



# VINEYARD WIND

August 10, 2018

Submitted electronically via [offshorewind@nyserda.ny.gov](mailto:offshorewind@nyserda.ny.gov)

RFI OSW-2018 Comments – Large Scale Renewables Team  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

## **RE: RFI OSW-2018 Comments**

Dear Ms. Barton,

Thank you for the opportunity to provide input into the development of the Request for Proposals (“RFP”) to be issued this year for the competitive solicitation of proposals to enter into long-term OREC contracts with offshore wind resources. We commend New York’s bold leadership in launching a commercial-scale offshore wind industry in the state as well as New York State Energy and Research and Development Authority’s (“NYSERDA”) efforts to ensure the Phase I RFP process is well-crafted.

Vineyard Wind, LLC (“Vineyard Wind”) is a Massachusetts-based offshore wind development company working to build the first large-scale offshore wind energy project in the US. Vineyard Wind’s parent companies consist of funds managed by Copenhagen Infrastructure Partners, whose senior partners are pioneers in the offshore wind industry, and Avangrid Renewables, the third largest onshore wind developer in the US with operations in 27 states, and which is an affiliate of the Iberdrola Group, the world’s largest wind developer with more than 15,000 MW of wind power installed.

In May of 2018, Vineyard Wind was selected to negotiate a Power Purchase Agreement (“PPA”) with electric distribution companies in Massachusetts in that state’s first solicitation for long-term contracts for offshore wind generation and transmission. Those negotiations concluded successfully in August and the PPAs have been filed with the Department of Public Utilities for final review and approval. Vineyard Wind’s 800 MW project will begin operation in 2022 and generate enough electricity to power 400,000 homes.

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The following pages provide Vineyard Wind's responses to selected questions in the Request for Information ("RFI") issued on July 19. Should you have any questions or require additional information, do not hesitate to reach out.

Thank you for your consideration.

Sincerely,



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## **RFI-OSW 2018 Comments- Vineyard Wind's Responses to selected questions**

**Response to Question 1a (RFI at 1):** A period of 12-16 weeks is sufficient for potential bidders to develop complete, robust bids. If the first solicitation is released in the fourth quarter of 2018, NYSERDA should take into account the winter holiday season when determining the proposal submission date to the extent the bid development period overlaps with holidays like Thanksgiving, Christmas and New Year's Day.

**Response to Question 1b (RFI at 1):** Many factors drive the time needed to prepare proposals. The RFP itself can be an important factor. For example, if an RFP requires developers to identify which ports and harbors will be used to stage and build a project, a bid will take more time to prepare. Similarly, local content commitments can increase bid preparation timelines. Identifying opportunities, developing relationships, and determining which commitments to make is a time and labor-intensive process. Nevertheless, local content commitments are an important part of the renewable energy procurement process in terms of ensuring delivery of tangible economic and jobs benefits to states.

Other important factors include project maturity and whether a project has previously responded to an RFP. Projects that are less mature and have yet to prepare a bid in response to a solicitation will need more time to respond than a project which is more mature and/or has already participated in a solicitation. NYSERDA should keep this in mind when developing the 2018 RFP as it is scheduled to take place after several renewable energy procurements in neighboring New England states. Depending on the outcome of these procurements, it's possible that the pool of ready-to-bid offshore wind projects could be limited, meaning more time will be needed for project proponents to develop new bids and ensure a competitive procurement process for New York.

**Response to Question 2 (RFI at 1):** Requiring bids to remain firm and binding for a period of six months is reasonable. One of the key factors that affects how long a proposal can remain firm is federal Investment Tax Credit ("ITC") qualification and related safe harbor deadlines. In light of the ITC step down and timing, if timelines in a solicitation slip and/or the period that a bid is required to remain firm is too long, the ability for a project proponent to maintain a firm bid decreases. However, project proponents can take this timing into account during bid preparation.

Another factor that affects the amount of time it is reasonable to expect a proposal to remain firm is commitments and/or bids in other solicitations. This year and next, New York and several New England states are conducting solicitations for zero carbon, renewable, and/or offshore wind resources, in part, to take advantage of the ITC. Project proponents often participate in multiple procurements to increase their likelihood of securing a winning bid. This also allows project proponents to plan for bigger projects and offer more competitive pricing due to economies of scale. Depending on the timing of various solicitations, however, requiring bids to remain firm for too long a period could discourage project proponents from participating in a

procurement because it could preclude or limit their ability to participate in other procurements.

