

**Conditions for the technology neutral  
tender of aid and price guarantee for  
electricity generated by onshore wind  
turbines, open door offshore wind  
turbines, wave power plants,  
hydroelectric power plants and solar PV  
installations**

June 2021

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## **1. The contracting authority**

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1577 København V, Denmark  
Tel.: + 45 33 92 67 00  
CVR no. (company reg. no.): 59 77 87 14  
[www.ens.dk](http://www.ens.dk)

All enquiries, including questions etc., must be submitted electronically during the tendering procedure via the following link on the tendering portal:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

## **2. Regulation of the technology-neutral tender**

The Danish Energy Agency's technology-neutral tender for entering into contract(s) on aid for electricity generated in Denmark by onshore wind turbines, open door offshore wind turbines, wave power plants, hydroelectric power plants and/or solar PV installations are not covered by the Danish Public Procurement Act<sup>1</sup>, the EU Concession Contracts Directive<sup>2</sup> or the EU Utilities Directive.<sup>3</sup>

The Danish Energy Agency has decided to expose the contract(s) on aid to competition. This tendering procedure is therefore subject to the general principles of EU law in the TFEU<sup>4</sup>, e.g. concerning equal treatment, transparency, proportionality and non-discrimination on the grounds of nationality. Aid for electricity granted pursuant to the technology-neutral tender constitutes State aid under TEUF Article 107 (1). The tender procedure is approved by the European Commission in SA.56831 (2021/N) in accordance with the European Commission's Guidelines on State aid for environmental protection and energy 2014-2020,<sup>5</sup> and communication from the European Commission concerning the prolongation and the amendments of the guidelines on State aid<sup>6</sup>.

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<sup>1</sup> Act no. 1564 of 15 December 2015, which implements Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, and later changes in Act no. 1251 of 30 November 20219.

<sup>2</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, cf. Executive Order no. 1625 of 15 December 2015.

<sup>3</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, cf. Executive Order no 1624 of 15 December 2015.

<sup>4</sup> The Treaty of the Functioning of the European Union.

<sup>5</sup> OJ C 200, 28.6.2014, p. 1.

<sup>6</sup> OJ C 224, 8.7.2020, p. 2–4, Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission – Framework for State aid for research and development and innovation and Communication

The rights and obligations of the Danish Energy Agency and of the winning tenderer(s) under this tendering procedure are described in the contract, see Appendix 7.

### **3. Energy Agreement and Climate Agreement**

With the Energy Agreement of 29 June 2018 between the former government (the Liberal Party of Denmark, Liberal Alliance and the Conservative People's Party), Social Democracy, the Danish People's Party, the Red-Green Alliance, the Alternative, the Social Liberal Party and the Socialist People's Party, the political parties agreed to continue the expansion of renewable energy via technology-neutral tenders of solar PV, onshore wind, open door offshore wind turbines, wave power, and hydroelectric power in the period 2020-2024.

With the Climate Agreement of 22 June 2020 between the government (Social Democracy), the Liberal Party of Denmark, the Danish People's Party, the Red-Green Alliance, the Socialist People's Party, the Social Liberal Party, the Conservative People's Party, Liberal Alliance and the Alternative, the political parties agreed to continue technology-neutral tenders in 2020 and 2021. The parties agreed to change the tender conditions to aid in the form of a contract for difference model, with a bid cap of 25.00 øre per kWh and a cap of DKK 600 million (2020-prices) on aid payments from the state to the winning tenderer(s) in each tender round. In addition the parties agreed to reserve funds for technology-neutral tenders in 2022-2024 with similar amounts. On 18 December 2020 the parties behind the Climate Agreement decided supplement the overall cap of DKK 600 million (2020 prices) with project-specific caps of DKK 2.8 million (2020 prices) per MW (onshore wind equivalent) on the payments from the state to each winning tenderer. The project-specific cap of 2.8 million (2020 prices) per MW (onshore wind equivalent), will result in a capacity limit of 214,285 kW (onshore wind equivalent). The parties behind the Climate Agreement also decided to implement a project-specific cap of DKK 5.6 million (2020-prices) per MW (onshore wind equivalent) on the payments from each winning tenderer to the state.

