



**Regional Fund Administrator for an Offshore Wind
Fisheries Mitigation Fund
Request for Proposals
(RFP) 5554**

Proposals Due: March 26, 2024 by 3:00 p.m. Eastern Time.

Disclaimer: Multiple entities from various jurisdictions have been involved in robust and complex engagement behind the concepts of this RFP. To reduce confusion and to preserve the integrity of the competitive solicitation process, it is advised that all questions concerning this RFP should be directed to the NYSEDA designated contacts listed below. All bids will be evaluated based on the criteria in this RFP and ideas presented by contacts outside of this RFP may or may not be viewed favorably by the Scoring Committee and could unintentionally lead to bids that do not meet the needs or criteria specifically outlined in this solicitation.

This Request for Proposals (RFP) is being advanced by the New York State Energy Research and Development Authority (NYSEDA) and with input, guidance, and financial commitments from a group of stakeholders which includes the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina (the "States"), representation from the commercial fishing community, and offshore wind developers. Through this RFP NYSEDA is seeking a qualified entity to serve as the Regional Fund Administrator (RFA) that would design and develop an offshore wind energy related comprehensive fisheries compensatory mitigation fund (hereafter referred to as the "Fund") and associated claims processes to serve states, the fishing community, and offshore wind developers along the East Coast of the United States.

The Consensus Building Institute (CBI) and the Special Initiative on Offshore Wind (SIOW) have facilitated an extensive two-year consensus-based engagement process made up of the States, commercial fishermen, and offshore wind developers, (hereafter referred to as the "Multi-Sector Stakeholder Group" or "MSSG"). With additional input from federal agencies and relevant groups such as the Atlantic States Marine Fisheries Commission and the Coastal States Organization, the MSSG developed a detailed description of the need, interim governance structure, and a list of potential compensable costs and losses to be considered by the selected RFA. Details of this effort are outlined in the document entitled *Framework for Establishing a Regional Fisheries Compensation Fund Administrator for Potential Impacts to the Fishing Community from Offshore Wind Energy Development* (hereinafter referred to as the "Scoping Document"). The Scoping Document is available at <https://offshorewindpower.org/fisheries-mitigation-project>.

Proposal Submission: Online submission is preferable. Proposers may submit Word, Excel, or PDF files (file formats include csv, doc, docx, gif, jpeg, jpg, pdf, png, ppt, pptx, pps, ppsx, tif, txt, xls, xlsx, and zip). Individual files should be 100MB or less in file size. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document. Each page of the proposal should state the name of the proposer, "RFP 5554" and the page number. NYSEDA will also accept proposals by mail or hand-delivery if online submission is not possible. For detailed instructions on how to submit a proposal (online or paper submission), click the link "[Application Instructions and Portal Training Guide](#) [PDF]" located in the "Current Opportunities" section of NYSEDA's website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

No communication intended to influence this procurement is permitted except by contacting Morgan Brunbauer (Designated Contact) at (518) 862-1090, ext. 3368 or by e-mail FisheriesAndOffshoreWind@nyserda.ny.gov (for technical questions). If you have contractual questions concerning this solicitation, contact Nancy Marucci (Designated Contact) at (518) 862-1090, ext. 3335 or NancySolicitations@nyserda.ny.gov. Contacting anyone other than the Designated Contacts (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) to influence the procurement: (1) may result in a proposer being deemed a non-responsible offeror, and (2) may result in the proposer not being awarded a contract. Questions must be raised in writing no later than **February 21, 2024, 3:00 PM ET**. Responses to questions raised in writing will be prepared and posted on the RFP website no later than **February 28, 2024, 3:00 PM ET**.

Proposals must be received by 3 p.m. Eastern Time March 26, 2024. Late, faxed, or emailed proposals will not be accepted. Incomplete proposals may be subject to disqualification. It is the proposer's responsibility to ensure that all pages have been included in the proposal. Please note that for online submission, there are required questions that you will have to answer in addition to uploading attachments and you should allot at least 60 minutes to enter/submit proposals. The online proposal system closes promptly at 3 p.m. Eastern Time, files in process or attempted edits or submission after 3 p.m. Eastern Time on the date above, will not be accepted. If changes are made to this solicitation, notification will be posted on the "Current Opportunities" section of NYSERDA's website (<https://www.nyserda.ny.gov/FundingOpportunities/Current-Funding-Opportunities.aspx>).

I. INTRODUCTION

Requirements under the National Environmental Policy Act (NEPA) are intended to ensure all branches of government give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment. In the case of offshore wind (OSW) projects, potential impacts are assessed and the mitigation hierarchy is followed. The mitigation hierarchy prioritizes (in this order) avoidance, minimization, and mitigation measures, before acting on compensatory mitigation. NEPA further requires that compensatory mitigation be considered as a last step after other reasonable options are implemented and otherwise exhausted. While the mitigation hierarchy is paramount to follow, the States, federal agencies, commercial fishing industry, and offshore wind developers have concluded that compensatory mitigation will likely be necessary to ensure coexistence between offshore wind energy and fishing industries. As outlined in the Scoping Document, experience to date with siting and developing offshore wind energy in the region indicates that there would be value in an independent coastwide Fund that would provide a consistent, equitable, and transparent framework for compensation, subject to the establishment of a formal governance structure and compensation claims process.

