 OREC Products Pricing**

#### **4.1.1 Fixed OREC Pricing**

Under the Fixed OREC pricing, the Monthly OREC Price is equal to the Fixed OREC Strike Price, shown in Equation 1, below.

$$\text{Monthly OREC Price} = \text{OSP}^{\text{Fixed}} \text{ (Equation 1)}$$

where:

$$\text{OSP}^{\text{Fixed}} = \text{Fixed OREC Strike Price (\$/MWh)}$$

#### **4.1.2 Index OREC Pricing**

Under the Index OREC pricing, the Monthly OREC Price varies monthly during the Contract Delivery Term and is calculated according to Equation 2, below.

$$\text{Monthly OREC Price} = \text{OSP}^{\text{Index}} - \text{REP} - \text{RCP} \text{ (Equation 2)}$$

where:

$$\text{OSP}^{\text{Index}} = \text{Index OREC Strike Price (\$/MWh)}$$

$$\text{REP} = \text{Reference Energy Price (\$/MWh)}$$

$$\text{RCP} = \text{Reference Capacity Price (\$/MWh)}$$

NYSERDA will calculate the Reference Energy Price and Reference Capacity Price for each month according to Section 4.03 of the Agreement. The Monthly OREC Price will be calculated during a settlement period following the conclusion of each month according to Section 4.04 of the Agreement.

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The calculation of each month's Reference Capacity Price will be based on a Reference UCAP Price, as defined in Section 4.03 of the Agreement. The Reference UCAP Price is converted to its \$/MWh equivalent, the Reference Capacity Price, through Equation 3, below.

$$RCP = \frac{RUP \times UPF \times IC \times 1,000}{OQ} \text{ (Equation 3)}$$

where:

*RUP* = Reference UCAP Price (\$/kW-month)

*UPF* = UCAP Production Factor (decimal fraction)

*IC* = Installed capacity (ICAP) of the generator (MW)

*OQ* = Metered delivered energy

1,000 = kW to MW conversion factor

The UCAP Production Factor multiplied by the Project's installed capacity is a proxy for the NYISO UCAP in MW. The UCAP Production Factor will be specified separately for a Winter Capability Period (November through April) and a Summer Capability Period (May through October). A default UCAP Production Factor of 38% for both capability periods may be used, consistent with current guidance from the NYISO's Installed Capacity Manual.<sup>7</sup> Proposers have the option to replace these default values with Proposal-specific UCAP Production Factors that shall be constant throughout the Contract Delivery Term.<sup>8</sup> Any winter and summer UCAP Production Factor values between 0 and 1 are allowed.

### **4.2 Settlement Mechanism**

To calculate the amount payable to Seller, the Monthly OREC Price will be multiplied by the number of ORECs produced from Actual Eligible Production in the prior month and delivered into NYSERDA's NYGATS account. These payments will be calculated after the close of each calendar month during the Contract Delivery Term. During each month's settlement period, NYSERDA will only purchase ORECs such that the cumulative ORECs purchased in the active Contract Year do not exceed the Annual OREC Cap. The Annual OREC Cap is 1.1 multiplied by the P10 Annual Exceedance Estimate, which may be adjusted prior to Commercial Operation, per Section 2.01(d) of the Agreement.

In the case of a negative Monthly OREC Price, the associated payment from Seller to NYESRDA will not be cash-settled on a month-by-month basis. Instead, the amount owed from Seller to NYSERDA will

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<sup>7</sup> NYISO Installed Capacity Manual, published March 2018.

[http://www.nyiso.com/public/webdocs/markets\\_operations/documents/Manuals\\_and\\_Guides/Manuals/Operations/icap\\_mnl.pdf](http://www.nyiso.com/public/webdocs/markets_operations/documents/Manuals_and_Guides/Manuals/Operations/icap_mnl.pdf)

<sup>8</sup> The NYISO standard production factor of 38% is used until a facility has been operational for at least 60 days during a given capability period's prior equivalent capability period, after which time actual average generation during NYISO-designated peak hours from the prior year's equivalent capability period is used to adjust the factor.

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accrue as a debit to be deducted from each subsequent monthly payment until fully recovered. If, due to sustained negative OREC prices, any such debit goes unrecovered for twelve months, Seller shall pay the unrecovered amount to NYSERDA in cash as described in Section 4.05 of the Agreement.

### 4.3 Offer Price Evaluation Metric

The offer pricing evaluation will be conducted by NYSERDA and NYSERDA Consultants. A quantitative method will be applied to all offers in order to screen and rank the pricing offers using a uniform cost metric. For evaluation purposes, offer strike prices will be converted to a Levelized Net OREC Cost (LNOC) in base year (year of the proposed Commercial Operation Date) \$/MWh for both the Fixed OREC and Index OREC Strike Price offers. The LNOC price measure allows for an equitable comparison among Proposals with different pricing structure (constant or non-decreasing schedule), OREC quantities schedule, Commercial Operation Date, and Contract Tenor.

The LNOC for Proposal  $p$  using pricing form  $f$  is the quotient of the cumulative present value of the annual net OREC costs for each calendar year over the proposed Contract Tenor, divided by the cumulative present value of the projected annual number of ORECs produced from Actual Eligible Production over the same calendar years. The annual quantities are discounted at a real discount rate. The resulting quotient is expressed in base year dollars per OREC or MWh.

$$\text{LNOC}_{p,f} = \text{PVNOC}_{p,f} / \text{PVOQ}_p$$

where:

$\text{PVNOC}_{p,Fixed}$  = PV of Net OREC Cost for Proposal  $p$ , pricing form Fixed (\$ PV)

$$= \sum_{y=2019}^{y=2050} \left\{ \sum_{m=1}^{m=12} \text{OSP}_{p,m,y}^{Fixed} \times \text{OQ}_{p,m,y} \right\} \div (1 + \text{NDR})^{(y-Y_b)}$$

$\text{PVNOC}_{p,Index}$  = PV of Net OREC Cost for Proposal  $p$ , pricing form Index (\$ PV)

$$= \sum_{y=2019}^{y=2050} \left\{ \sum_{m=1}^{m=12} (\text{OSP}_{p,m,y}^{Index} - \text{RPE}_{m,y}^{Pred} - \text{RPC}_{m,y}^{Pred}) \times \text{OQ}_{p,m,y} \right\} \div (1 + \text{NDR})^{(y-Y_b)}$$

$\text{PVOQ}_p$  = PV of OREC delivery quantities for Proposal  $p$  (MWh)

$$= \sum_{y=2019}^{y=2050} \left\{ \sum_{m=1}^{m=12} \text{OQ}_{p,m,y} \right\} \div (1 + \text{RDR})^{(y-Y_b)}$$

$\text{OQ}_{p,m,y}$  = OREC delivery quantity for Proposal  $p$  applicable to month  $m$  of calendar year  $y$  (OREC or MWh)

$\text{RPE}_{m,y}^{Pred}$  = Predicted Reference Energy Price index for month  $m$  in calendar year  $y$  (nominal \$/MWh)



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$RPC_{m,y}^{Pred}$  = Forecasted Reference Capacity Price index for month  $m$  in calendar year  $y$  (nominal \$/MWh)

$NDR$  = Nominal Discount Rate (decimal)

$INF$  = Inflation Rate (decimal)

$RDR = (1 + NDR) / (1 + INF) - 1$  = Real Discount Rate

$Y_b$  = Base year for cost and PV

A nominal discount rate of 6.55% per year and a long-term inflation rate assumption of 2.0% per year will be used in the LNOC calculation procedure.

