

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Ocean Energy Management
Office of Renewable Energy Programs

May 27, 2020

Qualification Guidelines to Acquire and Hold Renewable Energy Leases and Grants and Alternate Use Grants on the U.S. Outer Continental Shelf

Guidance Disclaimer

Except to the extent that the contents of this document derive from requirements established by statute, regulation, lease, contract, or other binding legal authority, the contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding legal requirements, related agency policies, and technical issues.

Cancellation

This guidance document cancels and supersedes the document of the same title dated September 12, 2012, and will remain in effect until cancelled.

This document provides guidelines to prospective lessees and grantees on the regulatory requirements to qualify for and hold renewable energy leases and grants and alternate use grants on the Outer Continental Shelf (OCS) under 30 CFR 585.106 and 585.107. This document also provides guidance on the type of information you should submit to the Bureau of Ocean Energy Management (BOEM) pursuant to 30 CFR 585.107 so BOEM can evaluate whether you meet these requirements. This document will be updated periodically – you can contact the appropriate BOEM office under “Addresses and Contacts” below to ensure you are consulting the most up-to-date version of this document.

Authority and Background

BOEM published the regulations found at 30 CFR part 585 to establish a process for issuing leases, rights-of-use and easement grants (RUEs), rights-of-way grants (ROWs), and alternate use rights-of-use and easement grants (alternate use RUEs) for orderly, safe, and environmentally responsible development of renewable energy and alternate use activities on the OCS.

Before you hold such a lease or grant, you must show that you are qualified to be a lessee or grantee by (1) providing evidence that you are a person eligible to hold a lease or grant (30 CFR 585.106) **and** (2) demonstrating your technical and financial capability to conduct the activities to be authorized by the lease or grant (30 CFR 585.106 and 585.107).

Renewable Energy Leases and Grants

Documentation to Prove that You are an Eligible Person (Legal Qualifications)

The first step in qualifying to hold a renewable energy lease or grant is to provide documentation to prove that you are a person, as defined in 30 CFR 585.112, who is eligible to hold a lease or grant, as set forth in 30 CFR 585.106 and 107. This step is referred to as legal qualification. An eligible person is:

- a citizen or a national of the United States;
- an alien lawfully admitted for permanent residence in the United States;
- a private, public, or municipal corporation organized under the laws of any State of the United States, its territories, or the District of Columbia;
- an association of any of the parties described previously;
- an Executive Agency of the United States;
- a State of the United States; or
- a political subdivision of a State of the United States.

In accordance with 30 CFR 585.106(b), you may not qualify as an eligible person if you are excluded or disqualified from participating in transactions covered by the Federal nonprocurement debarment and suspension system (2 CFR part 1400); you have failed to meet or exercise due diligence under any OCS lease or grant; or you remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days after BOEM directed you to comply and you took no action to correct the noncompliance within that time period.

When you are qualified as an eligible person, BOEM will assign you a unique company number that should be used in all correspondence when referencing your qualifications to be an OCS renewable energy or alternate use lessee or grantee. As long as you remain an eligible person, you should submit your unique company number along with requisite documentation demonstrating your technical and financial capability for subsequent renewable energy leases, grants, and alternate use grants you wish to acquire.

Documentation to Prove Your Technical and Financial Capability to Develop Your Proposed Project

As a second step, you must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission the type and scope of the project for which you are requesting authorization in accordance with 30 CFR 585.106 and 585.107. BOEM will determine your technical and financial capabilities to hold each lease or grant you wish to acquire. Therefore, BOEM will expect that you demonstrate these capabilities each time you pursue a lease or grant pursuant to 30 CFR 585.107.

(a) Technical Capability

You should provide documentation that describes any international or domestic experience with renewable energy or other electric-energy-related projects, or other experience that you deem relevant to your proposed lease or grant activities.

You should describe such experience in detail. BOEM would find helpful the items described below in determining your technical capability:

- The identification of the key personnel who would be directly involved with management of the proposed project. This should include names, titles, and a description of their relevant experience. This description may take the form of résumés (please redact personally identifiable information), credentials and/or relevant training.
 - You may also identify and describe in a similar manner any proposed contractors and consultants with renewable energy or other relevant project experience (e.g., consultants on retainer). Please include documentation of a business relationship with these contractors or consultants, such as non-binding letters of agreement; and
- For your prior or current projects:
 - A general description, including project name, type, location, size (nameplate capacity in Megawatts, if applicable), years in operation, and operating status;
 - Your specific role (for example, principal or contractor);
 - The role, if any, of the key personnel who would be directly involved with management of the proposed project (that is, the role that the key personnel for your proposed OCS project had in your prior or current projects); and
 - The role, if any, of any contractors and consultants you intend to use for your proposed project (that is, the role that the potential consultants and contractors for your proposed OCS project had in your prior or current projects).
- Any legal or regulatory actions taken against you in the last 5 years, and the resolution of such actions. If you are a publicly traded company, BOEM considers the Securities and Exchange Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system as an acceptable source for this information. If there have been no such actions, please include a statement to that effect.