The MSSG has concluded that to successfully advance the design and development of such a Fund, an independent party should be identified to design and develop, with significant stakeholder input, how the Fund process would operate and ultimately be implemented. The funding associated with this RFP is intended to provide support to the successful proposer for the development of the Fund and associated claims process. If successful, the proposer may ultimately serve as the entity to implement and manage the Fund.

Assuming that compensatory mitigation moves forward, the total Fund value that the RFA will eventually manage and disburse is currently unknown and NYSERDA can provide no guarantees. Based on the value of current fishery compensation plans from Vineyard Wind 1 and South Fork Wind Farm and fisheries exposure estimates from the National Marine Fisheries Service, the current slate of OSW projects in development and East Coast development goals – that the Fund could potentially reach hundreds of millions of dollars. However, the actual value will depend on a number of variables that are still unclear, including the number of OSW projects constructed, their assessed potential impact to fisheries, and which mechanism for identifying funds will ultimately be utilized. Currently these mechanisms include

NEPA assessments and are built into BOEM's Record of Decision for each project, however other future sources may include potential bid or lease stipulations as a means to identify funds.

Although there currently exists no requirement to establish and utilize a centralized fisheries compensatory mitigation fund, most OSW developers expressed¹ an interest in using such an entity contingent upon it having a robust and defensible process, administration capabilities, and support of both state and fisheries stakeholders. In addition, members of the fishing community have expressed an interest in using a centralized claims process and have presented their position on the subject in a white paper that was released by the Responsible Offshore Development Alliance (RODA) in December 2021². Building on the partnership established by the MSSG will help to ensure that the design and development of a Fund supports the needs of the stakeholders and builds the acceptance for the implementation of the Fund.

II. TERMS OF REFERENCE FOR A FISHERIES COMPENSATION FUND AND CLAIMS PROCESS

This section details some of the key elements to be considered by proposers for the design and development of the Fund and claims process. More detail can be found in the [Scoping Document](#).

Initial Mission: The RFA is established to design and develop a Fund and associated claims process to compensate fishermen for potential losses and/or increased costs incurred by individual fishing industry entities from impacts resulting from offshore wind energy development during construction and at least for the first five (5) years of wind project operation.

Design and Development Phase: This is the first phase of a planned two phased approach to establish an independent coastwide Fund to promote a consistent, equitable, and transparent framework for compensation, and form a proper governance structure to manage and disburse coastwide fisheries compensation claims as it relates to offshore wind construction and operations. This phase shall include, at minimum, a robust engagement approach to inform the process, policies, and procedures needed and create the governance, review, management, payments of claims, and necessary appeals processes for the Fund.

Compensation: While potential losses and/or increased costs have been identified for further evaluation in the Scoping Document, there is considerable need to assess the amount of compensation available to individual fishermen and the appropriateness of those identified potential losses and or costs. It is also expected that the RFA will need to consider and evaluate how these funds and final claims determinations fit into the context of each offshore wind project's Record of Decision from Bureau of Ocean Energy Management (BOEM), those funds developed through the NEPA review, and the operational impacts and terms included in BOEM's draft fisheries mitigation guidance³.

Organizational and Operational Structure: An interim governance structure must be established to help ensure the RFA is completing its tasks and objectives in a transparent and equitable manner. During the Design and Development Phase, the successful proposer will be obligated to work with a multi-sector Design Oversight Committee (DOC) which shall guide the work of the RFA. The DOC will operate on a consensus basis to provide advice and guidance collectively to the RFA. The RFA shall take the DOC's guidance under considerable advisement as it develops the Fund and claims process. In preparation for times of divergent advice from the DOC, the RFA shall propose an appropriate conflict resolution mechanism to settle the identified issue. It is also expected that the RFA, with the support of the DOC, shall develop a long-term governance strategy for the implementation and operation of the Fund and claims process.

¹ - during the Scoping Document public comment period

² https://rodafisheries.org/wp-content/uploads/2021/12/RODA-Impact-Fees-Report_Dec21.pdf

³ https://www.boem.gov/sites/default/files/documents/renewable-energy/DRAFT%20Fisheries%20Mitigation%20Guidance%2006232022_0.pdf

Engagement Components: The fishing industry is a complex industry that varies by state, species, gear type, port, vessel type and size, and business model. In a sense, there is no one “fishing industry” but rather a complex and interwoven set of industries. Due to this complexity, the RFA shall endeavor to advance, with support of the DOC, a robust “bottom up” fisheries stakeholder process that is equitable across regions and fisheries that includes broad engagement across the industry, both formal and informal forums for input, and direct engagement for advice and guidance from fishing industry members on the DOC. The RFA shall also use an iterative approach throughout all phases to ensure fisheries engagement feedback and advice and guidance from the DOC is being effectively incorporated into the development of the claims process.

Implementation Phase: The Implementation phase will commence after the completion of the Design and Development Phase and will be contingent upon the receipt of funds from OSW developers pursuant to federal or state project determinations. This phase shall include at minimum, the acceptance, review, management, payments of claims, and necessary appeals processes identified from the Design and Development Phase. Please note that the Implementation Phase is not part of this RFP. Based on performance during the Design and Development Phase, the successful bidder from this RFP may continue serving as the RFA for the Implementation Phase by way of cross sector letters of support or through other contracting mechanisms.