**Response to Question 3 (RFI at 1):** Vineyard Wind suggests the Phase 1 procurement process be designed to support project sizes of approximately 400 MW. This size allows projects to optimize their economics and facilitates a step-wise build-out of offshore wind capacity in New York that supports local content. This project size will also increase the potential number of projects to be awarded, and minimize the setbacks in the program in the event a project stalls. Due to limits in port infrastructure, building individual projects much larger than 400 MW from the very beginning could potentially force developers to seek more established infrastructure opportunities outside of New York. For this reason, Vineyard Wind cautions against supporting project size maximums higher than 400 MW for Phase 1.

However, in the event NYSERDA wants to encourage bids from smaller size projects, Vineyard Wind strongly recommends a minimize size of no less than 200 MW. Based on our experience, projects smaller than 200 MW are too small to fully leverage the economies of scale available to larger offshore wind projects, and are necessarily less able to drive local supply chain development. Therefore, securing the greatest value for New York consumers and businesses means encouraging projects that are at least 200 MW in size, although, as noted above, Vineyard Wind believes that 400 MW is ideal and best accounts for current limits in port infrastructure.

**Response to Question 4 (RFI at 2):** The 2018 RFP should allow bidders to submit multiple bids with differing capacity and OREC quantities. Vineyard Wind notes that the recent renewable energy RFPs in Connecticut and Massachusetts permitted project proponents to submit multiple bids.

It is in NYSERDA's interest to allow multiple bid sizes because doing so will support local content and design considerations. For example, depending on the availability and capacity of ports, different project sizes and local content commitments may be feasible. Permitting multiple bids lends flexibility to the procurement process and allows developers to better account for these types of factors. This, in turn, would provide NYSERDA with more options to choose from based on what a particular project proponent believes is competitive.

**Response to Question 5 (RFI at 2):** To facilitate awarding more than 800 MW in the first year, NYSERDA should first consider choosing more than one winning bid in the upcoming solicitation. Doing so increases the likelihood that NYSERDA would procure more than 800 MW as it's unlikely that any one individual offshore wind project would be greater than 800 MW. Multiple winning bids would also "spread the risk" and not pin New York's ability to benefit from the soon-to-expire ITC on a single project.

With respect to the RFP, NYSERDA could best position itself to procure more than 800 MW in the first year through multiple winning bids by encouraging bid sizes of 400 MW. This can be done through a minimum or maximum bid size, and is desirable for the reasons outlined in response to Question 3.

Finally, the RFP's bid evaluation process should support early delivery of a project. The more developed a project is, the greater likelihood it will be built in time to take advantage of the ITC. Such an analysis could be incorporated into a project viability assessment, which would also review the track record and experience of the company and team behind a project.

**Response to Question 7a (RFI at 2):** At present, experience developing out-of-state renewable energy projects, and associated infrastructure, to enable delivery from the ISO-NE Control Area into the NYCA pursuant to a long-term contract is limited. It is our understanding that a transmission product in ISO-NE, in order to reserve a "contract path" from a generation to the NYCA, does not exist.

We also understand that in order to qualify for and generate ORECs, an offshore wind project in the ISO-NE Control Area would likely have to sell its energy in ISO-NE and utilize Coordinated Transaction Scheduling between ISO-NE and NYCA to buy a corresponding amount of energy in ISO-NE at the interface and then sell that energy into the NYCA through a tie at the interface, and acquire the required short-term transmission capacity to do so.

Vineyard Wind is still assessing if this is the case, how best to do this, and what risks are associated with this approach. As such, we are not in a position at the moment to provide detailed comments on this issue. That being said, we can say that delivery and related requirements are very fundamental issues in terms of ensuring a level playing field between in-state and out-of-state resources.

**Response to Question 7b (RFI at 2):** Based on our current understanding, there are significant risks with this approach that, if not treated carefully, could render out-of-state projects uncompetitive with in-state projects. Risks include an inability to import the desired amount of energy due to a periodic lack of transmission availability and the potential that energy imports will be more expensive than project owners account for.

As Vineyard Wind investigates this issue, we will gain a better understanding of these and other risks, including how they impact project costs and viability. However, we would already note that all of the risks associated with delivering energy into the NYCA from an adjacent control area will need to be considered in light of the long-term commitment, i.e. 20-year contract, that projects would make. In some instances, a 20-year commitment could help limit some risks while in others it could exacerbate them. It will also be important for NYSERDA to understand if and how these risks are affected by the contract term.

