



ORECRFP23-1

Responses to Written Questions

(Posted 12/29/2023¹, Updated 1/3/2024² Updated 1/16/2024³)

Category	Q#	Question	Response
Agreement	1	Given the 90-day negotiation period, should proposers assume that an award by NYSERDA conveys general acceptance with the exceptions to the OREC PSA included in the proposal?	No. Competitive procurement rules and the Offshore Wind Orders limit NYSERDA’s ability to alter the terms of the Agreement. Pursuant to Section 6.1.12, should the Project receive an award, NYSERDA will contact the Proposer to schedule a discussion regarding the terms identified in the redlined markup of the Agreement.
Agreement	2	The form OREC PSA released in ORECRFP23-1 includes additional provisions compared to prior NYSERDA OREC PSAs. Will these "new provisions/requirements" apply to any awarded Proposers with an Existing NYSERDA Agreement?	Yes, all provisions in the OREC PSA apply to all potential awardees, regardless of whether they currently hold an Existing NYSERDA Agreement.
Agreement	3	Section 4.03(a)(ii)(B) of the OREC Standard Form PSA states, “calculate the around the clock simple (not load-weighted) average of each such hourly LBMP during the entire month to determine the Reference Energy Price.” The “around the clock” terminology has been added for the first time to this PSA. Please confirm that the intention is still to calculate the price in the same manner as prior NYSERDA OREC solicitations.	Yes, the intention is still to calculate the Reference Energy Price in the same manner as prior NYSERDA OREC solicitations.

¹ Questions 1 through 52.

² Question 53.

³ Question 54.

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Award Group Size	4	The RFP states that “NYSERDA will select no more than 1,400 MW delivered via a single HVDC cable or up to 900 MW delivered via up to two HVAC cables into Zone J Delivery Point(s) and no more than 2,800 MW with a Zone K Delivery Point.” For the Zone J award group, please clarify whether NYSERDA can select up to both 1,400 MW HVDC and 900 MW HVAC simultaneously (so an award of 2,300 MW into Zone J).	No, NYSERDA will select either no more than 1,400 MW delivered via a single HVDC cable or up to 900 MW delivered via up to two HVAC cables into Zone J, but not both.
Economic Benefits	5	Does project work performed in New York State by non-NY residents or non-NY firms count as Labor Dollars towards Eligible Incremental Economic Benefits claims? Please confirm that Payments for labor-related expenditures outside of New York State may be counted as “Eligible Economic Benefits” provided that such work is performed subject to the Project Labor Agreement or Labor Peace Agreement.	Labor Dollars include payments for labor-related expenditures for work that is performed in New York State or subject to the Project Labor Agreement or Labor Peace Agreement approved by NYSERDA pursuant to Sections 18.11 and 18.11-a of the Agreement.
Economic Benefits	6	Please confirm that eligible Incremental Economic Benefits are only eligible if they correspond to expenditures made directly by the Seller and its Affiliates (including reimbursements by the Seller and its Affiliates to contractors for costs incurred on behalf by subcontractors, and/or their General Contractor, as further described in Exhibit I) and not made by third parties. If outside spending can count by third parties, please clarify the instances in which this can occur and be counted as Eligible Economic Benefits. Additionally, how would verification of third-party expenditures, not made by the Seller work?	Please see Exhibit I for a description of the economic benefits claims and verification process.
Economic Benefits	7	Please confirm that if a project has an Existing NYSERDA Agreement with negotiated specific eligible Economic Benefits that have been redacted in its Existing NYSERDA Agreement, then those same eligible Economics Benefits will continue to qualify under a new OREC Purchase and Sale Agreement.	Eligible Incremental Economic Benefits must meet the requirements specified under ORECRFP23-1 as specified in Appendix B.1, and which a Proposer can demonstrate: (1) accrue after the Economic Benefits Start Date; and (2) would not have accrued but for the award under a NYSERDA OREC solicitation or in an anticipation of the potential for such an award.
Economic Benefits	8	If a General Contractor is a New York State Firm, can 100% of the invoiced services count towards Verified Total Dollars?	To count toward Verified Total Dollars, expenditures must be eligible Incremental Economic Benefits as described in Appendix B.1.
Economic Benefits	9	Will economic benefits be evaluated on a present value or nominal basis?	The economic benefits evaluation is described in Section 3.3.1.