The following table briefly describes the role of key participants during the design and development process.

Entity	Primary Roles
Regional Fund Administrator (RFA)	The selected proposer who shall be responsible for designing and developing the Fund and claims process; establishing a robust commercial and recreational fisheries engagement plan; applying advice and guidance from the DOC throughout the Design and Development Phase and establishing a formal long-term governance structure for the Fun.
Contracting Entity (NYSERDA)	The RFA will be contractually bound during this phase to NYSERDA and all contractual and performance related matters will be managed by NYSERDA as per the negotiated contract. While NYSERDA is the procuring agent, the Design Oversight Committee (DOC) will be responsible for providing the advice and guidance to the RFA for inclusion in the design and development of the Fund and claims process.
Contracting Entity (SIOW)	SIOW will act solely as a fiscal agent for the funds provided by the offshore wind developers and private foundations for the Design and Development Phase of this effort. These funds will be held in escrow and a contract will be executed with the RFA detailing terms and conditions to access these funds. This contract will match the contract developed with NYSERDA to ensure an efficient and transparent process. SIOW shall also work with NYSERDA for contractual and performance related matters and shall not provide advice or guidance to the RFA.
Multi-Sector Stakeholder Group (MSSG)	This is the foundational working group made up of the eleven states, offshore wind developers, and diverse fisheries advisors who have collaboratively developed the baseline operational conditions needed for the RFA and associated claims-based process. The MSSG will play the role of a larger stakeholder body that may be utilized to inform the DOC on topical areas that are being considered to promote cross-sector consensus. The MSSG shall be informed by the DOC on the decisions made and progress RFA. Please note under the proposer’s advisement, the MSSG could cease existence in a formal capacity once the RFA is selected, and the DOC is established.

Design Oversight Committee (DOC)	The DOC will be identified by the MSSG and consist of representatives from three key sectors: commercial fishing, offshore wind development, and states. Representation will include six commercial fishing interests, three states plus the state contracting entity, and three offshore wind development interests. The DOC shall advise on the NYSERDA-approved contracted work and engagement plans; advise and guide the RFA throughout the decision points in the Design and Development Phase; relay RFA performance to the contracting agent(s), caucus with the sectors and actively attend all meetings. The DOC will follow established and agreed upon policies and procedures to ensure its objectives are clear and carried out during the Design and Development Phase for the establishment of the Fund and selection of the RFA. The DOC's governance role will conclude once the Design and Development Phase is complete, and a long-term governance structure is identified by the RFA.
DOC Steering Committee	A subset of the DOC, identified by the DOC membership, that works with RFA to provide efficient support and communications relating to the development of meeting agenda topics, information gaps or other issues for the RFA to bring to the DOC for further advice and guidance.
RFA Fiscal Agent (s)	As determined by the successful bidder, this may be an organization external to the RFA or the RFA itself. The role of the Fiscal Agent shall be to conduct and provide oversight for the key financial functions for the RFA at a reasonable overhead cost. The RFP Fiscal Agent shall provide infrastructure to execute administrative and financial duties to administer both operational (e.g., payroll) and administrative funding services (e.g., developing contracts for specific services, and aggregating funding, as needed). This organization does not direct the substance of the RFA's work but ensures all fiscal responsibilities are being met under the identified terms and conditions of all identified funding sources.
Facilitation/ Coordination Team (CBI)	The RFA shall seek to coordinate with CBI to facilitate the DOC; the state or industry sector meetings, and other ad hoc meetings and events as needed
Recreational Fishing Sub-Committee (RFSC)	Recreational for-hire fishing entities are expected to account for significantly less of overall costs and losses (based on data used for direct state-specific fisheries compensation programs). They are not represented on the DOC and the RFA shall initiate and execute an engagement process, based on DOC guidance, to involve the recreational for-hire fishing sector in developing the Fund and claims processes. This effort should focus on gathering pertinent information to understand the potential impacts and needs of the for-hire recreational industry. The RFA shall seek advice and guidance from members of the DOC to determine appropriate representation on this sub-committee and how best to incorporate this feedback into the overall Fund and claims process. The RFSC a sub-unit of the DOC in the overall governance structure.
Fishing Industry Stakeholders	Regional fishing industry members will be involved in the engagement process to provide meaningful input in the design and development of the Fund and claims process. The RFA shall develop an engagement plan for involving commercial and recreational fishing industry stakeholders that is equitable across fisheries, accessible, and sensitive to time commitments, meeting locations, and fishing seasons. This approach to engaging with the fishing industry shall be presented to the DOC for advice and guidance prior to implementation of any outreach.

III. PROGRAM REQUIREMENTS

A. Services Requested

Pursuant to the Scoping Document, the MSSG have identified the following key activities for the successful bidder:

- 1) Develop and document all details around the Fund and associated claims and appeals processes, with support from the DOC;
- 2) Design and document the administrative and financial functions needed to manage the Fund effectively and efficiently; and
- 3) Conduct robust engagement with stakeholders in the processes above to best position the Fund as the consensus-based, trusted path forward for efficient, equitable, and transparent regional fisheries compensatory mitigation.

Proposers must describe in detail how they propose to approach and complete the following tasks, each of which is envisioned to be needed for successful design, development, and ultimately implementation of the Fund and claims process. If there are tasks that are not included below but deemed valuable or necessary based on experience of the proposer, those shall also be described with a supporting explanation about why they are needed, how they add value and the associated timing and estimated costs.

