

Section 83CIV – Bidder Questions and Answer – November 22, 2023

Multi-State Proposals

Question 1:

Does DOER expect to release an RFP supplement or other guidance that explains how the Collaboration MOU should be applied in the context of bid preparation and evaluation? If yes, when?

Response 1:

Section I.D of the Multi-State Coordination Memorandum of Understanding (MOU) specifies that the Multi-State Proposal Form will provide instructions on how to submit a multi-state proposal. The Massachusetts Department of Energy Resources, Connecticut Department of Energy and Environmental Protection, and the Rhode Island Office of Energy Resources issued the Multi-State Proposal Form on November 16, 2023 and it is available at: <https://macleanenergy.com/2023/11/16/multi-state-proposal-form-available-at-macleanenergy-com/>.

Question 2:

Following the multi-state coordination announcement, are there any plans to delay the bid submission date or other milestones?

Response 2:

The RFP specifies that the bid submission date is January 31, 2024. Neither the bid submission date nor any other milestone will be delayed in response to the multi-state Coordination Announcement.

Question 10:

Can the Commonwealth please clarify the guidance in the MOU on proposing the same price for each state and differentiating pricing depending on variations in supply chain, ports, etc.?

Response 10:

The Multi-State Coordination MOU requires multi-state proposals to offer the same price to all parties except on severable commitments (e.g., economic development investments at specific locations and environmental commitments) that can be added to the bid and optionally selected by any of the parties (Section I.D., at 3). The Multi-State Proposal Form indicates how bidders should propose any such severable commitments.

Question 21:

Additional Guidance: *Does DOER expect to release an RFP supplement or other guidance that explains how the Multi-State MOU should be applied in the context of 83C Round 4 bid preparation and evaluation? If yes, when?*

Response 21:

See response to Question 1.

Question 23:

When will the “Multi-State Proposal Form” and related guidance on how to submit the Form be issued?

Response 23:

See response to Question 1.

Question 24:

Is the “Multi-State Procurement Form” expected to mirror requirements unique to each state’s RFP (e.g., Rhode Island’s requirement for a labor peace agreement)? How will DOER (and other Parties) address the existing discrepancies between each state’s RFP (e.g., differing COD requirements, security requirements, Indexation Formula mechanisms, labor requirements, etc.) so that bidders can effectively prepare Multi-State Proposals offering the same price for all counterparties?

Response 24:

Consistent with the Multi-State Proposal Form, any Multi-State Bid must be submitted to each receiving Party, or their respective EDC, following the full requirements of that Party’s, or their respective EDC’s, RFP. For example, a Multi-State Bid must meet the COD requirements of all receiving states and any selected Multi-State Bid would be expected to pay security to the contracting parties in accordance with that Party, or their respective EDC’s, RFP provisions. However, the total MW offered in any Multi-State Bids can exceed the RFP bid size and procurement limit of an individual receiving state, provided that the total MW offered is within the combined procurement authority of all states for which the project has submitted a Multi-State Bid. The Multi-State Proposal Form issued on November 16, 2023, explains how to submit an optional Indexed Price Multi-State Bid and also how Bidders can submit severable commitments for economic development or environmental mitigation.

Question 25:

Will the Multi-State Proposal process involve the submission of a proposal narrative and/or a CPPD Form (or equivalent) separately from the 83C Round 4 submission(s) (and any other single- state solicitation)? How does this relate to the 83C Round 4 form? When will guidance on this be issued?

Response 25:

Consistent with the Multi-State Proposal Form, any Multi-State Bid must be submitted to each receiving Party, or their respective EDC, following the full requirements of that Party’s, or their respective EDC’s, RFP, including a CPPD form.

Question 39:

The multi-state coordination MOU states that instructions on how to submit a multi-state proposal are contained within the Multi-State Proposal Form. Please state when and where the Multi-State Proposal Form will be published. Additionally, please explain how the Multi-State Proposal Form will interact with state-specific forms.

Response 39:

See response to Question 1.

Question 42:

How will the multi-state coordination MOU affect the process of submitting bids to coordinating states? For instance, will bidders be required to submit a bid to each state separately, or can bidders submit a single bid to all participating states using MA's response form?

Response 42:

See response to Question 24.

Question 45:

Section I.D states, "Parties, and their EDCs, if applicable, may request Bidders to submit at least one multi-state proposal for all Parties or their EDCs, as applicable, to consider proportional sharing under Section II.C of this MOU."

- Please confirm when bidders will receive further guidance regarding whether a multi-state proposal is required.