**Response to Question 7c (RFI at 2):** The inability to acquire long-term firm transmission from the ISO-NE Control Area to NYCA presents risks for offshore wind projects seeking to import into NYCA, particularly over a 20-year contract term. It is our understanding that NYSERDA’s rules for energy imports require “hourly matching” for energy delivery into the NYCA and the corresponding OREC generation and that suppliers receive the lesser of the metered energy production or actual hourly energy delivery. If our understanding is correct, this arrangement creates a significant risk that less than 100% of generated ORECs will qualify for delivery to NYCA.

NYSERDA can reduce this risk and enhance competition by providing some flexibility to “true-up” energy delivery and corresponding OREC production. For example, NYSERDA could allow a generator in an adjacent control area to “over-import” energy in certain hours to make up for energy shortfalls in hours where some amount of corresponding ORECs could not be matched. We recognize that an overly liberal “true-up” policy may unduly promote energy arbitrage opportunities so NYSERDA may want to limit or cap the amount of corresponding OREC production which can be matched in future hours. NYSERDA may also want to place limits on how far into the future corresponding OREC production can be matched. However, based on our current understanding, providing additional flexibility around hourly matching requirements would greatly enhance the competitive potential of adjacent control area suppliers and reduce risks for out-of-state projects.

**Response to Question 8a (RFI at 2):** Vineyard Wind is still assessing these issues to gain a clear understanding of the opportunities and risks. However, based on an initial review, we do not believe that NYISO’s tariff contemplates the import of capacity from intermittent resources from adjacent control areas. While this question is likely subject to greater review, Vineyard Wind recommends that NYSERDA work with the NYISO to clarify whether imports of intermittent external control area capacity can qualify for capacity and deliver capacity to NYCA. It will be critical for NYSERDA to ensure a level playing field between in-state and out-of-state resources when it comes to capacity and related issues to facilitate a competitive solicitation and encourage bid from projects outside of the NYCA.

**Response to Question 10 (RFI at 2):** Vineyard Wind believes that strategic partnerships between offshore wind developers and transmission owners should not be awarded special treatment or scored more favorably as it concerns project viability and other award determinations. Offshore wind project developers are very familiar and comfortable with developing transmission infrastructure. In fact, developer-built and owned offshore transmission infrastructure is often included in the scope for offshore wind solicitations in other countries. For this reason, offshore wind developers are also likely to be more experienced than transmission owners when it comes to developing the necessary transmission infrastructure for offshore wind projects. Vineyard Wind believes that projects with such strategic partnerships possess

no inherent advantage or enhanced viability over those that do not. Therefore, they should not receive favorable treatment in the bid evaluation process.

**Responses to Question 11a and 11b (RFI at 3):** We would normally recommend that with respect to nominal strike prices, project proponents should be permitted to submit a schedule of nominal prices that varies on the basis of a fixed annual percentage escalator. Doing so allows for a lower initial price for a project and gives developer's time to optimize their business case.

However, it is difficult to assess whether this is the right approach for the Index OREC procurement method because we lack a clear understanding of how Index ORECs work in practice. It would be very useful for NYSERDA to develop a model that demonstrates this and invite public comments on that model to facilitate fine tuning of the Index OREC procurement method. The advantage of seeking public comments in this manner is that NYSERDA would ensure everyone has a similar understanding of the Index OREC procurement method; this would also enhance the ability of offshore wind developers and stakeholders to provide NYSERDA with meaningful and useful input. NYSERDA should also provide a more detailed description of the mechanics of the Index OREC procurement method (i.e. formulas with explanations) and consider providing proposed contractual language.

**Response to Question 12 (RFI at 3):** Based on our understanding of the OREC Index procurement method, it would seem reasonable to include negative LBMPs in the calculation of the Index OREC value. However, see response to Question 11. A model that demonstrates how the Index OREC procurement method works would allow us to confirm that this is the best way to account for negative LBMPs.

**Response to Question 13 (RFI at 3):** Normally, it would reasonable to apply the first year UCAP factor of 38% as a fixed value through a PPA contract period. However, as noted in the response to Question 11, it would be useful for NYSERDA to provide a model of the Index OREC procurement method to allow us to confirm this.

**Response to Question 14a and 14b (RFI at 3):** For the reasons mentioned in response to Question 11, Vineyard Wind believes that developers should be permitted to submit a schedule of nominal OREC prices that vary annually according to a fixed percentage escalator.

**Response to Question 15 (RFI at 3):** Please see our response to Question 11.

**Response to Question 17 (RFI at 3):** The evaluation weighting should be almost entirely towards the Index OREC bid. Given the relatively high capital costs and newness of offshore wind compared to land-based wind and utility-scale solar it will be very difficult to nearly impossible for developers to transact under the Fixed OREC structure. As a result, in order to account for significant un-hedgeable risks, it is likely that Fixed OREC bids will be meaningfully more expensive than Index OREC bids and, therefore, not reflective of efficient pricing resulting from a financeable model.