Phase 1A: Initial Program Design and Stakeholder Outreach. During this phase, the selected entity shall:

- Convene the DOC to gather information and align on a path forward based on topical areas detailed outlined in the Scoping Document;
- Design and draft a “Work Plan” to outline the work in terms of the key tasks, steps, and milestones to establish a functioning regional claims process.
- Design and draft a “Stakeholder Engagement Plan” to robustly and actively consult commercial and recreational fishermen from Maine through North Carolina with advice and approval from the DOC, including on topics such as eligibility and compensation criteria for affected fisheries;
- Design and draft a “Conflict Management Plan” for endorsement by the DOC to be utilized in the event that divergent advice is given by members of the DOC;
- Engage with the DOC regularly, including an initial onboarding meeting, to create trust and transparency in the proposed process;
- Engage experts, individual fishing groups, individual offshore wind developers, states, NOAA, BOEM, ASMFC, fiduciaries (sources of compensatory mitigation monies) for advice, guidance and support on an ongoing basis; and
- Identify avenues by which offshore wind projects that are in an intermediary phase of establishing a project-specific fund could transition to using the regional claims process.

Phase 1B: Program Development. During this phase, the selected entity shall, in coordination with the DOC:

- Execute the Approved Work Plan, Stakeholder Engagement Plan, and Conflict Management Plan, including:
 - Design and develop the necessary systems including backend databases, public facing web sites, and associated claims portals;
 - Create program manuals, policies and procedures, and quality control materials for all identified project stages from claim application to appeal of final decision;
 - Develop and document baseline eligibility and compensation criteria for affected fisheries (consulting existing OSW project compensation approaches for reference);
 - Establish claims processes, appeals procedures, and standard final determination policies;
 - Work with fiduciaries and developers to identify the fiscal and administrative mechanisms and controls needed for receiving compensatory mitigation funds for distribution through

- the claims process;
- Design and document a long-term governance structure for the Implementation Phase of the Fund;
- Meet with DOC and stakeholders regularly to vet and test options and approaches, and;
- Provide appropriate project management including documenting accountable fiscal procedures and controls, invoicing, budgeting, contracting, and auditing.

Optional Phase 2: Implementation of the Fund.

Based upon the consultations and developments in Phases 1A and 1B, the selected RFA should be in a very strong position to implement the Fund and associated claims processes. While the activities associated with Phase 2 are outside of the scope of funding associated with selection under this RFP, and upon a decision that compensatory mitigation is necessary and approved, the expectation is that the selected bidder will:

- Execute on the implementation of the full claims process within 24 months of contract execution;
- Provide appropriate project management as outlined in the established policies and procedures developed during Phase 1A and 1B including clear, accountable fiscal procedures and controls, invoicing, budgeting, contracting, and auditing;
- Conduct necessary public reporting requirements on the status of the Fund;
- Regularly meet with the established long-term governing body; and
- Use an iterative approach to evolve the Fund and claims processes accordingly with advice and guidance from the DOC or other appropriately established stakeholder oversight mechanism.

B. Program Eligibility

NYSERDA, working in coordination with other states and sectors, is open to a variety of arrangements from prospective proposers including individuals, entities, teams, or partnerships. Proposers may include:

- Entities that are for, or not-for-profit.
- Entities that design, develop, and administer claims funds.
- Law firms, claims firms, non-governmental organizations, government-affiliated entities (commissions, authorities, etc.) or others.
- Single entities or partnerships across organizations if there is a prime and lead bidder.
- Entities that design and develop claims funds but do not administer them.

C. Proposer Qualifications

The selected bidder is expected to have the following characteristics and capacities to undertake the tasks noted above. These qualifications may be as part of the prime bidder itself, or within a team among a prime and its partner sub-contractors. The capabilities sought include (in no particular order):

- Established fiscal controls, legal incorporation (LLC, LLP, S or C Corp, or 501(c)3)); and a governance structure, if applicable (Manager(s), Board of Directors, etc.);
- Experience designing, developing, and launching claims-based funds, which may include programs established beyond pre-determined court-mandated programs;
- Experience and expertise with managing large, regional, and complex compensation funds with political implications and dynamics and preferably working directly with claimants in claims process design;
- Experience in developing or have an established conflict management plan to effectively resolve divergent stakeholder approaches;
- Experience in supporting and guiding multi-sectoral collaboration and working across sectors and organizations, private, non-governmental, and public, and state to federal agencies;
- Experience or expertise in working with the commercial and recreational fishing or related sectors and/or working with regional coalitions of states and/or offshore wind or other energy markets;
- Experience partnering and managing agreements with Federal, state, and non- governmental marine resource management agencies; and
- Preferably have a principal office located in one of the states on the East Coast working to establish this program (Maine to North Carolina).

D. Awards, Contractual Arrangements, and Responsibilities

In total, up to \$2,360,000 is available to the selected entity to provide services identified within the RFP. These funds have been aggregated through financial contributions from states, offshore wind developers, and private foundations. No funds are available to support the Implementation Phase of the Fund. However, if the services solicited for here are executed well, the selected RFA should be in a very strong position to implement the Fund and associated claims processes with compensation derived through the contributed funds.