Response 45:

For Massachusetts, see response to Question 1. If bidding into Connecticut, Connecticut requires at least one multi-state bid. Rhode Island Energy will not require a Multi-State Proposal.

Question 75:

Will multi-state bids be submitted by separate proposal, or will bidders be asked to identify multi-state bids within their submissions to each State?

Response 75:

All Multi-State Bids must be submitted individually to each receiving Party or their respective EDC in compliance with the requirements of each receiving Party or their respective EDC's RFP and the Multi-State Proposal Form. If a Bidder wishes to submit a Multi-State Bid that is identical to a Single-State Bid, they may indicate this by completing the Multi-State Proposal Form and can avoid submitting duplicate information.

Question 76:

Can multi-state bids be selected by a single state? Can multi-state bids be selected by two states?

Response 76:

Consistent with the multi-state MOU, the participating Parties, or their respective EDCs, agree to consider bids for multi-state selection first prior to consideration as a single state bid. Bidders may choose to offer their bids to either two or three Parties, or their respective EDCs, participating in the MOU at their discretion and per Section II.A of the MOU may submit bids that are contingent on being selected by multiple states (i.e. two or three parties). A Multi-State Bid with such a contingency may not

be selected by only one state. However, if the Multi-State Bid project is also bid as a Single-State Bid to one or more Parties, or their respective EDCs, it may be considered for single-state selection if the Parties, or their respective EDCs, choose not to move forward with a multi-state selection.

Question 77:

Do multi-state bids need to meet the most extensive/stringent requirements among states to which it is offered? For example, do all multi-state bids need to delivery on Massachusetts' January 1, 2032 Commercial Operation Date (COD) backstop?

Response 77:

Multi-state bids need to meet the requirements of each Party, or their respective EDC's, RFP to be considered and/or selected under each Party's, or their respective EDC's, RFP. For example, any Multi-State Bid offered to states including Massachusetts must, for example, meet the Massachusetts RFP requirement for a COD of 1/1/2032.

Question 79:

How will the inflation adjusted bids be evaluated in a multi-state bid, given that each state has a different indexation formula?

Response 79:

Please refer to instruction regarding Indexed Price Multi-State Bids in the Multi-State Proposal Form.

Question 80:

Should bidders expect any further guidance or updates from Massachusetts, Connecticut, and Rhode Island as it relates to the coordination and/or standardization of economic development evaluation criteria, in-state and regional expenditure and job creation summary sheets, and post-award commitment memorialization negotiations?

Response 80:

See response to Question 1.

Question 3:

Does DOER expect the Collaboration MOU principles to alter the form of PPA that was previously released for the RFP?

Response 3:

Multi-State Bids will result in separate negotiations and contract execution following the rules of each states', or their respective EDCs', procurement authority. The Form PPA will not be amended as a result of the multi-state coordination announcement.

Question 4:

Will MA, CT and RI use a common form of PPA, with consistent commercial terms, for multi-state project proposals?

Response 4:

No. See response to Question 3.

Question 28:

Does DOER expect the Multi-State MOU principles to alter the Form PPAs that were previously released for the RFP?

Response 28:

See response to Question 3.

Question 29:

Will Massachusetts, Connecticut, and Rhode Island use a common Form PPA, with consistent commercial terms, for multi-state projects?

Response 29:

No. See response to Question 3.

Question 78:

How will the states harmonize the terms and conditions of their individual PPAs for a multi-state award? Can bidders assume that key terms including default provisions, penalties, generator obligations, schedule commitments, and security will be the same across all PPAs?

Response 78:

No. See response to Question 3.

Question 27:

Is the Multi-State Proposal process expected to require additional non-refundable bidder fees in addition to the non-refundable bidder fees defined in at least Massachusetts' and Rhode Island's offshore wind RFPs? [Prospective Bidder] respectfully recommends against adding additional bidder fees across submissions in order to encourage bidders to maximize involvement in all the concurrent New England offshore wind procurement processes.

Response 27:

Consistent with the Multi-State Proposal Form, any Multi-State Bid must be submitted to each receiving Party, or their respective EDC, following the full requirements of that Party's, or their respective EDC's RFP, including any applicable bid fees required by the receiving states.

Question 40:

If submitting a multi-state bid to MA, are bidders expected to also pay the applicable application fees to the other states included in the multi-state bid?

Response 40:

See response to Question 27.

Question 9:

Will the MA RFP evaluation criteria change to align with the other states as part of the multi-state coordination effort? How will multi-state selection process work?

Response 9:

Multi-State Bids will be evaluated pursuant to each Party's, or their respective EDC's, individual RFP, in accordance with the multi-state MOU, and with the Multi-State Proposal Form. If a Bidder's Multi-State Bid is chosen for selection pursuant to the MOU, the Bidder will enter into contract negotiations with each state or their respective EDCs, pursuant to each state's RFP and contracting requirements.