A single technology neutral tender will be held in 2021 combining the allocated funds for 2020 and 2021. The technology neutral tender in 2021 will have an overall cap of DKK 1.2 billion (2020 prices), which corresponds to a capacity limit of 428,570 kW (onshore wind equivalent).

The Energy Agreement, Climate Agreement, and later the agreement with adjustments are available in Danish<sup>7</sup> via the links below:

<https://kefm.dk/media/6646/energiaftale2018.pdf>

<https://fm.dk/media/18085/klimaafale-for-energi-og-industri-mv-2020.pdf>

<https://kefm.dk/Media/9/2/Aftaletekst%20CfD-model.pdf>

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from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance

<sup>7</sup> An English translation of the Energy Agreement is available via the link:

<http://en.kefm.dk/Media/C/5/Energy%20Agreement%202018%20a-webtilg%C3%A6ngelig.pdf>, and an English summary of the Climate Agreement is available via the link: [https://kefm.dk/Media/C/B/faktaark-klimaafale%20\(English%20august%2014\).pdf](https://kefm.dk/Media/C/B/faktaark-klimaafale%20(English%20august%2014).pdf)

#### **4. The tender documents**

The tender documents consist of:

- These tender conditions which primarily contain guidelines for preparing bids and requirements for tenderers etc.
- Template for tender letter including declarations on obligation to construct and connect to the grid etc. (Appendix 1)
- Template for description of installation(s) covered by the tender letter (Appendix 2) (to be completed by the tenderer in connection with bid submission)
- Template for a demand guarantee (DK/UK) (Appendix 3) (to be completed by the tenderers guarantor before signing of the contract)
- Template for declaration from the municipality and template for declaration from the tenderer about solar PV installations and/or hydroelectric power plants (see tender letter) not subject to requirements for planning documentation (Appendix 4) (only one of the two templates are to be filled out by the municipality or the tenderer in connection with bid submission, if relevant) // template for declaration of support from the municipality council regarding open door offshore wind turbines (to be filled out by the municipal board in connection with bid submission, if relevant) (Appendix 4)
- Template for declaration of intent to provide a demand guarantee (Appendix 5) (to be filled out by the tenderer's guarantor in connection with bid submission)
- Template for conditional award decision to the marginal bid (Appendix 6.a) (to be filled out by the Danish Energy Agency after the submission of tender letters, if relevant)
- Template for reduced bid from the marginal tenderer (Appendix 6.b) (to be completed by the Danish Energy Agency and the marginal tenderer after the submission of tender letters, if relevant)
- Template for description of installation(s) covered by the reduced bid (Appendix 6.c) (to be filled out by the marginal tenderer after the submission of tender letters, if relevant)
- Draft of contract for aid and price guarantee (in the following referred to as the contract) (Appendix 7) (Appendix 1-3 of the tender conditions will be included as Appendix 1-3 to the contract, while Appendix 8 of the tender conditions will be included as Appendix 6 to the contract. Appendix 6.b and 6.c will be included as respectively Appendix 1.b and 2.c to the contract, if relevant.)
- A description of the settlement terms under the hybrid contract for difference model (Appendix 8)

All the tender documents are available on the tender portal via the following links:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

In the event of discrepancies between these tender conditions and the contract, including appendices, the contract, including appendices, prevails.

## **5. Content of the technology-neutral invitation to tender**

### *5.1 General*

These tender conditions apply to the 2021 technology-neutral tendering round of aid and price guarantee for electricity generated by onshore wind turbines, open door offshore wind turbines, wave power plants, hydroelectric power plants and/or solar PV installations (in the following referred to as "the 2021 technology-neutral tendering round") pursuant to section 50 d of the Danish Promotion of Renewable Energy Act<sup>8</sup>. The 2021 technology-neutral tendering round covers new installations where work on the project has not been started and does not cover installations connected to the grid in a consumer installation.