NYSERDA will award a single two-year contract in the amount of up to \$760,000 in funding representing commitments from state entities (NYSERDA, Massachusetts Clean Energy Center, Maryland Energy Administration, and New Jersey Department of Environmental Protection,) who have come to financial and contracting terms with NYSERDA through separate financial Memorandums of Understanding (MOU). NYSERDA will serve as the primary procurement and contracting agent for these state funds and anticipates making an award under this RFP to the entity who best meets the qualifications above as evaluated by the Scoring Committee under the criteria described in Section V. Terms and conditions for the NYSERDA funding are described in Attachment B.

An additional award in the amount of up to \$1,600,000 will be made available to the selected entity via a separate two-year concurrent contract with SLOW who will administer funds derived from American Clean Power (ACP) and a group of private foundations to support the RFP. Terms and conditions for the SLOW funding to further initiate the administrative, financial, and coordination activities of the RFA are described in Attachment C.

A non-financial MOU will be formed between NYSERDA and SLOW to ensure alignment of the associated contractual tasks, payments, and schedules needed to fulfill terms and conditions associated with both financial contracts. The MOU with SLOW will be updated at the time of contracting with the selected entity to incorporate a single negotiated Statement of Work with the selected entity. MOUs with all parties providing funding will be signed prior to the release of this RFP. Additionally, the States have signed a letter to SLOW to signal their mutual support for this effort. This letter is found in Attachment D.

Costs to cover the Implementation Phase and long-term operation of the RFA will likely be covered by funds set aside through either the BOEM Record of Decision process and/or future lease bid and operating fees. **The funds noted in this RFP are solely intended for the Design and Development Phase.** The RFA selected for this Design and Development Phase may be eligible to either be solely recognized and/or apply for the position of the long-term RFA, provided the RFA's work in this first phase is deemed acceptable by the DOC and they remain in good standing with NYSERDA and other funders. The exact process for moving from the Design and Development Phase into the Implementation Phase has not been established at this time. However, if the proposer is interested in being considered for the long-term RFA, the proposer shall present their qualifications and other submission materials as appropriate in response to this RFP by showing strong capacity to not only design and build claims processes but also to manage and administer similar kinds of processes. Potential cross sector letters of support for the Design and Development RFA or other contracting mechanisms will likely be used as the selection process for the Implementation Stage.

IV. PROPOSAL REQUIREMENTS

The proposal should be developed to describe and address the topics identified in this RFP and the Scoping Document. Proposers may suggest alternatives or improvements to the prescribed approach. Additional materials beyond what is outlined below will not be considered. Unnecessary attachments beyond those

sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. The maximum length of each proposal section is shown and should not be exceeded. If the proposer wishes to provide alternative options to those presented here for consideration by the reviewers, they may be presented along with appropriate justification and sufficient cost implications.

NYSERDA reserves the right to negotiate changes to the proposed project approach, teaming arrangements, deliverables, and deliverable formats with the selected proposer. All responses submitted as part of this solicitation process become the property of NYSERDA. Careful consideration should be given before confidential information is submitted to NYSERDA as part of any proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information may be adequate for review purposes. (See Section VI below, "Proprietary Information", for details.) Proposers will not be reimbursed by NYSERDA for any costs associated with the preparation of their proposals.

Proposal Format

Proposals must be submitted as a single file, inclusive of all supporting documents. The proposal should be in document form in an 8.5x11 format, with a readable font not below 11-point, 1-inch margins, and paginated including name of the bidder and bid on the bottom of each page. The file should be 100MB or less in file size. Proposers must submit a complete proposal in either PDF or MS Word format. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility, rather than scanning. Each page of the proposal should state the name of the proposer, "RFP 5554" and the page number. Proposals should follow the format below and provide sufficient and succinct information to complete the required descriptions and answer the questions described in Section V "Proposal Evaluation" below. The preferred length of each proposal section is shown. The contents for the response are as follows.

1. *Cover Letter (1 page)*: The Cover Letter should be on the entities' letterhead and signed by a legal officer of the entity with the authority to enter into agreements and contracts.
2. *Table of Contents (1 page)*: The Table of Contents should provide detailed headings and page numbers for the contents of the response based on the components outlined below.
3. *Executive Summary (1-2 pages)*: A summary of the Proposal that covers the proposer's overall philosophy and approach to successfully implementing the elements outlined below.
4. *Overall Experience and Capabilities (approximately 3-5 pages)*: The proposer should detail the key experience, expertise, and capabilities of the organization, addressing the qualifications outlined in this RFP. At least three specific examples should be described in sufficient detail to demonstrate the desired experience outlined below. At minimum, the proposer should provide information on:
 - a. Current incorporation and organizational type including year and state of incorporation (and relevant Tax ID) (as applicable);
 - b. Past and current activities related to (a) developing and establishing funds be they court-mandated or otherwise and (b) the subsequent longer-term administration of that fund, including fund size in dollars, number of beneficiaries, average pay out per individual and other elements.
 - c. Experience, including systems or staff, used to manage claims-based programs and other technical work. Specifically, examples of working with relevant issues (e.g, fisheries-related topics) as well as working with regional collectives of states or multiple government entities;
 - d. Experience in managing multi-sectoral collaboration and building consensus among diverse and potentially conflicting parties and the creation of or use of an internally or externally established conflict management approach to handle divergent ideas or guidance;
 - e. Experience in designing, creating, and operationalizing a new fund, entity, network, or collaborative effort; and
 - f. Fiscal capacities such as budgeting, contracting, invoicing and fiscal controls to ensure

competent and accountable fiscal management.