**Response to Question 18 (RFI at 3):** The RFP should provide a clear and transparent process for evaluating bids so that developers have the information and certainty they need to determine if they should respond to an RFP and the kinds of bids that would be most competitive.

Relatedly, it's essential for any bid evaluation process to ensure that projects are treated comparably and equally across bids. This should be relatively easy for NYSERDA to do in the 2018 RFP as it deals only with a single renewable energy technology in a single setting. However, care should be taken to avoid advantaging certain projects types over others when doing so provides no clear or additional benefit to New York, e.g. how to weight fixed versus index OREC bids.

**Response to Question 20 (RFI at 3):** See response to Question 11.

**Response to Question 22 (RFI at 4):** In addition to a maximum acceptable bid requirement, NYSERDA could include eligibility requirements related to project maturity and a latest possible delivery date. This would help screen out speculative bids and those that do not have a high likelihood of coming online in the shorter term.

**Response to Question 23a (RFI at 4):** In some instances, it will be difficult for project proponents to make specific commitments before bid submission. With respect to port facilities, in particular, it can be counterproductive to require project proponents to make commitments ahead of time because this risks tying up facilities in bids that may not ultimately be successful. Ideally, companies with port facilities should only contract with winning bidders so that the best facilities are available to projects that have been awarded contracts. A requirement to make these commitments as part of bid submission could create a run on securing the best facilities and limit competition as not all bidders will be able to gain access to ports, etc. For these reasons, NYSERDA should avoid requiring bids to make commitments to specific facilities. NYSERDA should only require bidders to outline their plans with respect to these issues in their bids. NYSERDA can also encourage project proponents commit to allocate a specific amount of money to a fund to support such efforts and include documentation that demonstrates that commitment.

**Response to Question 23b (RFI at 4):** NYSERDA could evaluate the ability to use or readily expand upon the infrastructure needed for projects bidding into the 2018 RFP for future offshore wind procurements. NYSERDA could also consider a project's ability and commitment to developing local and regional supply chains as another way to reduce the potential cost of future offshore wind projects.

**Response to Question 24a (RFI at 4):** The EB Plan should include the amount of funds a project proponent is committing to achieve a particular outcome or set of outcomes. The EB plan should also include a benefits assessment that outlines the concrete benefits that will be delivered, including the number direct jobs that would result from the project.



**Response to Question 25a (RFI at 4):** It would depend on the formulation of the requirement itself as a range of project-related expenditures could be considered and included in a minimum requirement. Project-related expenditures go beyond the purchase of raw materials, parts and labor needed to construct a project. Offshore wind development requires the provision of things like crew transfer vessels, legal and accounting services, expert energy and environmental consulting services, and purchasing insurance.

To the extent NYSERDA isn't already taking a broader view with respect to project-related expenditures with respect to establishing a minimum requirement, it should. Doing so has the potential to deliver greater benefits to New York by encouraging developers to hire in-state for a service that they may normally procure elsewhere. It could reduce pressure on existing in-state manufacturing capacity and labor resources that may not yet be in a position to meet new, strong demand that one or more offshore wind projects could create by spreading it to other sectors that could deliver other types of goods and services in support of project deployment.

Additionally, Vineyard Wind has no concerns with being required to communicate opportunities for contracts to a New York State vendor list maintained by NYSERDA so long as a right-of-first-refusal for New York vendors isn't also required. However, Vineyard Wind would have concerns with any kind of requirement to award contracts totaling a minimum dollar amount or certain percentage of total project costs to local vendors.

**Response to Question 26a (RFI at 4-5):** Vineyard Wind has concerns about how this can be done in an objective and transparent way from a bid evaluation perspective. Both objectives are laudable and important, but the state, rather than individual private companies, is best positioned to ensure success in these areas. NYSERDA and government agencies in New York should be working to create the necessary pre-conditions for these outcomes and look to other states to see how that groundwork is best laid. Massachusetts provides an excellent example of how a state can lead the way with respect to creating a local renewable energy industry and infrastructure as well as creating conditions that lower overall project costs.

The role for private developers in facilitating these outcomes is to follow the state's lead, make commitments for publicly directed funds to support workforce and supply chain development, and design their projects so they align to the greatest extent possible with these objectives. Ensuring robust and competitive procurements will also lower the cost of future offshore wind projects.

**Response to Question 27 (RFI at 5):** Vineyard Wind finds this approach reasonable to ensure realistic claims regarding economic benefits and to hold project proponents accountable for delivering such benefits.