(b) Financial Capability

You should provide documentation establishing that you have access to sufficient capital to carry out all anticipated activities. BOEM would find helpful the items described below in determining your financial capability:

- A well-considered financing plan for your proposed activities that contains:
 - Detailed information on how you intend to finance the acquisition of your lease and initial activities on your lease. This should include:
 - An estimate of the costs associated with obtaining the Federal and state authorizations that you will be required to obtain and performing the site characterization activities that you will need to and/or that you intend to conduct pursuant to 30 CFR part 585 subpart F, and
 - A plan describing how you intend to finance these measures; and
 - A brief description of how you intend to finance all subsequent phases of project development.
- A description of your experience in raising capital for similar projects or projects of similar scale;

- Name, location, and description of your business entity;
- Company profile;
- A description of your corporate structure (parent company(s), subsidiary(s), publicly disclosed investor(s), and the relationships between these parties, as applicable). BOEM considers a chart or other illustration depicting this information to be an acceptable format for submitting this documentation;
- Bank references;
- Years in operation;
- Current audited financial statement from an independent certified public accountant, preferably using accounting standards accepted by the Securities and Exchange Commission, if available. If not available, please include a statement to this effect;
- Information regarding any bankruptcy or other adverse financial proceedings within the last 5 years, if applicable. If not applicable, please include a statement to this effect; and
- Other information that you deem relevant.

Some of these criteria may not apply to particular lessees and grantees, for example, state or Federal entities. These potential lease and grant holders should contact the appropriate BOEM office as specified below under “Addresses and Contacts” for further instruction.

Timing for Submittals

The BOEM strongly encourages persons intending to conduct renewable energy related activities on the OCS to submit their qualification information as far in advance as possible.

You must submit information demonstrating your legal, technical, and financial qualifications at the time that you (1) respond to a Request for Interest (RFI) or a Call for Information and Nominations (Call) during the leasing process in accordance with 30 CFR 585.213(e), or (2) submit an unsolicited request for a lease in accordance with 30 CFR 585.230(f).

You must submit information establishing that you qualify to be a grantee at the time you request a ROW or RUE for renewable energy activities in accordance with 30 CFR 585.302(a).

If you wish to bid in an auction for a renewable energy lease or grant and have not previously submitted your qualifications documentation, you should submit your legal, technical, and financial qualifications documentation to BOEM no later than 60 days after the publication of the Proposed Sale Notice (PSN). The PSN may impose this time limit as a requirement. BOEM recommends that you submit this documentation no later than 30 days after the publication of the PSN in order to give BOEM sufficient time to process your qualifications prior to issuance of the Final Sales Notice (FSN). If BOEM does not determine that you are qualified by the publication date of the FSN, you may be excluded from that auction for failure to meet the requirements of 30 CFR 585.106 and 585.107.

If you have submitted your legal, technical, and financial qualifications documentation to BOEM, for example, in response to an RFI or Call, and BOEM determines that you are not legally, technically, and/or financially qualified to move forward with those proposed activities, you may submit a revised package in an attempt to establish your qualifications at a later point in the competitive leasing process, such as during the comment period of the PSN for that lease

sale. As described above, if BOEM does not determine that you are legally, technically, and financially qualified to move forward with your proposed project by the publication date of the FSN, then you may be excluded from that auction for failure to meet the requirements of 30 CFR 585.106 and 585.107.

BOEM Review and Approval

The BOEM will review your application to determine whether you have provided acceptable documentation evidencing your legal, technical, and financial qualifications to hold a renewable energy lease or grant.

Unless otherwise stated, you must submit one paper copy and one electronic copy of your qualification application in accordance with 30 CFR 585.110(b). BOEM considers an Adobe PDF file stored on a compact disc (CD) or other storage media device to be an acceptable format for submitting an electronic copy via regular mail or delivery service. Electronic copies sent to the appropriate BOEM office email address listed in NTLA No. REN-N03 are also considered an acceptable format for submitting an electronic copy.

There is no filing fee for qualification applications.

If BOEM determines that you have not met one or more of the requirements to qualify to be a lessee or grantee of the project for which you are requesting authorization, BOEM will notify you of the problem or deficiency and may request additional documentation. If you submit all of the information requested by BOEM and BOEM determines that you have not met the requirements, BOEM will notify you of its decision. If BOEM determines that you do not qualify to hold the lease or grant you are seeking, we will not issue you that lease or a grant. You may appeal BOEM's final decision pursuant to 30 CFR 585.118.