5. *Staffing (up to 3 pages)*. The proposer must detail: 1) the staff who will interact with NYSERDA during initial contract negotiations and subsequent startup activities and their qualifications pertinent to this effort; 2) any staff who would be assigned for substantive work in the development of the RFA such as administrators, economists, fisheries experts, and stakeholder managers and their respective roles; 3) if the staff is not currently on board, the process and timeline for retaining needed staff members in a timely and effective manner; 4) any subcontracts or outside personnel that will be used their experience and role; and, 5) the team or management structure proposed for the work including a single lead project manager and identification of where the proposed team fits within the proposer's internal organizational structure.

The proposer must provide the CVs of existing personnel as an attachment which will not count towards proposal page number requirement (CVs should be no more than five (5) pages in length each) for any key, current personnel who will work substantially on project.

6. *Proposed Work Plan (up to 5 pages)*. The proposer should describe how it intends to accomplish the work in terms of the key tasks, steps, and milestones to establish a functioning regional claims process. The work plan should be detailed and will be the basis of not only evaluation of the proposals but also the foundation of the work plan developed for the work by the RFA to be approved by NYSERDA and the DOC. The work plan should include engaging with the DOC and NYSERDA as the contractual agent during the life of the project. The work plan should be as aggressive as possible to create a final Fund and associated claims process that will be implemented regionally to achieve the objectives outlined in this RFP. Any assumptions, limitations, and challenges to meeting this desired schedule should be named in the work plan and be based on prior experience in fund design. The proposer shall directly respond to the issues detailed in the Scoping Document, and offer clear, specific suggestions on how and where this suggested framework can be improved or adapted, including questions and issues that need to be considered as the Fund is designed and fully operationalized.
7. *Proposed Engagement Plan (up to 4 pages)*. The proposer must provide a proposed Engagement Plan and describe the process by which the Plan would be more fully developed. The Engagement Plan must include the range of fisheries expected to be consulted (gear types, ports, licenses, etc.) and how the proposer intends to robustly and actively consult commercial and recreational fishermen from Maine to North Carolina, including timing, activities, forms of engagement, and expected outputs or products from the engagement. The engagement plan should lay out an approach that is equitable across fisheries and geographies, accessible, sensitive to time commitments, meeting locations, fishing seasons, and the limited capacity of fishermen to participate in non-fishing activities. The Engagement Plan must include how the proposer intends to engage the for-hire recreational fishing sector and how the proposer shall incorporate that engagement and its output into the overall claims process. Proposers are encouraged to partner with appropriate fishing associations to undertake this work and must include in their cost-proposals anticipated costs for employing or compensating such entities. This engagement effort is an essential and fundamental element of a successful design and development process.
8. *Proposed Communications Plan (up to 3 pages)*. The proposer shall include a basic Communications Plan that addresses both internal (with NYSERDA, other funders, and the DOC) and external communications that will be refined in coordination with the DOC upon selection. Communications must include a basic public-facing website where information on the entity who is designing and developing the fund, the process, the status of work, and draft options or approaches which may be available for comment.
9. *Master Schedule (1 page)*. Complete a schedule showing start and anticipated completion times for all major tasks, in terms of months after project initiation. Include anticipated major milestones and important

decisions points and meetings, tests, demonstrations, publications, workshops, reports, and other key deliverables. The Schedule should be aggressive yet realistic and reflect the nature of key tasks of the RFA and will be subject to revision as the effort proceeds. The length of the schedule shall not exceed the two-year contract term. While the contractor will be expected to abide by this schedule to the extent possible, NYSERDA recognizes the multi-sectoral approach essential to success may affect timely delivery. Any binding contractual deadlines will be established during contractual negotiations post award.

10. *Proposed Budget (2 pages)*. Bidders shall provide the following information regarding the execution of the scope:

- a. A total cost, all inclusive of labor, expenses, overhead, and any other direct costs;
- b. A breakdown of labor costs by major activity and task needed to complete the work;
- c. The costs of engaging with the DOC which will require extensive RFA staff time to work with the coordinating committee between meetings, prepare agendas, attend, and support meetings, and respond to issues, options, and concerns after meetings;
- d. Fishermen participants (up to six) on the DOC and subsequent subcommittees shall be compensated for their time and expertise in the scoping process while serving on the DOC, based on established fisheries management council programs for their time and this shall be accounted for in Attachment A – Personnel and Rate Form;⁴
- e. An estimate of the cost of engagement such as for travel, meeting space, AV, and other logistics, and costs of labor to staff such efforts;
- f. A rough estimate cost of the number of staff and likely annual cost of administering a claims process once established;
- g. Expected charges in percentage to managing any subcontracts;
- h. Estimated charges in percentage to managing similar compensation programs negotiated with DOJ, DOE, or others; and
- i. Estimated planned cost to administer the eventual compensation fund as a percentage of funds received, or the method by which this will be determined and examples of typical costs to the bidder has needed to manage similar funds.