For the Index OREC form of pricing, strike prices will be converted into expected annual OREC values by subtracting a forecast of expected Reference Energy Prices and Reference Capacity Prices from the strike prices, based on the energy and capacity prices forecasted with a regional multi-zonal hourly production cost simulation model. Multiple long-run scenarios will be developed, and a probability-weighted average of the individual scenario forecast values will be used as a proxy for expected future energy and capacity prices. Neither the price forecasts nor details of the modeling procedures will be disclosed to Proposers.

### **4.4 Offer Price Scoring**

The dual Fixed OREC and Index OREC offer strike prices will be evaluated with a hybrid LNOC index value calculated by using constant weighting factors to combine the separate LNOC values for the Fixed OREC and Index OREC forms of pricing. The weighting factors will be 0.1 for the Fixed OREC LNOC and 0.9 for the Index OREC LNOC.

For purposes of cost containment, Benchmark LNOC prices will be derived for both the Index OREC and the Fixed OREC. NYSERDA will employ Benchmark LNOCs in the offer evaluation process that support the consideration of and potential disqualification for award of all proposals that exceed either Benchmark LNOC price. For purposes of this procurement, the Benchmark LNOC price is synonymous with the "Maximum Acceptable Offer Price Metric" used previously in the Tier 1 RES procurements. The calculation method will materially differ, however. NYSERDA retains the right to reject any and all project proposals that exceed the benchmark price(s). Use of the Benchmark LNOC Prices will support a reasonable balance between encouraging investment in new offshore wind projects and protecting ratepayer interests from the incurrence of any deadweight costs associated with accepting a proposal at any price.

In deriving the Benchmark LNOC prices, NYSERDA will, in particular, account for the price results in recent procurements held in New England. A number of additional considerations will be factored into the derivation of the Benchmark LNOC prices. Either positive or negative, such additional considerations may include: different hedge efficiency attributes related to the PPA structure used in New England versus the Index or Fixed OREC structure; geotechnical and physical considerations; local spend considerations in New York State, including labor; transmission interconnection and deliverability

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criteria; the market value of energy and/or capacity; environmental mitigation costs; project size; and project timing. In formulating benchmark prices, NYSERDA may add or subtract from the list of additional cost considerations.

Proposals with a LNOC higher than the applicable Benchmark LNOC will not be eligible for an award. NYSERDA has at all times the authority to reject all Proposals, taking into account not only the Benchmark LNOC but also recent auctions and market conditions.

Eligible Proposals with LNOC values below the Benchmark LNOCs will have their LNOC values converted into points. The Proposal with the lowest hybrid LNOC will receive the maximum 70-point score and higher LNOC offers will receive lower scores. NYSERDA will implement a method that ensures that the scores of higher LNOC Proposals are sufficiently dispersed below the maximum of 70 points such that the final score that aggregates price, viability, and economic benefits retains the intended scoring emphasis on price to the maximum reasonable extent.

## **5 PRELIMINARY RANKING, PORTFOLIO EVALUATION, AND FINAL AWARD GROUP**

### **5.1 Preliminary Rank Order**

The calculated scores for the project viability, New York economic benefits, and offer strike price components of the Proposal scoring system will be summed. The proposals will then be ranked by their total scores as a preliminary step in selection.

### **5.2 Portfolio Evaluation; Consideration of Commission Objectives**

In its Offshore Wind Order the Commission identified many potential benefits for this initiative beyond its contribution to the achievement of the CES mandate and the reduction of greenhouse gas emissions. The Offshore Wind Order also recognized that award decisions may be influenced by portfolio considerations including but not limited to diversity, economy of scale and market competition.

The final evaluation steps are to consider and balance a set of program policy factors, which include the composition of the portfolio and timing criteria, as well as the various non-scored aspects of each Proposal in relation to the objectives identified by the Commission when it established the Offshore Wind Standard.

In making awards the Scoring Committee and NYSERDA may consider the following list of program policy factors:

- Reliability and geographic benefits in the NYCA, and the reduction of execution risk through diversity;
- Public health benefits of reducing local air contaminants by displacing fossil generation in downstate New York;
- Secondary economic benefits in addition to those represented in the quantification of Incremental Economic Benefits, including those provided by indirect jobs and new and increased tax payments;
- Potential for visual, environmental and economic impacts and benefits, including the potential for a new source of coastal tourism;
- Competitive benefits of two or more smaller Projects versus the potential scale economy anticipated with a single large Project;
- Economic and environmental tradeoffs related to accelerated fulfilment of the 2,400 MW offshore wind procurement goal earlier versus the potential OREC cost reduction in future procurements due to technology progress, offshore wind transmission infrastructure development, and supply chain efficiencies serving New York.

### **5.3 Award Group**

The award group will be comprised of the Proposal(s) that demonstrate the most valuable contribution in securing the various benefits for which the Offshore Wind Standard was created. In addition to the numerical-score components that support the preliminary rank, NYSERDA, NYDPS, and the Scoring Committee must assess and balance the elements of each Proposal and the stated Commission

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objectives. As granted by the Offshore Wind Order, the portfolio, timing, and balancing of benefits considerations and the conformance of the Project(s) with the Commission's objectives will be components of the Scoring Committee's collective judgment to determine the initial award group.

Upon the finalization of the award group, NYSERDA will notify awardees by both voice and written communication. The date upon which NYSERDA provides such written notification shall be the Award Notification Date.

NYSERDA also reserves the right to solicit revised Offer Prices and/or to make counteroffers as it deems appropriate. In such case NYSERDA will provide notice by voice communication and email to the Proposer's Authorized Agent(s), as identified on the Proposal. Proposer's Designated Agent(s) must be authorized to respond and to commit to counteroffers on behalf of Proposer.