Qualification Updates

In accordance with 30 CFR 585.107(f), BOEM may require you to submit updated and/or additional information at any time when considering your application or bid for a lease or grant.

Alternate Use RUEs

Documentation to Prove that You are an Eligible Person (Legal Qualifications)

Pursuant to 30 CFR 585.106 and 585.107, you must legally qualify to hold an alternate use RUE under the process and criteria outlined above for the renewable energy leases and grants.

Documentation to Prove Your Technical and Financial Capability to Develop Your Proposed Project

Pursuant to 30 CFR 585.106 and 585.107, you must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission the type and scope of the project for which you are requesting authorization. BOEM will recommend technical and financial capability documentation you should provide and will determine your technical and financial qualifications on a case-by-case basis.

Timing for Submittals

You must submit information demonstrating your legal, technical, and financial qualifications at the time you request an Alternate Use RUE in accordance with 30 CFR 585.1005.

If you wish to participate in a competitive offering and have not previously submitted information demonstrating your legal, technical, and financial qualifications, you must submit your legal, technical, and financial qualifications to BOEM by a date BOEM specifies in accordance with 30 CFR 585.1007.

BOEM Review and Approval

The BOEM will review your application to determine whether you have provided acceptable documentation evidencing your legal, technical, and financial qualifications to hold an alternate use RUE.

Unless otherwise stated, you must submit one paper copy and one electronic copy of your qualification application in accordance with 30 CFR 585.110(b). BOEM considers an Adobe PDF file stored on a CD or other storage device to be an acceptable format for submitting an electronic copy via regular mail or delivery service. Electronic copies sent to the appropriate BOEM office email address listed in NTLA No. REN-N03 are also considered an acceptable format for submitting an electronic copy.

There is no filing fee for qualification applications.

If BOEM determines you have not met one or more of the requirements to qualify to be an alternate use grantee of the project for which you are requesting authorization, BOEM will notify you of the problem or deficiency and may request additional documentation. If you submit all of the information requested by BOEM and BOEM determines that you have not met the requirements, BOEM will notify you of its decision. If BOEM does not determine that you are qualified to hold the alternate use grant you are pursuing, we will not issue you that grant. You may appeal BOEM's final decision pursuant to 30 CFR 585.118.

Qualification Updates

The BOEM may require you to submit updated and/or additional information at any time when considering your application or bid for an alternate use RUE in accordance with 30 CFR 585.107(f).

Addresses and Contacts

You should submit your application for qualification to the filing address for the appropriate BOEM office listed in BOEM NTLA No. REN-N03, "Filing Applications for Renewable Energy

Leases, Grants, and Alternate Use Grants on the Outer Continental Shelf,” available at <https://www.boem.gov/guidance>

Should you have any questions or need further information, you should contact that office by mail or telephone, or refer to BOEM’s renewable energy information at: <http://www.boem.gov/Renewable-Energy-Program/index.aspx>.

BOEM Guidance Document Statement

BOEM issues guidance documents to clarify and provide information about legal requirements, related policies, and technical issues, such as recommended data and formats for various submittals. This guidance document sets forth policy on and interpretation of statutory, regulatory, lease, contractual, or plan approval provisions or technical issues to provide additional information regarding BOEM’s approach to managing its renewable energy program. Except to the extent that provisions of this guidance document derive from requirements established by statute, regulation, lease, contract, or other binding legal authority, they do not have the force and effect of law and are not meant to bind the public in any way. If you wish to use an alternate approach that you believe is consistent with the governing statute and regulation, we recommend you contact BOEM in advance.

While this guidance document includes recommendations and guidance, the recommendation and guidance provisions may be made mandatory through a lease stipulation or condition of approval from BOEM. If you are issued a plan, permit, or other authorization from BOEM with a condition of approval or a lease with a stipulation requiring compliance with this guidance document or identified portions thereof, you must implement those portions or all aspects of this guidance document, if particular aspects are not singled out in the stipulation or condition of approval. Under such circumstances, you must implement and comply with this guidance document (or identified portions thereof) regardless of whether the terms within the guidance document would otherwise be a recommendation or request (e.g., use of the term “should” in the guidance document will be considered “must” if required by the lease stipulation or condition of approval).

Paperwork Reduction Act Statement

These guidelines provide clarification, description, or interpretation of requirements contained in 30 CFR 585, subparts A, C, and J. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. OMB has approved the information collection requirement in the regulations related to this guidance document, 30 CFR part 585, under OMB control number 1010-0176. This guidance document does not impose any additional information collection requirements subject to the Paperwork Reduction Act of 1995.