Question 11:

How will MA value shared/regional benefits, e.g., to fisheries or tribal stakeholders who cross state lines or workers in bordering communities, as opposed to in-state benefits in its qualitative scoring, and will that change between single-state or multi-state bids?

Response 11:

Appendix J of the Massachusetts RFP outlines criteria to be used when evaluating impacts to fisheries and tribal stakeholders and will be used to evaluate both Single-State and Multi-State bids. Among other information in Appendix J, bidders are asked to provide information regarding their participation in regional efforts related to fisheries and environmental mitigation.

Question 22:

Relative Weight of Regional vs. In-State Impacts during 83C Round 4 Evaluation: *How will the Evaluation Team value shared/regional benefits relative to in-state benefits in qualitative scoring, in light of the emphasis on a coordinated, regional approach? Will the evaluation framework defined in the RFP differ in Massachusetts' evaluation of single-state versus multi-state bids?* Examples of investments where this may be particularly relevant include benefits to fisheries or tribal stakeholders who span across state lines, workforce development initiatives that might include workers from bordering communities, etc.

Response 22:

Appendix J of the Massachusetts RFP outlines criteria to be used when evaluating impacts to fisheries and tribal stakeholders and will be used to evaluate both Single-State and Multi-State bids. Among other information in Appendix J, bidders are asked to provide information regarding their participation in regional efforts related to fisheries and environmental mitigation. Section 2.2.4.1 of the RFP outlines criteria to be considered regarding workforce benefits of the project to the Commonwealth. All projects

considered under the Massachusetts RFP, including both Single-State and Multi-State Bids, must where feasible, create and foster economic development and quality, high-demand jobs in the Commonwealth.

Question 46:

How will local content be scored in multi-state bids? Will economic benefits provided to one state be factored into the evaluation of a multi-state bid by other states?

Response 46:

Multi-State Bids will be evaluated by each Participating Party, or their respective EDC, pursuant to their individual RFP requirements, including regarding economic development commitments and the extent of local content committed to in a bid. As outlined in the MOU, Bidders are allowed to include severable economic development commitments in their Multi-State Bids, pursuant to the MOU and the Multi-State Proposal Form, although they are discouraged from doing so.

Question 57:

Does the announcement of the joint solicitation between MA, CT and RI have an impact on the evaluation criteria for in-state and regional economic benefits?

Response 57:

See response to Question 46.

Question 59:

In the evaluation, 15 points are being given to Economic Benefits to the Commonwealth. In light of the multi-state collaboration, will this evaluation weighting change to positively evaluate economic benefits to neighboring states for a project in MA? Reference: RFP: Section 2.2.4

Response 59:

See response to Question 46.

Question 60:

In evaluating economic benefits under a joint three-state solicitation, how will economic benefits that span states be evaluated? (e.g., a grant to an organization that serves both Connecticut and Rhode Island residents as opposed to a grant to a similar organization that only provides services to Rhode Island residents)?

Response 60:

See response to Question 46.

Question 26:

Must the entirety of a Multi-State Proposal's volume be selected in order for the Multi-State Proposal to be selected, or is it possible for eligible Parties to select a portion of the total bid volume for Multi-State

Proposals? If the latter, would this be discussed with the bidder prior to the completion of the selection process, and how would it impact the evaluation of single-state proposals?

Response 26:

For Multi-State Bids that include Massachusetts as one of the receiving states, Multi-State Bids will be evaluated based on their full project capacity as-bid. Bidders should indicate in their bid packages if the Buyer's Percentage Entitlement for any Multi-State project proposal is scalable, such that a range of project capacity could be selected by the receiving states and how any scalability choices impact other aspects of the bid, e.g., economic development commitments. As laid out in Part IV of the Massachusetts CPPD form, if a project is scalable, the Selection Team will only choose to scale the buyer's entitlement down in the event that acceptance of the full amount offered would result in exceedance of the target procurement amount. Bidders should note that projects that are proposed to be scalable in this way are only adjusting the Buyer's Entitlement; the Bidder would still be required to develop the full project capacity. If a Bidder wishes to offer different sized project options for a Multi-State Bid, such that the Bidder will only commit to build the capacity amount ultimately selected (e.g., 800 MW or 1200 MW), these should be offered as discrete and separate Multi-State Bids. Please refer to the Connecticut and Rhode Island RFPs for their scalability requirements.