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Economic Benefits	10	With respect to Exhibit O, U.S. Iron and Steel Certification Forms, please confirm that “iron and steel products that are permanently incorporated into the offshore wind project” may include products that are permanently used in U.S. port facilities and vessels used by the Selected Project.	No. The Selected Project includes the Offshore Wind Facility and interconnection infrastructure.
Economic Benefits	11	Can excess spending in one or more economic benefits categories, such as Verified Near-Term Dollars in excess of Expected Near-Term Dollars, be used to offset shortfalls in other economic benefits categories?	No. Each Economic Benefits Subcategory Shortfall and Expected Near-Term Dollars Shortfall defined in the OREC PSA is treated independently. A shortfall in one category may not be remedied by an excess in other categories.
Economic Benefits	12	Is it correct that the cumulative weights listed in Table 2 are equivalent to a multiplier? For example, will a Near-Term Total Dollar (+1.25) that is also a Labor Dollar (+1.25) and an MWBE and SDVOB Dollar (+1.25) receive a total weight of 3.75, meaning each \$1 in this scenario is equivalent to \$3.75 for evaluation purposes?	Yes, this interpretation is correct.
Financing Plan	13	Please clarify whether the copies of the annual reports and credit ratings must be embedded in the Financing plan narrative document or may be provided as separate .pdf attachments.	The financial statements and related documents should be included in the Project Development Plan PDF, as an attachment at the end of the file. These attachments will not be counted toward the 100 page limit for the Project Development Plan.
Fisheries and Environmental Mitigation	14	Please clarify what level of information NYSERDA is expecting in the Underwater Acoustic Monitoring Plan, to be submitted 6 months prior to submission of the COP.	Proposers should use best efforts to prepare the Underwater Acoustic Monitoring Plan submitted to NYSERDA 6 months prior to COP submission. The Underwater Acoustic Monitoring Plan can be revised and updated as more details are developed prior to the COP submission.
Inflation Adjustment	15	Please explain the rationale behind the change in the labor index used in the inflation adjustment between NY3 and NY4. We note that NY3 uses "Data Series CIU2020000000000I" while NY4 uses "Data Series CES20000000003."	The labor index has been changed to an index that reports values monthly, for consistency with the other indices. The labor index used in NY3 is reported quarterly. While the values of the two indices are different, the relative trends are very similar.
Inflation Adjustment	16	Will NYSERDA consider proposals for additional price adjustment mechanisms beyond the Inflation Adjustment Mechanism in the PSA?	NYSERDA will not consider proposals for additional price adjustment mechanisms beyond those included in “Section 4.2 Price Adjustments” of the RFP.
Interconnection Costs	17	Will Interconnection Net Savings apply to Proposers that are not seeking to share interconnection cost risks (Interconnection Shareable Costs)?	Yes, interconnection savings sharing will apply to all Proposals, regardless of whether the Proposal includes interconnection cost sharing.

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Interconnection Costs	18	If a Proposer with an Existing NYSERDA Agreement has progressed through the interconnection process, how will NYSERDA assess the expected Interconnection Cost Allocation?	Section 4.2.1 describes the calculation of the Interconnection Cost Allocation Baseline. Projects that are more advanced in the NYISO interconnection process will have more precision in this calculation of expected, high, and low Interconnection Cost Allocation estimates.
Interconnection Costs	19	Does a Proposer have the right to object to the Interconnection Cost Allocation Baseline established by NYSERDA?	Per Section 4.2.1, Proposers will be informed of NYSERDA's determination of the Interconnection Cost Allocation Baseline upon award notification. Proposers will have the opportunity to raise any concerns at that time, which NYSERDA will review. After such review, the final Interconnection Cost Allocation Baseline will be determined by NYSERDA in its sole discretion.
Jobs and Workforce Plan	20	In Appendix G, Table G.1, "Development" is listed twice, both in the 2nd and 5th columns. If this is intentional, please clarify the difference between the two.	Appendix G has been updated to delete the fifth column with the redundant reference to Development.
Jobs and Workforce Plan	21	Section G.6 of Appendix G provides a template, "Table G.1: Template for Expected Jobs and Workforce Needs." Please confirm that the jobs included in this table include only direct jobs created by the Proposer and its contractors and not indirect or induced jobs.	Yes, the jobs included in this table should only include direct jobs created by the Proposer and its contractors.
KMZ/GIS Files	22	Please clarify the expected coordinate system and required attributions for the required GIS deliverables.	Please submit the required GIS deliverables in an industry-standard coordinate system.
Meshed Ready	23	Please confirm whether all projects with a HVDC transmission system must be Meshed Ready. RFP Section 6.2.7(12) implies that exclusions will be permitted. For example, will projects with an existing OREC Purchase and Sale Agreement executed prior to the publishing of the Power Grid Study Orders be suitable justification for exemption from the Meshed Ready requirement?	As stated in Section 2.1.6 (B), "Any Required Proposal utilizing HVDC export transmission must be Meshed Ready according to Appendix F. Alternate Proposals using HVDC proposals that do not include a Meshed Ready system must correspond to a Proposal that is the exact same in all other respects and provide justification for exclusion from the Meshed Ready system."
Meshed Ready	24	How will whether a Proposal is Meshed Ready be factored into NYSERDA's evaluation (especially for projects under an Existing NYSERDA Agreement)?	Proposal Interconnection and Deliverability Plans, including the approach to Meshed Ready, will be considered as part of the project viability evaluation.