### *5.2 Repowering*

A wind turbine will be considered a new installation when the entire wind turbine including tower, nacelle and rotor consists of parts straight from the factory. Foundations and grid connections from a previous project can be reused to establish a new installation.

A solar PV installation will be considered a new installation when the PV panels and inverters consist of parts straight from the factory. Mounting structures and grid connections from a previous project can be reused to establish a new installation.

A hydroelectric power station will be considered a new installation when the entire installation consists of parts straight from the factory. Grid connections from a previous project can be reused to establish a new installation.

A wave power plant will be considered a new installation when the entire installation consists of parts straight from the factory. Grid connections from a previous project can be reused to establish a new installation.

### *5.3 Open door offshore wind turbines*

#### *5.3.1 Definition of open door offshore wind turbines*

"Open door offshore wind turbines" covers offshore wind turbines that have obtained a construction licence on the basis of an application under the open door procedure, and provided the construction licence has not been put up for tender pursuant to the current regulations in the Danish Promotion of Renewable Energy Act.

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<sup>8</sup> Act no. 125 of 7 February 2020 on promotion of renewable energy as changed pursuant to Act no. 738 of 30 May 2020.

### 5.3.2 Declaration from the municipal board about open door offshore wind turbines

Open door offshore wind turbines, that are planned to be located within 8 km of the coastline of one or more municipalities, which participate in the 2021 technology-neutral tendering round, and which are not subject to, or exempt from, the current rules on the municipality's right to object pursuant to the Danish Promotion of Renewable Energy Act,<sup>9</sup> in relation to this tendering round, are subject to the municipality's right to object, see clause 7.3. The objective of the requirement in clause 7.3 is to ensure equal treatment of all the open door offshore wind turbine projects, which are planned located within 8 km from one or more municipalities' coast line. The requirement does not apply to 1) open door offshore wind turbines, subject to the rules on the municipality's right to object pursuant to the Danish Promotion of Renewable Energy Act<sup>10</sup>, and 2) open door offshore wind turbines that are planned to be located beyond 8 km from the coastline of one or more municipalities and that participate in the 2021 technology-neutral tendering round<sup>11</sup>.

Open door offshore wind turbines, that are planned to be located within 15 km of the coastline of one or more municipalities, and that participate in the 2021 technology-neutral tendering round, and that are not subject to, or exempt from, the current rules on the municipality's right to object pursuant to the Danish Promotion of Renewable Energy Act,<sup>12</sup> in relation to this tendering round are subject to the municipality's right to object, see clause 7.3. The objective of the requirement in clause 7.3 is to ensure equal treatment of all the open door offshore wind turbines projects which are planned located within 15 km of one or more municipalities' coast line. The requirement does not apply to 1) open door offshore wind turbines subject to the rules on the municipality's right to object pursuant to the Danish Promotion of Renewable Energy Act,<sup>13</sup> and 2) open door offshore wind turbines that are planned to be located beyond 15 km from the coastline of one or more municipalities and that participate in the 2021 technology-neutral tendering round.

### 5.4 Definition of onshore wind equivalent

Onshore wind equivalent is a unit of measurement for comparing capacity across different technologies, where capacity is adjusted for the estimated full-load hours per year for each technology. The onshore wind equivalent units will be calculated using the following formula:

$$\text{onshore wind equivalent capacity} = \text{capacity} * \frac{\text{full load hours per year}}{3,400}$$

The calculation of the onshore wind equivalent units will include the same number of full-load hours per year as the calculation of retention penalty, see clause 5.11.3:

Onshore wind turbines: 3,400<sup>14</sup> full-load hours per year.