**Response to Question 28 (RFI at 5):** The purpose of a fisheries compensation program is to mitigate impacts. As such, there should be no requirement to quantify

economic impacts. For the same reason, a fishing compensation plan should not be considered along with other economic benefits. Any funds paid out would be to remedy or mitigate a harm rather than generate new, additional economic benefits.

It would be more appropriate for NYSERDA to evaluate a fisheries management plan first on its basis of addressing fishing interests and avoiding negative impacts and then evaluate the fisheries compensation plan, if one is included, in terms of its ability to compensate impacted fisheries industry stakeholders for economic damages that were unintended, unforeseeable, or unavoidable.

**Response to Question 29a (RFI at 5):** Related to Question 25 above, NYSERDA should require project developers to communicate opportunities for contracts to the New York State vendor list maintained by NYSERDA.

NYSERDA may also want to consider expanding its New York State vendor list so that it includes a broader range of sectors that would be interested and able to provide services to the offshore wind sector, e.g. accounting firms and insurance companies. NYSERDA should also determine if there are other ways for project proponents to have ready knowledge of the local labor pool, skills, and businesses, e.g. creating a vendor database that companies can easily search.

**Response to Question 29b (RFI at 5):** NYSERDA and the state of New York would do well to look to other states that have built strong renewable energy economies and workforces, in particular California and Massachusetts, to inform how best to build and ensure the availability of a properly trained, highly skilled and qualified workforce for the offshore wind industry sector is it seeking to bring to New York.

As a first step, NYSERDA should perform an assessment of existing training programs related to the offshore wind industry in New York and develop a plan to expand existing programs and/or fill gaps where they exist. Relatedly, NYSERDA should also assess existing labor pools in terms of number of available workers as well as the rates of new entrants and expected rates of attrition. Public funds should be then directed to expanding successful job training programs and creating new ones to address gaps that may exist. Offshore wind developers should be encouraged to contribute to funds that can be publicly directed for this purpose.

**Response to Question 29c (RFI at 5):** On a shorter-term basis, NYSERDA could work with local suppliers to create supplier networks, meet the buyer events, and related networking opportunities where offshore wind developers have an opportunity to meet with and talk to small businesses.

In the longer-term, New York should implement policies directly aimed at encouraging small businesses to expand or shift their focus. This could include education and training so small businesses understand what opportunities may be available, including what services or products are needed. Economic support, in the form of low interest loans, tax breaks, and employment training reimbursements, could also be made available to lower the barrier to entry for small businesses and reduce risks. Again,

project proponents should be encouraged to contribute funds that can be publicly directed to support these kinds of public policy goals.

**Response to Question 30a (RFI at 5):** Project proponents should be required to submit information that details the following: (1) Permits needed for their project; (2) Federal, state, and local agencies that will be granting the required permits and the level of engagement the project has had with each agency to-date; (3) Status of the permitting process and anticipated permitting timeline; and (4) What studies have been completed and are planned. Decommissioning plans should not be required as part of this process as they provide no added value to the bid evaluation process. See response to Question 30e.

Regarding item 4 above, project proponents should not be required to submit specific data, e.g., geotechnical analysis, in response to an RFP. Such data is required by the federal permitting process and will be submitted to the Bureau of Ocean Energy Management. This type of information is best considered in the context of a project's permitting process rather than in evaluating the value of a bid in response to an RFP. In addition, depending on project maturity, some projects may not be able to provide the requested data because the studies have not yet been conducted and will not be performed in time for bid submission.

**Response to Question 30b (RFI at 5):** Vineyard Wind encourages NYSERDA to emulate the requirements of the recent Massachusetts and Connecticut RFPs. The excerpt below shows the information bidders were asked to provide the following information in response to the Massachusetts RFP for offshore wind:

- 5.1 Each bidder is required to submit information and documentation that demonstrates that a long term contract resulting from this RFP Process would either permit the bidder to finance its proposal that would otherwise not be financeable, or assist the bidder in obtaining financing of its proposal.*
- 5.2 Please provide a description of the business entity structure of the bidder's organization from a financial and legal perspective, including all general and limited partners, officers, directors, managers, members and shareholders, involvement of any subsidiaries supporting the project, and the providers of equity and debt during project development. Provide an organization chart showing the relationship between the equity and debt participants and an explanation of the relationships. For jointly owned facilities, identify all owners and their respective interests, and document the Bidder's right to submit a binding proposal.*
- 5.3 Please provide a description of the financing plan for the project, including construction and term financing. The financing plan should address the following:*
  - i. 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*