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Meshed Ready	25	At the Meshed Ready stage, does the provision for AC Chopper integration include switchgear provisions only, or does the Meshed Ready offshore substation need to include space for a future AC Chopper?	The additional GIS cable bays, space for AC Chopper and AC Switchgear must be considered during the Meshed Ready phase. Final implementation and installation of equipment will occur during a Meshed Implementation phase, as delineated in Table F.2.
Meshed Ready	26	If space provisions are required at the Meshed Ready stage, what are the expected performance requirements of the AC Chopper?	The performance requirements of the AC Chopper will be determined by the Project. The only expected requirements for the AC Chopper are described in Section F.2.
Meshed Ready	27	AC Cables are excluded from the Meshed Ready stage, but the scope only describes 230 kV cables. If 66 kV (or other voltage) will be used, do they need to be included at the Meshed Ready stage?	AC cables are excluded from the Meshed Ready stage, regardless of the expected voltage.
Non-Disclosure Agreement	28	Do all Proposers need to execute a Non-Disclosure Agreement (NDA), even if they have done so in previous solicitations?	All Proposers are required to submit an executed Non-Disclosure Agreement as described in Section 6.2.4.6 of the RFP. The Non-Disclosure Agreement requires confidentiality during any pre-award contracting discussions commenced at NYSERDA's sole discretion during the period between the Proposal submission and award notifications. If the Proposer receives an award, this Non-Disclosure Agreement will also cover the period between award notification and contract execution.
Non-Disclosure Agreement	29	Does the required NDA provide an exception to the confidentiality obligations for disclosure of the provisional award to prospective lenders as part of the financing process? For mature projects, the ability to launch the financing process as soon as possible after provisional award helps to ensure the project timeline is maintained.	The NDA permits awarded Proposers to share their provisional award information with current and prospective investors and lenders.
Offer Data Form	30	Should incremental economic benefits included in the Offer Data Forms only include direct benefits, or should indirect and induced benefits be included?	Only direct economic benefits can be entered in the Offer Data Form.
Offer Data Form	31	Should incremental economic benefits be entered in the Offer Data Form as the total dollar value spent/invested or the total value added associated with those expenditures?	The total dollar value spent/invested, which will be documented through the economic benefits verification process, should be entered in the Offer Data Form.

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Offer Data Form	32	In Appendix H, the Outer Limit Date is listed as either January 1, 2053 (for a 20-year tenor) or January 1, 2058 (for a 25-year tenor), suggesting that a COD of January 1, 2033, would still enable achievement of a 20-year tenor or 25-year tenor under those assumptions. However, Part II of the Offer Data Form suggests that "COD Dates after 12/31/2031 will not fulfill the Contract Delivery Term prior to the Outer Limit Date." Please explain the nature of this apparent inconsistency.	A corrected Offer Data Form has been posted that now references 12/31/2032 as the last COD that will allow a full Contract Delivery Term. The Contract Delivery Term begins on the first day of the month after the COD, therefore a COD of 1/1/2033 would result in a Contract Delivery Term start date of 2/1/2033 and would not allow the full Contract Delivery Term to be completed prior to the Outer Limit Date.
Offshore Transmission System Integration and Adjustment	33	Please explain how a price adjustment mechanism would be structured in the case that a project connects to the NYC-PPTN.	Section 4.3.1 of the RFP states "OREC pricing and contract terms for this solicitation are based on a singular Delivery Point for Projects designed with radial interconnection" and further describes the potential for future adjustment to the settlement in the event of a Project being recommended to integrate with an offshore transmission system such as through the NYC-PPTN, which would be negotiated by NYSERDA and the Proposer pursuant to Section 5.06 of the Agreement.
Permitting Plan	34	To the extent the relevant SAP and/or COP are publicly available online, please confirm if links to the documents are sufficient to satisfy this requirement. Given the size of these documents, uploading to the Salesforce submission portal will be time-consuming and inefficient.	Yes, a public link to the SAP or COP is sufficient. Any confidential SAP or COP content that is not publicly available should be attached as part of the Proposal.
Price Evaluation	35	How will the use of a 2029 Contract Delivery Term commencement affect the evaluation of projects with an earlier commercial operation date, especially those with an Existing NYSERDA Agreement?	The price evaluation approach is described in Section 4.4. In non-price evaluation, per Section 3.2.1, Proposals with an earlier proposed Commercial Operation Date for the first (or only) phase of the Project will be evaluated favorably, if the proposed Commercial Operation Date is determined to be reasonable and is supported by the overall Proposal, including the Project Schedule submitted by Proposers in accordance with Section 6.2.5.1.
Project Schedule	36	If a Proposer is not able to provide a .mpp file for the Project Schedule, will NYSERDA accept other file formats?	A PDF copy of the Project Schedule as prepared in the native file format should be attached to the Project Schedule narrative, If the Proposer is unable to provide a Microsoft Project (.mpp) file for the Project Schedule, a Microsoft Excel (.xlsx) file is an acceptable alternative. Sections 6.2.5 and 6.2.5.1 have been revised accordingly.