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<sup>9</sup> Act no. 125 of 7 February 2020.

<sup>10</sup> Act no. 125 of 7 February 2020.

<sup>11</sup> The right of objection was extended on the 1 July 2019 from 8 km to 15 km from the coastline of the municipality, cf. Act no. 125 of 7 February 2020 as changed pursuant to Act no. 499 of 1 May 2019. Applications for pre-investigation permits received before the 1 July 2019 are subject to the prior rules regarding the right of objection.

<sup>12</sup> Act no. 125 of 7 February 2020 as changed pursuant to Act no. 499 of 1 May 2019.

<sup>13</sup> Act no. 125 of 7 February 2020 as changed pursuant to Act no. 499 of 1 May 2019.

<sup>14</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.



|                                |   |
|--------------------------------|---|
| Wave power plants:             | 2,500 <sup>15</sup> full-load hours per year. |
| Hydroelectric power plants:    | 2,500 <sup>16</sup> full-load hours per year. |
| Solar PV (DC-capacity in kWp): | 1,075 <sup>17</sup> full-load hours per year. |
| Solar PV (AC-capacity in kW):  | 1,343 <sup>18</sup> full-load hours per year. |
| Offshore wind turbines:        | 4,500 <sup>19</sup> full-load hours per year. |

### *5.5 Aid for electricity*

The contract provides access to aid in the form of a price premium, which is calculated as described in clause 5.8, and which applies to the actual production of electricity, generated by the installation(s) covered by the contract and delivered to the Danish collective electricity supply grid in the entire aid period. The contract has no option to opt out on the part of the winning tenderer.

A single, collected bid may be submitted, covering several different installations, if these installations have the same time limit for grid connection, cf. clause 5.10.1, or multiple bids may be submitted, one bid for each installation. Each tenderer may submit several bids. An installation with one grid connection to the Danish collective electricity supply grid is considered to be one installation.

### *5.6 Time of grid connection*

In accordance with section 5(1), no 4, of the Danish Promotion of Renewable Energy Act<sup>20</sup>, the time of grid connection is defined as the date at which the installation supplies electricity to the Danish collective electricity grid for the first time, because this date will be noted in the register of master data (in Danish: stamdataregistret).<sup>21</sup>

### *5.7 Total number of contracts*

The total number of contracts to be issued has not been determined. The intention is to enter into one or several contracts on the basis of the award criterion lowest bid price (see clause 6.1), which can be kept within the capacity limit or the 90 % threshold described in clause 6.2 and 6.4.

### *5.8 Price premium and aid period*

Aid will be paid as a price premium in øre per kWh. The price premium will be calculated using a contract for difference model (hereafter CfD-model). In the CfD-model, the price premium is calculated as the difference between the offered bid price and the annual reference price. In effect, the price premium will vary from year to year, but remain fixed within each calendar year. The reference price is the average spot price of electricity in the preceding calendar year in the price area that corresponds to the location of the winning tenderer's installation (DK1 or DK2). See Appendix 8 for a description of the CfD-model.

The CfD-model uses a two-way payment structure. The two-way payment structure entails that each winning tenderer receives a price premium from the Danish Energy Agency in any year where

<sup>15</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>16</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>17</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>18</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>19</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>20</sup> Act no. 125 of 7 February 2020.

<sup>21</sup> Section 85 a, para. 2, no. 2 in the Electricity Supply Act, cf. Act no. 119 of 6 February 2020.

the offered bid price exceeds the reference price, while each winning tenderer shall pay a price premium to the Danish Energy Agency in any year where the reference price exceeds the tenderer's offered bid price.