- ii. The project's existing initial financial structure and projected financial structure*
- iii. Expected sources of debt and equity financing*
- iv. Estimated construction costs*
- v. The projected capital structure*
- vi. 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.*

*In addition, the financing plan also had to address the status of the above activities as well as the financing of development and permitting costs.<sup>1</sup>*

**Response to Question 30c (RFI at 5):** Vineyard Wind encourages NYSERDA to emulate the requirements in the recent Massachusetts and Connecticut RFPs. For example, the Massachusetts offshore wind RFP included “experience” as a threshold eligibility requirement and required bidders to demonstrate that they had “sufficient relevant experience and expertise, as applicable, to successfully develop, finance, construct, and operate and maintain its proposed eligible project. Development, financing, and construction experience can be established by demonstrating that key member(s) of the bidder’s development team have undertaken project management responsibilities...”<sup>2</sup>

**Response to Question 30d (RFI at 5):** Vineyard Wind encourages NYSERDA to emulate the project design and construction plan requirements in the recent RFP in Massachusetts and Connecticut, particularly to the extent they facilitate the use of a Project Design Envelope (PDE) approach. A PDE approach is an option available to offshore wind projects as part of the federal BOEM permitting process. It “allows a project proponent the option to submit a reasonable range of design parameters...for certain key components of a project, including: type and number turbines; foundation type; location of the export cable route; location of an onshore substation; locations of the grid connection point; and construction methods and timing.”<sup>3</sup> The PDE approach for offshore wind is standard in the UK and other European countries and provides developers with the flexibility they need to adjust aspects of the project as new information is gained and the project development process moves forward.

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<sup>1</sup> See Request for Proposals for Long-Term Contracts For Offshore Wind Energy Projects (“MA RFP”). Massachusetts Department of Energy Resources. (June 29, 2017) at B-5-B-6. Available at: <https://macleanenergy.files.wordpress.com/2017/02/section-83c-request-for-proposals-for-long-term-contracts-for-offshore-wind-energy-projects-june-29-2017.pdf>.

<sup>2</sup> See MA RFP at 26.

<sup>3</sup> See Draft Guidance Regarding the Use of a Project Design Envelope in a Construction and Operations Plan at 1. US Department of the Interior. (June 12, 2018). Available at: <https://www.boem.gov/Draft-Design-Envelope-Guidance/>.

**Response to Question 30e (RFI at 5-6):** Vineyard Wind encourages NYSERDA to emulate the approach adopted in the recent Massachusetts and Connecticut RFPs. For example, in Massachusetts, bidders were required to “demonstrate the logistical viability of the project through a construction plan covering the necessary specialized equipment (e.g. vessels), applicable maritime law (e.g. the Jones Act), and local port facilities to complete project deployment.”<sup>4</sup>

We would also point out that in most instances, bid submission is too early for a developer to demonstrate site control for port facilities and other support infrastructure. It is similarly too early for developers to have a clear and credible sense of which construction vessels will be used and what scheduling will look like. What’s more, requiring site control at bid submission could require multiple bidders to compete for the same limited resources far in advance of the start of construction. Rather than requiring site control, a bidder should be required to provide a plan that details which port facilities and support infrastructure it is considering and how it would proceed in securing site control in the event of a winning bid.

With respect to decommissioning, bidders should not be required to submit a decommissioning plan. A decommissioning plan is something that developers are required to submit as part of the federal permitting process along with a bond. However, because decommissioning will be taking place at least 25 years in the future these plans are, at best, indicative and subject to change based on technology evolution, etc. Vineyard Wind sees no added value or advantage that a decommissioning plan would provide to the bid evaluation process.

**Response to Question 30f (RFI at 6):** Vineyard Wind encourages NYSERDA to adopt requirements similar to those used in the recent Massachusetts and Connecticut RFPs. Below is an excerpt of the relevant section from the Connecticut RFP for renewable energy.

*6.6 Please describe the status of any planned interconnection to the grid. Has the bidder made a valid interconnection request to ISO-NE (provide queue position), the applicable interconnecting transmission or distribution company, or any neighboring control areas? Describe the type of interconnection service requested, i.e., Capacity Network Resource Interconnection Service or Capacity Network Import Interconnection Service. If participating in the FCM, provide detailed information on how it intends to clear in the primary auction. For projects 20 MW or greater, what are the maximum expected interconnection costs for the Eligible Project?*

*6.7 Describe the Project’s electrical system performance and its impact to the reliability of the New England Transmission system. Provide the status of any interconnection studies already underway with ISO-NE and/or the transmission*

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<sup>4</sup> See MA RFP at 25.