NYSERDA may also establish a waitlist of Proposals beyond those Projects offered an initial award. Proposals represent offers to contract and must remain open for a period of at least 180 days from the deadline for offer submittal.

**NYSERDA RESERVES THE RIGHT TO REJECT OR ACCEPT ANY OR ALL PROPOSALS.**

## **6 INSTRUCTIONS TO PROPOSERS**

### **6.1 Preparation of Proposals**

Each Proposer shall have sole responsibility for reviewing this RFP and all attachments hereto and for investigating and informing itself with respect to all matters pertinent to this RFP, including the [NYGATS Operating Rules](#) and NYISO's Open Access Transmission Tariff (OATT) and market rules, and those of the control area into which the Project may interconnect.

Proposers should rely only on information provided in this RFP and any associated written updates posted on the NYSERDA procurement website [website link to be provided] when preparing their Proposals. Each Proposer shall be solely responsible for and shall bear all of its costs incurred in the preparation of its Proposal and/or its participation in this RFP. Submission of Proposals including confidential information shall be filed in accordance with Section 6.2.2 of this RFP. Appendix J, Proposal Submission Guide, provides details regarding the process for Proposal submission.

### **6.2 Organization and Submission of the Proposal**

#### **6.2.1 Organization of the Proposal**

Proposers are required to organize their Proposals consistent with the instructions provided herein. Each Proposal must include four separate files:

1. **Offer Data Form**, a provided Excel workbook template, contains pricing, technical, and operational information for the proposed Offshore Wind Generation Facility, and claimed Incremental Economic Benefits of the Project. The Offer Data Form allows any of the four combinations of pricing and tenor for a technical configuration.
2. **Proposal Narrative**, a description of the proposed Project including the Offshore Wind Generation Facility, information required to demonstrate the eligibility, viability, claimed Incremental Economic Benefits of the Project, and other relevant information and supporting documentation required to evaluate the Proposal. The organization and contents of the Proposal narrative *must* be organized in the order presented in Section 6.4 and may include attachments or appendices.
3. **Proposer Certification**, a form (Appendix B) that must be signed by an authorized representative of the Proposer to certify the validity of the offer and attest to other representations.
4. **Agreement**, in which the Proposer may mark up the Agreement (Appendix F) to suggest revisions specific to the Proposal. Requested changes to the determination of price, the amount of contract security, or other changes that materially change the terms of the Agreement will not be considered. See Section 6.6.

In addition, a single set of files must be provided that cover all Proposals:

5. **Master Offers Form**, a provided Excel workbook template, contains common Project descriptive information and a list of one or more Offer Data Form files.

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If a Proposer submits a separate Required Transmission Proposal or Alternate Proposals, a separate set of Offer Data Forms, Proposal Narratives, and Proposer Certifications must be submitted for each Proposal. A Proposer may submit the same marked up Agreement for all Proposals, or a Proposer may submit separate marked up Agreements for each Proposal if there are reasons for material differences.

### **6.2.2 Submission Instructions**

Proposers must submit two versions for each Proposal: a complete, unredacted version of the Proposal and a public version of the Proposal, as more fully described below. Both versions of the Proposal must be uploaded to NYSERDA's secure Salesforce site, available at:

[website link to be provided]

Proposer contact information will be entered and maintained in Salesforce.

Technical support for NYSERDA's Salesforce application may be reached at [offshorewind@nyserda.ny.gov](mailto:offshorewind@nyserda.ny.gov).

#### **6.2.2.1 Confidential Version of Proposals**

A Proposer must submit an unredacted complete version of the Proposal(s). The confidential version of the Proposal must include the Offer Data Form as a working Excel file, with all required information included. The confidential version of the Proposal will be treated as confidential and sensitive information by the Scoring Committee, subject to the treatment of confidential information discussed in Section 8.1 of this RFP.

#### **6.2.2.2 Public Version of Proposals**

Each Proposal must be submitted to NYSERDA in a publicly available version, with only confidential material redacted at the Proposer's option. This public version will be posted on NYSERDA's public website shortly after the Proposal submittal deadline. The title of the submitted files should include the words "Public Version" to alert NYSERDA that the version will be publicly posted. The public versions of Proposals must be complete in all respects other than the redaction of only that information deemed confidential information. Proposers may mark certain, limited information confidential and therefore not available to the public if there is a reasonable basis to assert that the Proposer would be commercially harmed as a result of the disclosure of certain, limited information to the public. Complete Proposals must include a properly completed Offer Data Form, although at the Proposer's option the Offer Data Form submitted as part of the public version may be a PDF instead of a working Excel file so long as the Proposer submits the un-redacted Offer Data Form as a working Excel file with the confidential version of the Proposal.

NYSERDA will not redact the public versions of Proposals. Anything submitted in the public version will be made available to the public.

### **6.3 Offer Data Forms**

The Master Offers Form and Offer Data Form (ODF) documents are Microsoft Excel workbooks that can be downloaded from NYSERDA's procurement website. Each Proposer must submit a single Master

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Offers Form. A separate ODF document is required for the Required Base Proposal, the Required Transmission Proposal, and each Alternative Proposal with respect to aspects other than pricing. All pricing alternatives for Proposals with the same non-price aspects are included within a single ODF document. General user guide information for both forms is included in the Master Offers Form.

The purpose of the Master Offers Form is to summarize the Proposals and to calculate the total Proposal fee. The Master Offers Form includes common Project information, the list of ODF filenames and their respective aspects (capacity, interconnection control area, and the number of pricing/tenor offers) that create additional Proposal fees. The Master Offers Form also identifies, by ODF ID number, other ODFs with Proposals that would be precluded or required upon selection of a given Proposal.

The ODF document has five parts, listed below. If the Proposer provides information in other sections of its Proposal(s) that conflicts with the information provided in the ODF, the ODF shall be considered to contain the governing and binding information for both the evaluation and any resulting contract offer.

### Part I Identification Worksheet

Proposer name, Offshore Wind Generation Facility unique Proposal name, BOEM renewable energy lease number, installed Offer Capacity, proposed interconnection (Injection Point) control area, names of other ODFs containing Proposals that would be precluded or required upon selection of a given Proposal.

### Part II Project Definition Worksheet

Indicate whether full Offer Capacity will enter Commercial Operation in more than one tranche, the expected Commercial Operation Date of the first tranche, a monthly schedule of installed capacity for the first three years of Commercial Operation, the P10 Annual OREC Exceedance value, the summer and winter UCAP production factors, and Injection Point and Delivery Point descriptive information.

### Part III Expected Performance Worksheet

Table III-1. P50 Generation (before outages and land-based transmission and curtailment losses) as fractions of installed capacity by month and hour of day.