There is a cap of DKK 5.6 million (2020-prices) per MW (onshore wind equivalent) on the total payments to the Danish Energy Agency from each winning tenderer over the entire aid period. The cap is net of any aid paid out by the Danish Energy Agency to the winning tenderer meaning that aid paid out from the Danish Energy Agency to the winning tenderer is added to the cap. The cap is binding if the payments net of any aid from the Danish Energy Agency to the winning tenderer has reached DKK 5.6 million (2020-prices) per MW (onshore wind equivalent). Any payments forewent by the Danish Energy Agency due to a binding cap, cannot later be claimed by the Danish Energy Agency, including in periods where the cap ceases to bind.

There is a cap of DKK 2.8 million (2020-prices) per MW (onshore wind equivalent) on the total aid paid out by the Danish Energy Agency to each winning tenderer over the entire aid period. The cap is net of any payments from the winning tenderer to the Danish Energy Agency meaning that payments from the winning tenderer to the Danish Energy Agency is added to the cap. The cap is binding if the aid paid out net of any payments from the winning tenderer to the Danish Energy Agency has reached DKK 2.8 million (2020-prices) per MW (onshore wind equivalent). Any aid forewent by the winning tenderer due to a binding cap, cannot later be claimed by the winning tenderer, including in periods where the cap ceases to bind.

The contract applies to the all actual electricity production that is produced by the installation(s) covered by the contract and delivered to the Danish collective electricity grid, see clause 5.5 and clause 5.11.2. For each installation covered by the contract a price premium is applicable for 20 years from the time of grid connection. The time of grid connection is defined in accordance with clause 5.6.

Regardless of the above, for each winning tenderer and each year where the reference price exceeds the tenderer's offered bid price, the tenderer will not have to pay the price premium to the Danish Energy Agency in hours where the price premium (in absolute terms) is greater than the spot price for electricity.

Regardless of the above, for each winning tenderer, the Danish Energy Agency will not pay the price premium in hours where the spot price for electricity is not positive.

The spot price for electricity is the hourly price that the electricity exchange, NordPool, states in øre per kWh on the spot market for the bidding area (DK1 or DK2) corresponding to the location of the winning tenderer's installation.

#### *5.9 Projects at an advanced stage (late bidding)*

Tenderers are responsible – prior to submitting a bid – for finding a suitable geographical location for the installation(s) covered by the bid and for obtaining the required planning documentation in pursuance of the Danish Planning Act, the Danish Act on Environmental Impact Assessment and/or any other relevant legislation, including all relevant decisions, permissions, approvals, possible dispensations and similar for the construction of installation(s) covered by the bid.

Tenderers who wish to bid for aid for electricity generated by onshore wind turbines, hydroelectric power plants and/or solar PV installations must submit an adopted local development plan with their bid, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist pursuant to the Danish Planning Act and Danish Act on Environmental Impact Assessment.

Tenderers who wish to bid for aid for electricity generated by solar PV installations and/or hydroelectric power plants that are not subject to requirements of an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist, must submit with their bid a declaration either from the municipality or from the tenderer itself (see Appendix 4) that there are no requirements for an adopted local development plan or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist, in accordance with the Danish Planning Act and Danish Act on Environmental Impact Assessment.

Tenderers who wish to bid for aid for electricity generated by open door offshore wind turbines and/or wave power plants must submit with their bid a construction licence, an adopted local development plan for the part of the project that is located onshore, as well as a completed template for a declaration of support from the municipal board (see Appendix 4) indicating that the municipal board is positive towards the construction of the open door offshore wind turbine project or wave power plants, see clauses 5.3.2 and 7.3. This declaration must be submitted with the bid, if the project will be located within respectively 8 or 15 km of the coastline, and if the project is not subject to the rules on the municipality's right to object pursuant to the Danish Promotion of Renewable Energy Act<sup>22</sup>, see clause 5.3.2.

If an administrative authority, a complaints board or a court of law after the time allowed for submission of bids should make a decision that sets aside, in whole or in part, the above planning basis, decisions, statements, permits, approvals, exemptions, if any, etc., the Danish Energy Agency may on the basis of a specific assessment suspend the price premium in the support period or terminate the contract, see for more details, clauses 8.6 and 8.7 of the Contract.