*owner. Provide a copy of any studies completed to date. Provide a copy of an interconnection agreement, if any, executed by the bidder with respect to the proposed project. If an interconnection agreement has not been executed, please provide the steps that need to be completed before an interconnection agreement can be executed and the associated timeline.*

*6.8 Provide the electrical models of all energy resources supporting the proposed project in accordance with the filing requirements of the ISO-NE Tariff Schedule 22 and 23.*

*6.9 Provide a copy of an electrical one-line diagram showing the interconnection facilities and the relevant facilities of the transmission provider.<sup>5</sup>*

**Response to Question 30h (RFI at 6):** Vineyard Wind encourages NYSERDA to adopt requirements similar to those used in the recent Massachusetts and Connecticut RFPs. For example, the CT RFP asked bidders to:

*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 bidder is aware. Provide copies of any agreements with communities and other constituencies impacted by the project, and a plan for community outreach activities, and discuss the status of that plan. Provide documentation of any outreach to or interaction with stakeholders such as environmental organizations or commercial fishermen.<sup>6</sup>*

**Response to Question 30i (RFI at 6):** See response to Question 30a.

**Response to Question 30j (RFI at 6):** NYSERDA can request data related to all of categories mentioned so that a bid's claims with respect to production and performance are substantiated by proper studies and analysis. It's important, however, for NYSERDA to be aware that, in most instances, such data will be preliminary and subject to change. As such, any information submitted should only be for the purpose of evaluating the status of development and overall project viability.

The preliminary nature of the data, however, does not mean that is speculative or something that NYSERDA cannot rely on to evaluate bids. Even at a preliminary stage, this information is essential to successfully developing a financial viable project. Yield estimates, for example are highly proprietary and are used by developers in the context

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<sup>5</sup> See Notice of Request for Proposal From Private Developers For Clean Energy ("CT RFP") at B-8-B-9. Connecticut Department of Energy & Environmental Protection. (January 31, 2018). Available at: [http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/0fa7e92df14f12248525822600682775/\\$FILE/2018.01.31\\_FINAL%20RFP.pdf](http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/0fa7e92df14f12248525822600682775/$FILE/2018.01.31_FINAL%20RFP.pdf).

<sup>6</sup> See CT RFP at B-10.



of their own business strategies. It is in the developer's best interest to get these estimates right as the risk of an insufficient estimates rests solely with the developer. Nevertheless, due to the potentially preliminary nature of at least some of this data, it should be seen as indicative and not binding. Developers should be able to change or update the data at their discretion.

**Response to Question 32a (RFI at 6):** Fishing interests are very specific and diverse. That being said, early engagement of a fisheries representative is one best management practice that is a useful starting point in terms of facilitating a dialogue with and identifying the concerns of environmental and fishing communities. Vineyard Wind was the first US offshore wind company to engage a fisheries representative, a practice now recommended in BOEM's guidelines. In terms of process, meeting early and often with stakeholders from the environmental and fishing communities is essential. Vineyard Wind, for example, held more than 100 meetings with fisheries stakeholders prior to the submission of its Construction and Operation plan to BOEM for its 800 MW project.

In terms of mitigation measures, Vineyard Wind has not found any one best practice that could serve as a useful starting point for commercial fishing considerations. In our experience, a great deal of learning remains to be done and best practice solutions are often very specific to the species, local environment, and commercial fishing interests.

**Response to Question 32b (RFI at 6):** Vineyard Wind suggests that NYSERDA avoid being too prescriptive with respect to what information project proponents should be required to provide in a fisheries mitigation plan when they submit their bids. At the stage of bid submittal, any plans would be very preliminary. As such, the best approach would be to only require project proponents to detail any fisheries outreach a developer has done and outline how the project will fulfill its commitment to consult with relevant state agencies, and relevant fisheries stakeholders, to satisfy federal requirements relating to fisheries.<sup>7</sup> At the bid submittal stage, it should also be possible to detail how a project, as proposed, has been sited and designed to minimize potential impact to fisheries and commercial fishing interests as well as a list of potential mitigation measures that the project could implement.

**Response to Question 32c (RFI at 6):** Please see response to Question 32b. In addition, Vineyard Wind would like to point out that it is in the developer's interest, and a regulatory requirement, to work with commercial fishing communities as part of the project design and development process. However, incorporating input from fishing communities is a very detailed and dynamic process. At the time of bid submittal, it is often the case that the issues and concerns identified are preliminary. Thus, it would be premature to ask bidders to make specific fishing commitments aside from committing

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<sup>7</sup> See Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement at 47. Case No. 18-E-0071. New York State Public Service Commission. (July 12, 2018). Available at: [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PSC\\_OffshoreWind\\_order.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PSC_OffshoreWind_order.pdf).



to engage in robust, pro-active, and consistent communication with the fishing community and related stakeholders.