Table III-2. Operable NYCA delivery capability as fractions of installed capacity by month and hour of day.

### Part IV Pricing Worksheet

Offer nominal prices by Contract Year for each tenor and price shaping schedule selected. Four schedules are allowed, 25 and 20-year tenors combined with constant and non-decreasing prices. For each type of pricing schedule, both Fixed OREC Prices and Index OREC Strike Prices must be provided. The ODF with the Required Base

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Proposal must include offers for the nominal level 25-year Contract Tenor pricing schedule.

### **Part V Incremental Economic Benefits**

Table V-1. Incremental Economic Benefits Category 1, Project-specific spending and job creation data are entered by ID number, Project phase, expenditure type, classified as related to the development, construction, or operation phase, and the net expenditure (stated in constant dollars) and the numbers of short-term and long-term jobs (stated in FTE-years) created in New York State. Expenditure and jobs data are included through the end of the third year of Commercial Operation. Also, the ID numbers of any related Economic Benefits Category 2 items are referenced for individual Category 1 expenditures.

Table V-2. Incremental Economic Benefits Category 2, offshore wind industry-related supply chain and infrastructure investment data are entered by ID number, Project phase, and investment type. Net investment costs (stated in constant dollars) are included through the end of the third year of Commercial Operation. Also, the ID numbers of any related Economic Benefits Category 3 activities are referenced for individual Category 2 expenditures.

Table V-3. Incremental Economic Benefits Category 3, input activities data are entered by ID number, commitment type, the Proposer's planned measurement metric, quantity of the input activity, and references to corresponding sections or pages in the Economic Benefits Plan.

## **6.4 Proposal Narrative**

### **6.4.1 Executive Summary of the Proposal**

The Proposer is required to provide an executive summary of the Proposal that documents the eligibility of the proposed Offshore Wind Generation Facility, the proposed Contract Tenor, the overall Project schedule including expected Commercial Operation Date, any contingencies specific to the Proposal or to other Proposals, and other factors the Proposer deems to be important.

### **6.4.2 Proposer Experience**

Proposers are required to demonstrate project experience and management capability to successfully develop and operate the Project proposed. NYSERDA is interested in project teams that have demonstrated success in developing generating facilities of similar size and complexity and can demonstrate an ability to work together effectively to bring the Project to commercial operation in a timely fashion. Proposers are required to provide the following information with their Proposal:

1. An organizational chart for the Project that lists the Project participants and identifies the corporate structure, including general and limited partners.



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2. Statements that list the specific experience of the Proposer and each of the Project participants (including, when applicable, the Proposer, partners, and proposed contractors), in developing, financing, owning, and operating generating and transmission facilities, other projects of similar type, size and technology, and any evidence that the Project participants have worked jointly on other projects.
3. A management chart that lists the key personnel dedicated to this Project and resumes of the key personnel. Key personnel of the Proposer's development team having substantial Project management responsibilities must have:
  - a. Successfully developed and/or operated one or more projects of similar size or complexity or requiring similar skill sets; and
  - b. Experience in financing power generation projects (or have the financial means to finance the Project on the Proposer's balance sheet).
4. A listing of projects the Project sponsor has successfully developed or that are currently under construction. Provide the following information for each project as part of the response:
  - a. Name of the project
  - b. Location of the project
  - c. Project type, size and technology
  - d. Commercial Operation Date
  - e. Estimated and actual capacity factor of the project for the past three years
  - f. Availability factor of the project for the past three years
  - g. References, including the names and current addresses and telephone numbers of individuals to contact for each reference.
5. With regard to the Proposer's Project team, identify and describe the entity responsible for the following, as applicable:
  - a. Construction Period Lender, if any
  - b. Operating Period Lender and/or Tax Equity Provider, as applicable
  - c. Financial Advisor
  - d. Environmental Consultant
  - e. Facility Operator and Manager
  - f. Owner's Engineer
  - g. EPC Contractor (if selected)
  - h. Transmission Consultant
  - i. Legal Counsel
6. Details of the Proposer's experience in NYISO markets. With regard to Proposer's experience with NYISO markets, please indicate the entity that will assume the duties of Market Participant for your proposed Offshore Wind Generating Facility. Please provide a summary of the Proposer's or Market Participant's experience with the wholesale market administered by NYISO as well as transmission services performed by Con Edison, NYPA, and PSEG-LI/LIPA.

### **6.4.3 Project Description and Site Control**

Identify the BOEM wind energy area where the proposed Offshore Wind Generation Facility will be located. Provide documentation that Proposer has a valid lease or irrevocable lease option to develop the leased area within this wind energy area over the entire Contract Tenor.

Provide a site plan (or plans) including a map (or maps) that clearly identifies the location of the proposed Offshore Wind Generation Facility, collection facilities, offshore and onshore route of the generator lead line to the interconnection point, converter station(s), and the assumed right-of-way width. Identify the anticipated interconnection point, support facilities, and the relationship of the interconnection point to other local infrastructure, including transmission facilities, roadways, and waterways.

Identify any rights that Proposer has at the interconnection point and for the generator lead line right of way. Provide a detailed plan and timeline for the acquisition of any additional rights necessary for interconnection and for the generator lead line right-of-way. Include these plans and the timeline in the overall Project timeline in Section 6.4.10.

In addition to providing the required map(s), provide a site layout plan that illustrates the location of all on-shore and offshore equipment and facilities and clearly delineates the perimeter of the area in which offshore wind turbines will be placed. Identify the distance in statute miles between the shoreline and the nearest Offshore Wind Generation Facility turbines.

### **6.4.4 Energy Resource Plan**

Provide a summary of all collected wind data for the proposed Offshore Wind Generation Facility site. Identify when and how (*e.g.*, meteorological mast or LiDAR – for “Light Detection and Ranging”) the data was collected and by whom.

Indicate where the data was collected and its proximity to the proposed Offshore Wind Generation Facility site. Include an identification of the location and height for the anemometers and/or “range gate” heights for sensing by LiDAR that were used to arrive at an assessment of the site generation capability. Describe any additional wind data collection efforts that are planned or ongoing. Provide at least one year of hourly wind resource data. Data collected from the site is preferred, though projected data is permissible. Method must also be included.

Provide a wind resource assessment report for the Proposed Offshore Wind Generation Facility site. Include an analysis of the available wind data which addresses the relationship between wind conditions and electrical output. Provide a site-adjusted power curve. Each curve should list the elevation, temperature and air density used.

### **6.4.5 Operational Parameters**

Provide partial and complete planned outage requirements in weeks or days for the Offshore Wind Generation Facility. Also, list the number of months required for the cycle to repeat (*e.g.*, list time interval of minor and major overhauls, and the duration of overhauls).