#### *5.10 Obligation to construct projects and connect them to the grid, and extension of the time limit for grid connection*

##### *5.10.1 Obligation to construct projects and connect them to the grid*

Each winning tenderer is obligated to construct the installation(s) covered by the contract and to ensure the installation(s) are connected to the grid.

Within two years of the date of signing the contract, a winning tenderer must have connected the onshore wind turbines, wave power plants, hydroelectric power plants and/or solar PV installations covered by the contract to the grid, however see clause 5.10.2.

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<sup>22</sup> Act no. 125 of 7 February 2020 as changed pursuant to act no. 499 of 1 May 2019.

Within four years of the date of signing the contract, a winning tenderer must have grid-connected the open door offshore wind turbines covered by the contract, however see clause 5.10.2.

The obligation to connect to the grid will be considered met when at least 85% of the capacity covered by the contract, has been connected to the grid within the time limit for grid connection of two years for onshore installations and wave power plants, and four years for open door offshore wind turbines, however see clause 5.10.2. The time of grid connection is defined in accordance with clause 5.6. For solar PV installations the AC-capacity (kW) covered by the contract is applied.

The right to aid pursuant to the contract will lapse and a retention penalty must be paid corresponding to an amount calculated in accordance with the contract (see clause 5.11.3), if an installation covered by the contract is not connected to the grid or is connected to the grid within two years for onshore installations and wave power plants, and four years for open door offshore wind turbines, however see clauses 5.10.2 and 5.11.2.

Installation(s) covered by a contract must be grid connected pursuant to the rules on grid connection set out in the Executive Order on grid connection of wind turbines, solar PV installations, wave power plants and hydroelectric power plants.

#### *5.10.2 Extension of the time limit for grid connection*

A winning tenderer is entitled to an extension of the time limit for grid connection of the installations covered by contract, cf. clause 5.10.1, in the event of a delay caused by one or more of the following circumstances:

1. Circumstances relating to the Danish Energy Agency.
2. Circumstances arising for which the winning tenderer is without fault and over which the winning tenderer has no control, for example war, pandemic, extraordinary natural events, fire, strikes, lockout or malicious damage.
3. Precipitation, low temperatures, strong winds or other weather conditions preventing or delaying work, where such weather conditions occur to a significantly greater extent than usual for the season and area in question.
4. Public orders or bans, which are not caused by circumstances attributable to the winning tenderer.
5. A requirement for a stay of execution following directly from legislation or from a decision on a stay of execution by an appeals board or a court of law.
6. If the winning tenderer does not obtain required permits, dispensations and approvals etc. besides the ones required at the time of submitting the bid in accordance with the requirement concerning late bidding (see clause 5.9) from the authorities, although the winning tenderer has applied for these from the relevant authorities no later than one year before expiry of the time limit for grid connection, see clause 5.10.1.