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Qualifying Federal Support	37	Please confirm that the base 30% investment tax credit, available to offshore wind projects are not included in the definition of Project Qualifying Federal Support and therefore would not be subject to Qualifying Federal Support sharing with NYSERDA.	Confirmed, based on the premise that the base 30% investment tax credit for offshore wind neither (A) arises from a law enacted by the U.S. Congress after the Proposal Submission Deadline nor (B) arises from Section 45(b)(9), Section 45(b)(11), Section 48(a)(12) or Section 48(a)(14) of the Internal Revenue Code in existence on the Proposal Submission Deadline.
Qualifying Federal Support	38	Please confirm that bonus investment tax credits under the Inflation Reduction Act (i.e., Energy Communities and Domestic Content) are included in the definition of Project Qualifying Federal Support and therefore would be subject to Qualifying Federal Support sharing with NYSERDA.	Please see the revised definition of Project Qualifying Federal Support. NYSERDA advises Proposers to consult with legal counsel regarding any questions about these provisions.
Qualifying Federal Support	39	Please confirm that Department of Energy Loan Programs Office financing, including but not limited to Section 1703 Innovative Clean Energy program loans, are not included in the definition of Project Qualifying Federal Support and therefore would not be subject to 75% Qualifying Federal Support sharing with NYSERDA.	Confirmed, based on the premise that the Department of Energy Loan Programs Office financing neither (A) arises from a law enacted by the U.S. Congress after the Proposal Submission Deadline nor (B) arises from Section 45(b)(9), Section 45(b)(11), Section 48(a)(12) or Section 48(a)(14) of the Internal Revenue Code in existence on the Proposal Submission Deadline.
Qualifying Federal Support	40	Would NYSERDA accept an Alternate Proposal in which a Proposer opts not to offer Project Qualifying Federal Support sharing?	No.
Qualifying Federal Support	41	Please confirm that Proposers with an Existing NYSERDA Agreement are not exempt from the Project Qualifying Federal Support Sharing requirements.	Confirmed. Proposers with an Existing NYSERDA Agreement are not exempt from Project Qualifying Federal Support sharing requirements.
Quality, Health, and Safety	42	Please clarify whether the required reporting period for Health/Safety Enforcement Notices is the past three years or the past ten years.	Health/Safety Enforcement Notices that have been pending within the last three years or issued within the last ten years must be reported.
Quality, Health, and Safety	43	In cases where Project Team safety and security policies or best practices are not yet finalized for all project phases, would it be sufficient to describe in detail the process of how these policies and best practices are developed and will be applied to the proposed project? Would it be sufficient to share the policies and best practices of past projects from the Proposer's experience?	Yes, it is sufficient to describe in detail the process of how these policies and best practices are developed and will be applied to the proposed project. Yes, it is sufficient to share the policies and best practices of past projects from the Proposer's experience.