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Provide all the expected operating constraints and operational restrictions for the Project, the reason for the limitation, and characterize any applicable range of uncertainty.

### **6.4.6 Business Entity and Financing Plan**

Proposers are required to demonstrate the financial viability of their proposed Project. Proposers should provide the following information:

1. Submit information and documentation that demonstrates that a long-term contract resulting from this RFP process would either permit the Proposer to finance its Proposal that would otherwise not be financeable or assist the Proposer in obtaining financing of its Proposal.
2. Describe the business entity structure of the Proposer's organization from a financial and legal perspective, including all general and limited partners, officers, directors, managers, members and shareholders, and involvement of any subsidiaries supporting the Project. Provide an organization chart showing the relationship among the different Project participants. For joint ventures, identify all owners and their respective interests, and document the Proposer's right to submit a binding Proposal.
3. Provide a description of the financing plan for the Project, including construction and term financing. The financing plan should address the following:
  - a. Who will finance the Project (or are being considered to finance the Project) and the related financing mechanism or mechanisms that will be used (*i.e.*, convertible debenture, equity or other) including repayment schedules and conversion features
  - b. The Project's existing initial financial structure and projected financial structure
  - c. Expected sources of debt and equity financing
  - d. Describe how any such agreements would differ, contingency on NYERDA's selecting either the Fixed OREC or Index OREC form of pricing
  - e. Estimated construction costs
  - f. The projected capital structure
  - g. Describe any agreements, both pre and post Commercial Operation Date, entered into with respect to equity ownership in the proposed Project and any other financing arrangement.
4. Provide documentation illustrating the experience of the Proposer in securing financing for projects of similar size and technology. For each project previously financed provide the following information:
  - a. Project name and location
  - b. Project type and size
  - c. Date of construction and permanent financing
  - d. Form of debt and equity financing
  - e. Current status of the project
5. Provide evidence that the Proposer has the financial resources and financial strength to complete and operate the Project as planned.

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6. Describe the role of the Federal Production Tax Credit or Investment Tax Credit (or other incentives) on the financing of the Project, including presumed qualification year and percentage. The Proposal may not be contingent on receipt of the Production Tax Credit or Investment Tax Credit.
7. Provide complete copies of the most recent audited financial statement and annual report for each Proposer for each of the past three years; including affiliates of the Proposer (if audited statements are not available, reviewed or compiled statements are to be provided). Also, provide the credit ratings from Standard & Poor's and Moody's (the senior unsecured long-term debt rating or if not available, the corporate rating) of the Proposer and any affiliates and partners.
8. List the board of directors, officers and trustees for the past three years and any persons who the Proposer knows will become officers, board members or trustees.
9. Demonstrate Proposer's ability (and/or the ability of its credit support provider) to provide the required security, including its plan for doing so.
10. Provide a description of any current or recent credit issues/ credit rating downgrade events regarding the Proposer or affiliate entities raised by rating agencies, banks, or accounting firms.
11. Disclose any pending (currently or in the past three years) litigation or disputes related to projects planned, developed, owned or managed by Proposer or any of its affiliates in the United States, or related to any energy product sale agreement.
12. Provide the expected operating life of the proposed Project and the depreciation period for all substantial physical aspects of the offer, including generation facilities, generator lead lines to move power to the grid, and transmission system upgrades.
13. List all of the Proposer's affiliated entities and joint ventures transacting business in the energy sector.
14. Describe any litigation, disputes, claims or complaints, or events of default or other failure to satisfy contract obligations, or failure to deliver products, involving the Proposer or an affiliate of the Proposer, and relating to the purchase or sale of energy, capacity or RECs or other electricity products.
15. Confirm that Proposer, and the directors, employees and agents of Proposer and any affiliate of Proposer are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to offering on any contract, or have been the subject of any debarment action (detail any exceptions).

#### **6.4.7 Interconnection and Deliverability**

Proposers are required to demonstrate the Offshore Wind Generation Facility's interconnection status and deliverability capabilities. Proposers should provide the following information:

1. Provide documentation to show evidence of the interconnection request to NYISO or any neighboring control areas for Capacity Resource Interconnection Service (CRIS) or for Energy Resource Interconnection Service, or similar interconnection standards in neighboring control areas. For Proposals where capacity is to be delivered to NYCA, Proposers should describe any required transmission system upgrades and provide an estimate of the required transmission system upgrade costs under NYISO CRIS to meet deliverability requirements in NYISO. Describe the status of any planned interconnection to the grid. Any interconnection studies undertaken by the applicable control area or third parties on behalf of the Proposer must be provided.
2. Provide a copy of an electrical one-line diagram showing the interconnection facilities and the relevant facilities of the transmission provider.
3. Identify all proposed or anticipated interconnection and transmission upgrades, including any transmission upgrades beyond the point of interconnection that are needed to ensure delivery of energy from the Offshore Wind Generation Facility into NYCA. Describe measures to identify and control the regulatory and operational risks related to the delivery of energy from the Offshore Wind Generation Facility.
4. Demonstrate that energy and associated ORECs generated by the facility can be delivered into the NYCA. For an Offshore Wind Generation Facility interconnecting in an adjacent Control Area, describe how the Proposer intends to fulfill the External Project Delivery Requirement.

#### **6.4.8 Environmental Assessment and Permit Acquisition Plan**

Proposers are required to demonstrate a plan for environmental assessment and permit acquisition for the Offshore Wind Generation Facility. Proposers should provide the following information:

1. Provide a comprehensive list of all the permits, licenses, and environmental assessments and/or environmental impact statements required to construct and operate the Project. Along with this list, identify the governmental agencies that are responsible for issuing approval of all the permits, licenses, and environmental assessments and/or environmental impact statements. If a Proposer has secured any permit or has applied for a permit, please indicate this in the response.
2. Provide the anticipated timeline for seeking and receiving the required permits, licenses, and environmental assessments and/or environmental impact statements. Include a Project approval assessment which describes, in narrative form, each segment of the process, the required permit or approval, the status of the request or application and the basis for projection of success by the milestone date. All requirements should be included on the Project schedule in as described in Section.
3. Provide the SAP and COP, if completed. If the SAP and/or COP are not completed, provide the status of development of these plans and a proposed plan and timeline for completion.

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### **6.4.9 Engineering and Technology**

Provide information about the specific technology or equipment including the track record of the technology and equipment and other information as necessary to demonstrate that the technology is viable.