In providing the above, bidders should consult the scope and details as outlined in the [Scoping Document](#). Please note that with current funding, the scope of work is limited to the design, and interim claims disbursement phases of the program; however, should the selected interim RFA be successful in this first phase, they will be strongly positioned to serve as the administrator of the Fund. The below items shall also be included as attachments to the overall proposal but will not be counted in the overall page count.

11. *Conflict of Interests*: The proposer shall describe any actual or perceived conflicts of interest including existing contracts or recently concluded contracts.

12. *References*: Up to 5 letters of references from relevant entities or projects.

13. *Resumes or CVs*: No more than 5 pages each.

V. PROPOSAL EVALUATION

Proposals will be evaluated by a Technical Scoring Committee, led by NYSERDA, using the evaluation criteria as

⁴ 50 CFR Chapter VI S 600.245.

described below. At NYSEDA's discretion, the proposers may be asked for a virtual interview and/or may also be asked to clarify proposal details in writing. Note that incomplete or late proposals will not be considered.

The following are the key evaluation criteria in order of importance.

1. Detailed Past Project Experience
 - a. The proposer provides relevant experience that serves the needs outlined in this RFP including, but not limited to:
 - Experience in designing and developing a claims and associated fund including but not limited to court mandated, fisheries, or other relevant disaster-based funds; and
 - Experience with managing claims processing including examples of established processes or procedures where data to substantiate claims is less robust yet still potentially valid.
 - b. Experiences working with potential claimants as part of design and development.
 - Details any fisheries-based experience and/or how that experience would be incorporated into the team; and
 - Details how claimants' needs were considered and incorporated through engagement in the design and development of the fund.
 - c. Experience demonstrates administrative and management capabilities.
 - Provides concise details on reporting the status of fund, claims received, claims paid, and other information requested by stakeholders (as appropriate); and
 - Has an established and appropriate process for maintaining records.
 - d. Demonstrates relevant engagement approaches and experience.
 - Working with diverse groups of stakeholders including the fishing community, regionally across multiples states, other intergovernmental groups, and/or private sector entities;
 - Ability to assimilate diverse feedback and making balanced and independent determinations based on input from diverse stakeholder groups; and
 - Previous work within a stakeholder-based governance structure to help design, develop, and implement a formal structured funding mechanism.
2. Qualifications of the Organization and Staff
 - a. Organizational expertise and experience in meeting the needs and characteristics of the RFA as described in this RFP;
 - b. Capacity to support the size and scope of the approach including a detailed number, relevant experience, and skill of staff sufficient to meet the scope of work;
 - c. Detail any experience administering funds that extend beyond just individual or bulk claims compensation such as resilience, restoration, etc.;
 - d. If a team involving two or more organizations is proposed, the team's roles are clearly defined and the team members have demonstrated working together in the past; and
 - e. Include sample qualifications that demonstrate relevant experience to support successful outcomes that are relevant to the RFA, including fisheries expertise.
3. Understanding Need and Responsiveness to the RFP
 - a. Overall responsiveness to this RFP in terms of completeness and details of the response;
 - b. Well organized, well written and clear response;
 - c. Rationale demonstrates high quality and effectiveness of the proposed work plan;
 - d. The proposer demonstrates an organizational mission, structure and capabilities that are consistent with the needs and concepts put forth in the Scoping Document;
 - e. The proposer shows a detailed understanding of the need for and role of the RFA in advancing the establishment of a regional fisheries compensation fund;
 - f. The proposer offers specific, thoughtful, and substantive improvements to the Scoping Document; and

- g. The proposer shows how and when they will achieve the outcomes desired.
4. Cost, Timing, and Schedule
- a. Include all required costing elements and aspects;
 - b. Detail approach to avoiding cost overruns and relative market competitiveness;
 - c. Provide a schedule that demonstrates an understanding of the needs and expectations of the program; and
 - d. Demonstrate how the proposed timeline and schedule would be met with existing resources, realities, and capabilities.

VI. GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified, and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <https://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSERDA-Regulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

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

Empire State Development
Division for Small Business
625 Broadway
Albany, NY 12207

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

Empire State Development
Minority and Women's Business Development Division
625 Broadway
Albany, NY 12207

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <https://online.ogs.ny.gov/legal/lobbyinglawfaq/default.aspx>. Proposers are required to answer questions during proposal submission, which will include making required certification under the State Finance Law and to disclose any Prior Findings of Non-Responsibility (this includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years).

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires

a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf).

Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contracting and filed with NYSERDA. See, ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf).

The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Contract Award - NYSERDA anticipates selecting a single proposal under this RFP. NYSERDA anticipates a contract duration of up to two years, unless NYSERDA management determines a different structure is more efficient based upon proposals received. A contract may be awarded based on initial applications without discussion or following limited discussion or negotiations pertaining to the Statement of Work. Each proposal should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA reserves the right to interview proposers, if deemed necessary by the scoring committee. NYSERDA may, at their discretion, elect to extend and/or add funds to any project funded through this RFP. NYSERDA will use the Sample Agreement (Attachment B) to contract successful proposals for access to the state supported funding. Contractual terms and conditions for the SLOW managed ACP and private funding are detailed in Attachment C below and the proposer shall negotiate those terms directly with SLOW. These components will be appended to the NYSERDA SLOW MOU. This joint MOU will also be updated to include the Statement of Work, Budget, and Schedule to ensure contractual alignment between the two funding entities and the RFA. Proposers should keep in mind that acceptance of all standard terms and conditions from NYSERDA and SLOW will generally result in a more expedited contracting process. NYSERDA expects to notify proposers in approximately ten (10) to twelve (12) weeks from the proposal due date whether your proposal has been selected. NYSERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement. NYSERDA reserves the right to both extend the term of the project and available funding to fulfill the needs of the Design and Development Phase as described in this RFP and outlined in the forthcoming SOW.