Question 20:

Contingent Proposals: Section 2.2.1.2 of the RFP states that "Bidders may not submit proposals that are positively contingent on circumstances outside the acceptance of a proposal in this solicitation". *Will the issuance and contents of the Multi-State MOU result in a change in the definition of an Eligible Proposal? If not, how does the Evaluation Team explain the potential conflict with the Multi-State MOU, which references that "at least one multi-state proposal shall not be contingent upon selection of any other bid to any [state] or their EDC, but other proposals can be contingent upon selection of a multi-state proposal"*? Alternatively, if the language in the RFP will change to explicitly allow proposals contingent on the outcomes of other solicitations, can the Evaluation Team please specify how bidders should indicate which and what aspects of a proposal are contingent (for example, the volume/validity of the entire proposal might be contingent, or just the price might be contingent, etc.)?

Response 20:

With the execution of the Multi-State Coordination MOU between Massachusetts, Connecticut and Rhode Island, a potential positively contingent multi-state bid amongst the MOU states is now part of the current solicitation/RFP and therefore not positively contingent on circumstances *outside* of the Massachusetts solicitation. Bidders still cannot submit bids that are positively contingent on circumstances outside of the Massachusetts procurement (e.g., acceptance in New York).

Question 41:

Section I.B states, "Bidders should be instructed to not withdraw bids from any single state solicitation to prevent the dual selection of negatively contingent bids."

- Can bidders submit offers that are contingent on an offer not being accepted in a different 'state's solicitation? The language above appears to contemplate bids that are negatively contingent on the outcome of another 'state's solicitation.

Response 41:

Please reference the Multi-State Proposal Form for clarification regarding negatively contingent bids to the Participating Parties participating in the Multi-State MOU and each specific RFP. With the execution of the Multi-State Coordination MOU between Massachusetts, Connecticut and Rhode Island, a potential positively contingent multi-state bid amongst the MOU Parties is now part of the current solicitation/RFP and therefore not positively contingent on circumstances *outside* of the Massachusetts solicitation. Regarding the Massachusetts RFP, bidders still cannot submit bids that are positively contingent on circumstances outside of the Massachusetts procurement (e.g., acceptance in New York). Additionally, Bidders who would like to submit a bid to one participating Party, or their respective EDC, that is valid only if a bid to a separate participating Party or their respective EDC is selected, must use the Multi-State Proposal Form.

Question 43:

Section I.B states, “Massachusetts RFP Section 1.7.2. shall . . . not assume a proposal is valid after the proposal is (1) demonstrated to be negatively contingent to a multi-state or single-state selection and (2) is selected by one or more states under this MOU or by another state”.

- Please explain the intent of this language and its impact on the rules for the MA RFP.

Response 43:

See response to Question 20.

Question 44:

Section I.D states, “At least one multi-state proposal shall not be contingent upon selection of any other bid to any Party or their EDC, but other proposals can be contingent upon selection of a multi-state proposal, i.e., if a multi-state proposal is selected, the price of additional MWs for a proposal that is not the multi-state proposal decreases.”

- By definition, a multi-state proposal will be an offer to supply OSW to multiple states. Please provide an example of a multi-state proposal that is not contingent upon the selection of any other bid to any Party or their EDCs.

Response 44:

If a Multi-State Bid is selected by two or more states, this is not a “contingent” selection. A contingent selection would be, for example, a Multi-State Bid which can only be selected if a separate Single-State Bid from the same Bidder is also selected; such a proposal is not allowed under the MOU. Section I.D of the MOU allows for a contingency where a Bidder proposes a Multi-State Bid paired with one or more Single-State Bids such that if the Multi-State Bid is selected, the price for one or more Single-State Bids decreases.

Question 48:

Can DOER clarify the impact that the joint multi-state solicitation will have on the ability to bid with positively and negatively contingent projects into the MA 83C IV RFP?

Response 48:

See response to Question 20 and refer to the Multi-State Proposal Form.

Question 38:

Will the framework for multi-state coordinated procurement contemplated by the MOU be filed with the DPU for approval? If not, what is the Evaluations Parties' rationale for not doing so?

Response 38:

Pursuant to Section 83C, the Massachusetts Department of Public Utilities (DPU) reviews the timetable and method of solicitation contained in the RFP. On August 23, 2023, the DPU approved the Section 83C Round IV RFP including Section 1.1.1 on Coordination of Solicitation with Other States, which details how Massachusetts will alert bidders on the details of a multi-state coordination, including a Coordination Announcement and the Multi-State MOU as issued October 5. The DPU will review any selected bids and resulting executed contracts for conformance with the RFP and standards of review pursuant to Section 83C for conformance with the approved RFP process.