1. Provide a preliminary engineering plan which includes at least the following enumerated information. If specific information is not known, identify manufacturers, vendors, and equipment that will be considered.
  - a. Type of foundation, Offer Capacity, and generator lead line transmission technology
  - b. Major equipment components to be used, including nacelle, hub, blade, tower, foundation, transmission structures and platforms, electrical equipment and cable)
  - c. Manufacturer of each of the equipment components as well as the location of where each component will be manufactured
  - d. Status of acquisition of the equipment components
  - e. Status of any contracts for the equipment the Proposer has or the Proposer's plan for securing equipment and the status of any pertinent commercial arrangements
  - f. Equipment vendors selected/considered
  - g. Track record of equipment operations
  - h. In the event the equipment manufacturer has not yet been selected, identify in the equipment procurement strategy the factors under consideration for selecting the preferred equipment as well as the anticipated timing associated with the selection of the equipment manufacturer, including the timing for binding commercial agreement(s).
2. Describe the lighting controls that will be utilized on the Offshore Wind Generation Facility and explain how these controls comply with the minimum contract standards and the Offshore Wind Order.

### **6.4.10 Project Schedule**

A Proposer must demonstrate that its Project can be developed, financed, and constructed within a commercially reasonable timeframe. The Proposer is required to provide sufficient information and documentation showing that the Proposer's resources, process, and schedule are adequate for the acquisition of all rights, permits, and approvals for the financing of the Project consistent with the proposed milestone dates that support the proposed Commercial Operation Date.

Proposers are required to provide a complete critical path schedule for the Project from the notice of award to the start of commercial operations. For each Project element listed below, provide the start and end dates:

1. Identify the elements on the critical path. The schedule should include, at a minimum, preliminary engineering, financing, acquisition of real property rights, Federal, state and/or local permits, licenses, environmental assessments and/or environmental impact statements (including anticipated permit submittal and approval dates), completion of interconnection studies and approvals culminating in the execution of the Interconnection Service Agreement,

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financial close, engineer/procure/construct contracts, start of construction, construction schedule, and any other requirements that could influence the Project schedule.

2. Describe the anticipated permissible offshore construction windows, and how the construction milestones will be accommodated within these windows.
3. Detail the status of all critical path items, such as receipt of all necessary siting, environmental, and NYISO approvals.

### **6.4.11 Construction and Logistics**

This section of the Proposal addresses necessary arrangements and processes for outfitting, assembly, storage, and deployment of major Project components such as turbine nacelles, blades, towers, foundations, and transmission support structures. Please provide a construction and logistics plan that captures the following objectives:

1. List the major tasks or steps associated with deployment of the proposed Project and the necessary specialized equipment (*e.g.*, vessels, cranes).
2. Identify the marine terminals and other waterfront facilities that will be used to stage, assemble, and deploy the Project for each stage of construction.
  - a. If available, evidence that the Proposer or the equipment/service provider have right(s) to use a marine terminal and/or waterfront facility for construction of the Project (*e.g.*, by virtue of ownership or land development rights obtained from the owner).
  - b. If not available, describe the status of acquisition of real property rights for necessary marine terminal and/or waterfront facilities, any options in place for the exercise of these rights and describe the plan for securing the necessary real property rights, including the proposed timeline. Include these plans and the timeline in the overall Project schedule in Section 6.4.10.
  - c. Identify any joint use of existing or proposed real property rights for marine terminal or waterfront facilities.
3. Describe the proposed approach for staging and deployment of major Project components to the Project site. Include a description and discussion of the laydown facility/facilities to be used for construction, assembly, staging, storage, and deployment.
4. Indicate the number, type and size of vessels that will be used, their respective uses, and how vessels will be secured for the required construction period. Explain how the Proposer's deployment strategy will conform to requirements of the Merchant Marine Act of 1920 (the Jones Act).
5. List the party or parties responsible for each deployment activity and describe the role of each party. Describe the status of Proposer's contractual agreements with third-party equipment/service providers.

#### **6.4.12 Fishing Mitigation Plan**

Proposers must include in their Proposal a Fishing Mitigation Plan in as much detail as possible that describes how the Proposer will mitigate adverse impacts on the commercial fishing industry that may be caused by the Project. Elements of the Fishing Mitigation Plan are described in detail in Appendix D. Proposers are advised to review the Fish and Fisheries Study prepared for the New York State Offshore Wind Master Plan with respect to the potential impacts of offshore wind energy development on the fishing industry, and also are advised to include in their mitigation plan the appropriate Best Management Practices described in the Master Plan.

#### **6.4.13 Environmental Mitigation Plan**

Proposers must include in their Proposals a detailed Environmental Mitigation Plan that describes how the Proposer will mitigate adverse environmental impacts that may be caused by the Project. Elements of the Environmental Mitigation Plan are described in detail in Appendix E. Proposers are advised to review the environmental studies prepared for the New York State Offshore Wind Master Plan with respect to the potential impacts of offshore wind energy development on the environment, and also are advised to include in their mitigation plan the appropriate Best Management Practices described in the Master Plan.

#### **6.4.14 Community Outreach Plan**

Provide a community outreach plan that identifies proposed stakeholder engagement activities during construction and operation of the Project. Provide copies of any agreements with communities and other constituencies impacted by the Project, not already covered in the Fisheries Mitigation Plan or the Environmental Mitigation Plan. Discuss the status of implementing the community outreach plan.

Provide documentation identifying the level of public support for the Project including letters from public officials, newspaper articles, *etc.* Include information on specific localized support and/or opposition to the Project of which the Proposer is aware.

#### **6.4.15 Visibility and Viewshed Impacts**

Proposers must address a Project's visibility from shore. If a Project is proposed to include turbines less than 20 statute miles from a shoreline, Proposers must explain (i) how the Project will minimize adverse impacts related to visibility of turbines, including potential impacts on the local and state economy and historic and visual resources, such as publicly-accessible viewsheds, and (ii) how consideration of economic and environmental concerns contributed to the proposed distance from shore.

Additionally, all Proposals must include a visibility study that presents visual simulations of the proposed Offshore Wind Generation Facility. Visibility studies must include a map or maps along with supporting GIS shape files that depict the nearest coastline, the boundary of the proposed site to be developed and any other reasonable reference points (e.g. coastal cities, historic sites, other wind energy areas). Simulations must be single frame, photographic images with superimposed simulations of the proposed wind turbine technology configured to represent a commercially-scaled and technically feasible scenario that is consistent with the proposed Project including operating capacity, wind turbine size, and generic spacing and configuration. Viewing instructions must be included on each simulation.