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Quality, Health, and Safety	44	The hazard and risk analysis required under Section 6.2.6.5 is developed by the contractors performing their specific scope of work for the project, which cannot start until contractors have been selected (i.e. tier 1) for each phase of the project. Would it be sufficient to describe in detail the process of how the hazard analysis and risk controls matrix (from a health, safety, environment, and quality management perspective) are developed for project phases that have not yet started and additionally present specific examples for project phases that have already started?	Yes, a description of how the hazard analysis and risk controls matrix will be developed, with examples of how from prior project experience may shape the development process, would be sufficiently responsive to this requirement.
Schedule	45	When does NYSERDA plan to advise unsuccessful proposers, including those with an Existing NYSERDA Agreement?	NYSERDA plan to notify unsuccessful proposers by the end of Q1 2024 or early in Q2 2024.
Support for Monitoring Key Commercial Fish Stocks and Wildlife	46	How much detail is needed for the Monitoring Plan requirement within 90 days of the Effective Date as stated in Section 2.2.7? Can the Monitoring Plan be revised and updated as more details are developed?	Proposers should use best efforts to prepare a Monitoring Plan at the time required pursuant to Section 2.2.7. The Monitoring Plan can be revised and updated as more details are developed.
Termination Agreement	47	If a Proposer with an Existing NYSERDA Agreement is waitlisted as described under Section 5.3, please confirm whether notification of being waitlisted will constitute the Non-Award Date in Appendix L.	No. If a Proposer with an Existing NYSERDA Agreement is waitlisted as described under Section 5.3, the notification of being waitlisted will not constitute the Non-Award Date in Appendix L. Only a notification of non-award constitutes a Non-Award Date.
Termination Agreement	48	If NYSERDA does not make any awards under ORECRFP23-1, whether prematurely canceling or concluding the process, will the Conditional Termination Date in Appendix L still be deemed to have occurred for a Proposer with an Existing NYSERDA Agreement?	If NYSERDA prematurely cancels the RFP, the Conditional Termination Date in Appendix L will be deemed to not have occurred (no cancellation of existing agreements). However, if the RFP concludes without any awards, the Conditional Termination Date will be the Non-Award Date.
Transmission	49	Can NYSERDA provide a shapefile, as part of the RFP, that clearly delineates the 'Constrained Areas' to ensure consistency in Proposals across all Proposers?	No.

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U.S. Iron and Steel	50	In the case of more mature projects that are expected to reach commercial operation in a few years, the ability to alter the procurement strategy to incorporate U.S. iron and steel may be limited and, where possible, may result in project delays that significantly outweigh the benefits of such a change. In addition to making best efforts to incorporate U.S. iron and steel, can a bidder propose to commit to making an investment that promotes the development or use of U.S. iron and steel in an amount equal to the minimum investment of \$114,000 per MW or the balance thereof?	Section 12.02 of the Agreement allows for Proposers to make up an Expected U.S. Iron and Steel Dollars Shortfall by providing to NYSERDA for NYSERDA's approval a plan to make additional economic investments in New York State in an amount reasonably comparable to the amount of the applicable Expected U.S. Iron and Steel Dollars Shortfall.
U.S. Iron and Steel	51	Please clarify whether expenditures on U.S. iron and steel sourced from U.S. businesses count towards meeting the requirement even if that U.S. iron and steel is fabricated into components outside of the United States. This could include, for instance, expenditures on iron and steel that is sourced from U.S. business, but is transported out of the United States for rolling and shaping into a foundation (and the application of protective coatings) due to supply chain constraints.	Verified U.S. Iron and Steel Dollars are the Verified Total Dollars associated with expenditures for iron and steel manufactured in the United States.
U.S. Iron and Steel	52	Please clarify whether expenditures on U.S. iron and steel components that are developed for and used for the construction of a project but not permanently incorporated into the Project will count towards meeting the minimum U.S. iron and steel requirement.	Only expenditures substantiated by a U.S. Iron and Steel Manufacturer Certification as found in Exhibit O shall be considered Verified U.S. Iron and Steel Dollars. Exhibit O references products that will be "permanently incorporated into the offshore wind project."
Inflation Adjustment	53	Please provide the final Index _B values that will be used in the Agreement for the inflation adjustment.	The final Index _B values are updated in the Agreement and Appendix H. Index _{B,Labor} = 36.797 Index _{B,Fabrication} = 189.344 Index _{B,Steel} = 284.841 Index _{B,ULSD} = 2.978 Index _{B,Copper} = 3.794

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Qualifying Federal Support	54	<p>The definitions of “Project Qualifying Federal Support” in the RFP and “Qualifying Federal Support” in the form OREC agreement in Appendix H incorrectly state “Section 45(b)(14)”, which does not exist. The correct section should be Section 48(a)(14), which refers to the Energy Communities credit. In addition, please confirm that any such support arising from these two provisions in this manner, therefore not considered (Project) Qualifying Federal Support, would not be subject to sharing between NYSERDA and Seller.</p>	<p>NYSERDA confirms that the correct section is “Section 48(a)(14)” within the “Project Qualifying Federal Support” definition in the RFP and “Qualifying Federal Support” definition in the form OREC agreement in Appendix H. We have also updated the definition of “Renewable Tax Benefits” in the form OREC agreement in Appendix H. NYSERDA also confirms that any such support arising from these two provisions in this manner is not considered (Project) Qualifying Federal Support and would not be subject to sharing between NYSERDA and Seller.</p>