**Response to Question 33 (RFI at 7):** From Vineyard Wind's perspective, the general principle guiding NYSERDA on this matter should be that if the data is public elsewhere, it can be made public under the RFP and if the data is proprietary elsewhere, then NYSERDA should afford it the same treatment. For example, wave data is normally public while wind and geological data is proprietary and should be kept confidential. Furthermore, NYSERDA will be limited in its ability make some environmental data public, e.g. archaeological data, to the extent federal law prohibits it.

**Response to Question 34a (RFI at 7):** A funding plan should be developed to support priority research activities that address issues that facilitate the build-out of 2.4 GW of offshore wind in support of the state's goal. This could include, for example, pre- and post-construction monitoring of offshore wind developments to provide data regarding the impacts and benefits of offshore wind farms on different marine species. Based on the plan, the relevant funding commitment should be made. Project proponents should also be encouraged to make funding commitments in support of these types of research activities.

**Response to Question 35 (RFI at 7):** NYSERDA should ensure that the RFP and any related contract measures include reasonable requirements regarding transmission and delivery into the NYCA from adjacent control areas. See responses to Questions 7 and 8.

**Response to Question 38 (RFI at 7):** Generally speaking, NYSERDA needs to consider the time required to develop, permit, manufacture and install an offshore wind project. This should serve as the basis for determining the latest allowable COD. While delays in the project development process are normal, and should be taken into consideration, NYSERDA should balance this with the risk that too long a timeframe for the latest allowable COD could encourage speculative bids that, for example, use technology that is either not yet commercially available or remains under development.

**Response to Question 38a (RFI at 7):** Vineyard Wind encourages NYSERDA to review the PPAs drafted for the recent Massachusetts and Connecticut RFPs for examples of how to address delays in COD in a commercially reasonable manner. For example, in Massachusetts, National Grid's draft PPA includes a Guaranteed Commercial Operation Date. A defined number of extensions are allowed per the contract terms, at the Seller's option, and upon payment of a fee. In the event the project has not achieved COD by the guaranteed date, taking into account any allowed extensions and assuming no *force majeure* conditions, the Buyer is entitled various remedies, including delay damages and the right to terminate the contract.

**Response to Question 38b (RFI at 7):** Offshore wind developers have a strong incentive to ensure the timely development of their projects, including to retain ITC eligibility. That being said, if NYSERDA determines that some type of fee payment

would facilitate on-time project delivery, Vineyard Wind encourages NYSERDA to review the PPAs drafted for the recent Massachusetts and Connecticut RFPs.

**Response to Question 38c (RFI at 7):** See response to Question 38b.

**Response to Question 39a (RFI at 7):** As noted in the response to Question 38b, offshore wind developers have a strong incentive to ensure the timely development of their projects. However, the project development timeline is not entirely under a project developer's control. Factors such as poor weather, delays in equipment delivery, and labor disputes could lengthen a project development timeline. New York could facilitate the timely development of offshore wind projects by ensuring that state and local government support is provided to the winning bid(s) in terms of securing alignment with various stakeholders, e.g., fisheries, towns, and transmission companies. NYSERDA could similarly facilitate on-time project development by limiting the number of requirements imposed on developers in terms of the need to have labor agreements, etc., in place prior to bid submittal.

**Response to Question 39b (RFI at 7):** Construction management practices are proprietary, unique to each company and state, and vendors ultimately selected. They require flexibility for any particular situation and are addressed in detail at later stages of development and not at the bid submission stage. Therefore, Vineyard Wind suggests that construction management practices not be considered at the RFP stage and the procurement focus instead on outcomes.

**Responses to Question 40a and 40b (RFI at 8):** Vineyard Wind has strong concerns about the financeability of any contract that would include this kind of provision, in part, because of the un-hedgeable risk associated with the Fixed OREC structure. As such, contracts should only revert to a Fixed OREC if both the buyer and seller agree or in the event a legal challenge invalidates the Index OREC procurement method.

**Response to Question 40c (RFI at 8):** Yes. The OREC structure should be locked-in for the entire contract term as soon as project construction commences.

**Response to Question 41 (RFI at 8):** Vineyard Wind requests that the index for the Index OREC be set based on the expected production shape of offshore wind. The index should not be based on *24/7/365 LBMP*. Vineyard Wind also repeats the request it made in its response to Question 30a for a model that demonstrates how the Index OREC procurement method works.