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Visual simulations must represent, at a minimum, clear, partly cloudy, and overcast conditions during early morning, mid-afternoon, and late day, as well as one simulation at night with the turbines lit under clear conditions. Visual simulations must be provided from a minimum of two representative vantage points which represent the closest point to shore from any turbine within the Offshore Wind Generation Facility and, if applicable, any sensitive or historic viewpoints within 20 statute miles of the nearest turbine. The visibility study must also include analysis of the percentage of time during which different visibility conditions are expected to occur based on past meteorological data.

The simulations must be provided in a format suitable to be printed or electronically viewed by the public and/or the Scoring Committee.

### **6.4.16 New York Economic Benefits**

Proposers must submit their claimed Incremental Economic Benefits by category using the Offer Data Form and support these claims by submitting an Economic Benefits Plan. All claimed expenditures and investments should be in real dollars (U.S.) at the time of Proposal submission.

Proposers must provide supporting documentation and description for their Incremental Economic Benefits claims, as described below. Independent audit and verification of the actual Incremental Economic Benefits of the Project and comparison to the level of claimed Incremental Economic Benefits will be required after the first three years of the Contract Delivery Term, as described in Appendix C.

At the time of submission, the Proposer may not know the details of its supply chain firm's locations. Any uncertainties should be presented in the Economic Benefits Plan and may be further noted in comments in the Offer Data Form. Regardless, Proposer will be held to delivering claimed Incremental Economic Benefits.

The prorated portion of investments in oversized transmission and interconnection facilities not needed to support the Offshore Wind Generation Facility shall not be included as an Incremental Economic Benefit.

#### **6.4.16.1 Economic Benefits Plan**

The purpose of the Economic Benefits Plan is (i) to allow the Proposer to document its approach to fulfilling the claims that are provided in the Offer Data Form, (ii) to allow the Proposer to explain and justify its Incremental Economic Benefits Claims, (iii) to help NYSERDA assess the credibility of the claimed Incremental Economic Benefits made in the Offer Data Form, and (iv) to allow the Proposer to include metrics and repercussions for shortfalls associated with Category 3 Input Activities.

In the Economic Benefits Plan, the Proposer must also describe the manner in which the Proposer will comply with the New York State Supplier Opportunity requirement described in Section 2.2.9. The Economic Benefits Plan should:

1. Provide a description of how the Proposer will evidence in post-contracting biannual reports such compliance for any package of work, on the Proposer's behalf or on behalf of its Major Suppliers, with respect to information such as:

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- a. The expected scope of work;
  - b. The estimated value of the scope of work;
  - c. The names of New York companies invited to tender; and
  - d. Evidence that New York State companies have been made aware of the opportunity.
2. Identify any exceptions to providing opportunities to New York vendors for those opportunities deemed by the Proposer as impractical to be serviced by the New York State supply chain at this time, along with the reason and justification for designating the contracting opportunity as an exception. There are three exceptions to providing opportunities to New York vendors:
- a. No New York company can reasonably be expected to have the capability to deliver a scope of work in the timescale needed for the Project;
  - b. The Proposer or its Major Suppliers have existing or committed contractual arrangements at the time of the offer with suppliers outside of New York; or
  - c. The selection of a New York supplier would be impractical (for example, if the customer for the scope of work is outside of New York) or if it would add significant commercial or technical risk to the Project.

### **6.4.16.2 Economic Benefits Category 1: Project-Specific Spending and Job Creation**

Economic Benefits Category 1 is comprised of offshore wind Project-specific spending and job creation in New York State. It includes those net expenditures by developers and their supply chains in New York State, including in-state purchases, employment, and payments/benefits to New York State government or other entities. The Proposal will also describe the degree to which the development and construction of the Offshore Wind Generation Facility will directly create short and long-term jobs in New York State. Induced benefits related to the expenditure of workers' and proprietors' salaries will not be considered.

A description of Category 1 expenditure types is provided in Appendix C.

Under Category 1 and Category 2, New York State content is the percentage of New York State expenditure in the base costs, where the base cost is the value of aggregated internal costs and external subcontracts. The calculation of New York State content excludes the ultimate destination of profits. If it is unclear whether an expenditure belongs in Category 1 or Category 2, Proposer may elect an allocation of the investment or expenditure between Categories 1 and 2 provided that there is no double counting of the same dollar expenditure, expenditures are appropriately cross referenced in the Offer Data Form, and such allocation is described in the Economic Benefits Plan. For dollars allocated to Category 2, Proposer must explain the basis for the claim of persistency.

### **6.4.16.3 Economic Benefits Category 2: Offshore Wind Industry-related Supply Chain and Infrastructure Investment**

Category 2 includes long-term capital investments in offshore wind-enabling supply chain, infrastructure, workforce development and research and development (R&D) initiatives in the state that will have an enduring impact on the offshore wind industry and the New York State economy. Such investments are expected to include economic benefits from subsequent Project development that

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would leverage improved infrastructure and deliver additional long-term economic benefits to New York State, lower the cost of future offshore wind energy, and/ or reduce future offshore wind project risk.

For Category 2, the Economic Benefit Plan must include a written description of the investments and benefits that are expected to arise from supply chain and infrastructural investments, including a description of the persistent nature of the investment. For each listed investment, Proposer must describe its approach, cost, the circumstances under which the investment will take place, and any risks or uncertainties associated with the likelihood that the investment will occur. Commitments of greater maturity and/or firmness will be considered to carry greater weight.

The Proposer should quantify and provide a written description of the expenditures that are expected to arise from investment in enabling offshore wind supply chain, infrastructure, workforce development, and research and development (R&D) investment in New York State. Emphasis should be placed on investments that create an enduring impact on future offshore wind economic activity in New York, reduce cost of future offshore wind energy or reduced future offshore wind project risk. Proposer should explain the strategic importance of its commitment and how it fits into overall regional offshore wind market development and identify the duration of any commitment. In addition, Proposer may identify and discuss the capability of any partners, and provide supporting documentation to substantiate the nature, firmness and maturity of their commitments.

Investments meeting the definition of Incremental Economic Benefits that are not unique to the Project (*e.g.*, supporting multiple offshore wind facilities) may be included for consideration under this RFP, provided that the investment is made on Category 2 investment types listed in Appendix C.

Proposers may include the dollar value of investments in enabling supply chain, and/or infrastructural improvements in New York State that have not been claimed previously or considered as part of an award under any other competitive New York State procurement process for renewable energy or offshore wind energy, provided such expenditures also provide benefit to the development of the Project. Should a Proposal result in an award under this RFP, the amount of any Incremental Economic Benefits investments claimed herein may not be again claimed in a subsequent Proposal to a New York State entity (such as NYSERDA, NYPA, or LIPA).