Accessibility Requirements - If awardees from this RFP will be posting anything on the web, or if the awardee will produce a final report that NYSERDA will post to the web, the following language must be included. NYSERDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see [NYSERDA's Accessibility Requirements](#).

Limitation - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement. NYSERDA reserves the right to disqualify proposers based upon the results of a background check into publicly available information or the presence of a material possibility of any reputational or legal risk in making of the award.

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

Vendor Assurance of No Conflict of Interest or Detrimental Effect - The proposer shall disclose any existing or contemplated relationship with any other person or entity, including any known relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the proposer or former officers and employees of NYSEDA, in connection with proposer's rendering services as proposed. If a conflict does or might exist, please describe how your company would eliminate or prevent it. Indicate what procedures will be followed to detect, notify NYSEDA of, and resolve any such conflicts.

The proposer must disclose whether it, or any of its members, or, to the best of its knowledge, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

Public Officers Law – For any resulting awards, the Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). Proposers are reminded of the following Public Officers Law provision: contractors, consultants, vendors, and subcontractors may hire former NYSEDA employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of NYSEDA may neither appear nor practice before NYSEDA, nor receive compensation for services rendered on a matter before NYSEDA, for a period of two years following their separation from NYSEDA service. In addition, former NYSEDA employees are subject to a "lifetime bar" from appearing before any state agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with NYSEDA.

Any awardee will be required to certify that all of its employees, as well as employees of any subcontractor, whose subcontract is valued at \$100,000 or more who are former employees of the State and who are assigned to perform services under the resulting contract, shall be assigned in accordance with all Ethics Requirements. During the term of any agreement, no person who is employed by the contractor or its subcontractors and who is disqualified from providing services under the contract pursuant to any Ethics Requirements may share in any net revenues of the contractor or its subcontractors derived from the contract. NYSEDA may request that contractors provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. NYSEDA shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed would be in conflict with any of the Ethics Requirements. NYSEDA shall have the right to terminate any contract at any time if any work performed is in conflict with any of the Ethics Requirements.

Due Diligence – NYSEDA, at its discretion, may conduct broad due diligence to validate any or all elements of

an application and to assess applicants' prospects of success, including gathering information to assess a proposal relative to any of the topics listed in evaluation criteria, whether or not such topic is explicitly addressed in a proposal. NYSERDA may conduct due diligence on some or all proposals based on NYSERDA's current guidelines at the time of a review. NYSERDA staff may follow up with proposers to request additional information or clarification regarding applicant's proposal, including questions regarding applicant's business prospects and resources, whether or not those questions are specifically related to the elements of the proposal. Additionally, customized due diligence may be conducted by internal or external staff or contractors based on questions on any proposal raised by NYSERDA staff and/or the Scoring Committee.

Due diligence may include (but is not limited to): interviews of independent references and background checks of team members; assessment of prior business experience of any team member associated with a proposal; research on intellectual property claims; customer and partner reference checks; market research on the applicants' target market and any other related or possibly competitive technology or market area; research to validate any assumptions on current or future revenues, costs, capital needs, and financing prospects for proposers' business, including similar (or unrelated) technologies, processes, or competitive solutions; or any other research that could reasonably inform the evaluation of a proposal, or the prospects for commercial success of the proposers' business (whether directly related to, or unrelated to the specific elements in a proposal). Due diligence may include discussions with proposers' former and current business partners, employees, investors, customers, and competitors. Due diligence may be conducted by NYSERDA personnel or contractors including members of the scoring committee, before, during, or after a scoring process, and prior to finalization of a contract award, any information gleaned in diligence may be used to score or rescore a proposal or apply a program policy factor.

EO 16 Protocols – Pursuant to Executive Order No. 16 issued on March 17, 2022, all vendors responding to bids or contracting with New York State must certify, using the form provided as part of this solicitation, their status with regard to conducting business operations in Russia, and that any such business operations in Russia conducted on behalf of the vendor are determined to be permitted under any of the allowable exemptions. The term vendor is intended to encompass bidders prior to contract award, contractors who have received a contract award, contract assignees, or contractors for whom an extension to an existing contract is being pursued. Exemption decisions are in NYSERDA's sole discretion and are final decisions. NYSERDA reserves the right to solicit additional materials or information regarding the responses or materials provided by a vendor. Pursuant to Executive Order No. 16, all vendors will be vetted to ensure that they are not on the federal sanctions list at <https://sanctionsearch.ofac.treas.gov>. There is no waiver or exemption process for vendors appearing on the federal sanctions list. The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case sanctions are lifted during a solicitation, or after award in the case of some solicitations.

VII. ATTACHMENTS

- Attachment A – Budget
- Attachment B – NYSERDA Sample Agreement
- Attachment C – SLOW Contracting Terms and Agreement
- Attachment D – State Letter of Support to SLOW
- Attachment E – Sample Metrics Reporting Guide