### **6.4.16.4 Economic Benefits Category 3: Input Activities**

Category 3 consists of input activities that provide opportunities for New York State supply chain, workforce, and research and development. This category includes programmatic actions that will have desirable impacts on the New York State supply chain and workforce, but the value of which is not denominated in dollars and is therefore indirectly tied to, or difficult to compare to the large expenditures grouped under Category 1 or Category 2. These input activities include impactful actions taken on the part of the Proposer to enhance the New York offshore wind market, supply chain development, or local workforce. Expenditures associated with these actions should be included in Category 2. The actions and value of those actions and metrics by which they are to be measured should be included in Category 3.

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Input activities that have the potential to benefit New York State may include but are not limited to those actions and/or developments are delineated in Appendix C. Category 3 input activities are *additional* to the New York State Supplier Opportunity threshold requirement that Proposers must agree to provide companies with the opportunity to offer to provide goods and services to developers of the Project for which there is capability in New York State.

The Economic Benefit Plan must include a written description of the input activities that the Proposer will take under Category 3. Where possible, the Proposer should seek to quantify the input activities, and provide documentary evidence of past examples of similar activities and the impacts they had and supporting documentation from potential partners or beneficiaries. In general terms, Proposers should describe:

1. The nature of the intended commitment;
2. The timetable for undertaking the activity;
3. A discussion of any risks or uncertainties, including the degree to which it is dependent on factors outside the Proposer's control, and describe what these factors are;
4. The potential impact of the activities and the factors that will influence the impact;
5. The resources the Proposer will deploy (financial or manpower) to deliver the activity; and
6. The organizations with whom the Proposer will work.

Proposer should summarize any engagement with third-party organizations that would be involved in the successful delivery of the Proposer's commitments. The Category 3 description must also include subsections for Business and Workforce Engagement Plans as well as a Verification Plan as described in Appendix C.

Finally, Proposers must provide a detailed description of the proposed metrics by which each element of the Category 3 commitments will be measured, and on which follow through on the commitments can be measured and evaluated; and the proposed alternative compliance measures that Proposer will undertake should the Proposer fall short of its commitments. Proposer should explain the strategic importance of commitment and how it fits into overall regional offshore wind market development and identify the duration of any commitment.

### **6.5 Proposer Certification**

Proposer must complete and submit the Proposer Certification in Appendix B. The Proposer Certification must be signed by an authorized officer or other duly authorized representative of the Proposer.

### **6.6 Exceptions to Agreement**

If Proposer is proposing any exceptions to the Agreement, included as Appendix F, Proposer must provide an explanation for each requested change.

Note that ORECRFP18-1 is a competitive procurement. Competitive procurement rules limit NYSERDA's ability to alter the terms of the Agreement. However, as part of the Proposal process, Proposers may indicate terms of the Agreement that they wish to further discuss by providing an attachment in the form of a memorandum. The memorandum should specifically identify any terms and conditions that the Proposer wishes to clarify or negotiate prior to execution. When constructing the memorandum,

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identify the Article in the Agreement and state the nature of the issue to be discussed. Should the Project receive an award, NYSERDA will contact Proposers to schedule a discussion regarding the terms identified in the memorandum.

The indication by a Proposer that it wishes to negotiate the terms of the Agreement will have no impact on the scoring or evaluation of the Proposal.

## **7 POST-AWARD PROCESS**

### **7.1 Provision of Contract for Execution**

NYSERDA will prepare a conformed copy of the Agreement (Appendix F) which will be delivered to the awarded Proposer, in a manner to be agreed upon, for Proposer's execution and return.

### **7.2 Provision of Contract Security**

If awarded a contract, Proposers will be required to provide Contract Security as described in Article XV of the Agreement.

### **7.3 New York Economic Benefits Verification**

For Categories 1 and 2, independent verification of the actual Incremental Economic Benefits of the Project, and comparison to the level of claimed Incremental Economic Benefits, will be required after the end of the first three years of the Contract Delivery Term to determine the Verified Total Dollars. Verification requirements are addressed in Appendix C.

Contractual repercussions of non-performance are contained in Article XII of the Agreement.

## **8 GENERAL CONDITIONS**

### **8.1 Proprietary Information**

Consideration should be given before confidential information is submitted to NYSERDA as part of any Proposal. Proposers should consider and review whether information is critical for evaluation, and whether general, non-confidential information may be adequate for review and evaluation purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. The Public Officers Law includes exceptions to disclosure, including Section 87(2)(d) which provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Additional information submitted to NYSERDA that the Proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSERDA-Regulations.ashx>.

However, NYSERDA cannot guarantee the confidentiality of any information submitted. NYSERDA reserves the right to make public, after the fifth anniversary of the award date, the Agreement executed with any awarded Proposal.

### **8.2 State Finance Law Sections 139-j & 139-k**

NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The Proposer must certify that he/she will comply with State Finance Law sections 139-j and 139-k and a provide disclosure statement regarding whether the Proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

### **8.3 Tax Law Section 5-a**

NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the Department) whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSERDA. See, ST-220-CA (available at

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[http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

### **8.4 Omnibus Procurement Act of 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as Proposers, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development  
Division for Small Business  
30 South Pearl Street  
Albany, NY 12245

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development  
Minority and Women's Business Development Division  
30 South Pearl Street  
Albany, NY 12245

### **8.5 Disclosure Requirement**

The Proposer shall disclose any indictment for any felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When a Proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment, investigation, enforcement proceeding, or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

### **8.6 Press Releases and Media Contact**

The Proposer shall not distribute any press release or contact the media until after the Agreement is executed by both parties and any New York State press releases regarding the awards have been issued. If the Proposer wishes to contact the press regarding the award, the Proposer must collaborate with NYSERDA's Designated Contacts and Director of Communications to prepare any press release and/or plan for any announcement. NYSERDA reserves the right to make public, after the fifth anniversary of the Award Notification Date, the Agreement executed with any awarded Project.



**8.7 Independent Entities/Limitation of Liability**

Neither this RFP nor any other aspect of this solicitation shall create an agency, partnership, joint venture, or co-tenancy relationship among the members of the Evaluation Team or any other individuals or entities involved in the development or administration of this RFP (collectively, the “RFP Parties”), nor any other relationship or liability beyond those (if any) explicitly adopted in writing and executed by authorized representatives of the applicable RFP Parties. None of the RFP Parties shall be liable for any act or omission of any other RFP Party. Neither this RFP nor any other aspect of this solicitation creates or is intended to create third-party beneficiaries hereunder. In no event will an RFP Party be liable to any person for special, incidental, punitive, exemplary, indirect or consequential damages or lost profits, whether by statute, in tort or contract or otherwise.