7. If after the time allowed for submission of bids, the permits, dispensations and approvals etc. that are required at the time of submitting the bid in accordance with the requirement concerning late bidding are declared void, which is not caused by circumstances attributable to the winning tenderer.
8. The grid company or the transmission company is not ready to connect the onshore wind turbines, solar PV installations wave power plants, hydroelectric power plants and/or open door offshore wind turbines to the Danish collective electricity grid with a minimum of 85 % of the capacity covered by the contract within the time limit for grid connection (see clause 5.10.1) because the winning tenderer has not been able to obtain the required permits, dispensations and approvals etc. besides the ones required at the time of submitting the bid in accordance with the requirement concerning late bidding (see. clause 5.9) from the authorities, although the winning tenderer has applied for the required permits, dispensations and approvals etc. from the relevant authorities no later than one year before expiry of the time limit for grid connection, see clause 5.10.1. This also applies if after the time allowed for submission of bids, the permits, dispensations and approvals etc. that are required at the time of submitting the bid in accordance with the requirement concerning late bidding are declared void, which is not caused by circumstances attributable to the winning tenderer. For solar PV installations the AC-capacity (kW) covered by the contract is applied.
9. The grid company or the transmission company is not ready to connect installations to the Danish collective electricity grid with a minimum of 85 % of the capacity covered by the contract within the time limit for grid connection (see clause 5.10.1) and the winning tenderer has concluded an agreement about grid connection of the installations covered by the contract no later than one year before expiry of the time limit for grid connection, see clause 5.10.1. For solar PV installations the AC-capacity (kW) covered by the contract is applied.
10. If more than two UXOs are to be removed in connection with the establishment of open door offshore wind turbines.
11. If the construction of the installation(s) covered by the contract cannot be started due to a major preliminary survey, see section 26(3) of the Danish Museum Act pursuant to Consolidating Act no. 358 of 8 April 2014, or if the project has to be discontinued due to archaeological surveys, see section 27 of the Danish Museum Act pursuant to Consolidating Act no. 358 of 8 April 2014.
12. Case processing of an expropriation case by the Danish Safety Technology Authority pursuant to section 27 of the Danish Electricity Safety Act.

The extension of the time limit will correspond to the actual delay caused by the circumstances in nos. 1-12 claimed by the tenderer. Winning tenderers entitled to an extension of the time limit must immediately, and before the time limit for grid connection, submit a written request to the Danish Energy Agency for the Danish Energy Agency's consent to the extension. In connection with such a request, the winning tenderers must be able to substantiate that the delay in question

was caused by the circumstances claimed by the tenderer, and that the delay could not reasonably have been avoided or limited.

Regardless of the above, price premiums will not be paid by the Danish Energy Agency to the winning tenderer and must not be paid to the Danish Energy Agency by the winning tenderer after 23 years from signing the contract, if the installation(s) covered by the contract are onshore wind turbines, wave power plants, hydroelectric power plants and/or solar PV installations. If an installation covered by a contract, which concerns onshore wind turbines, wave power plants, hydroelectric power plants and/or solar PV installations, is connected to the grid later than three years after signing the contract, irrespective of the reason, the period with price premiums will be reduced proportionately with the delay exceeding the three years.

Regardless of the above, price premiums will not be paid by the Danish Energy Agency to the winning tenderer and must not be paid to the Danish Energy Agency by the winning tenderer after 25 years from signing the contract, if the installation(s) covered by the contract are open door offshore wind turbines. If an installation covered by a contract, which concerns open door offshore wind turbines, is connected to the grid later than five years after signing the contract, irrespective of the reason, the period with price premiums will be reduced proportionately with the delay exceeding the five years.

#### *5.11 Retention penalty and guarantees*

##### *5.11.1 Retention penalty*

The right to aid will lapse and a retention penalty (a contractual penalty) will be immediately payable upon demand:

- if, after signing of a contract for electricity generated by installation(s) covered by the contract, a winning tenderer notifies the Danish Energy Agency in writing that, irrespective of the reason, it will not or cannot construct and/or connect to the grid the installation(s) covered by the contract;
- if the circumstances show that the winning tenderer will not or cannot construct and/or connect to the grid the installation(s) covered by the contract, however see clause 5.10.2;
- if the onshore installations and/or wave power plants covered by the contract have not been connected to the grid within two years of signing the contract, see however clauses 5.10.2 and 5.11.2; and
- if the open door offshore wind turbine installations covered by the contract have not been connected to the grid within four years of signing the contract, however see clauses 5.10.2 and 5.11.2.

If one or more of the above mentioned circumstances exclusively relates to a fraction of the capacity covered by the contract, then the retention penalty and price premium are calculated proportionally, cf. clause 5.11.2.

### *5.11.2 Connecting respectively more or less capacity to the grid than the capacity covered by the contract*

If, at the time limit (see clause 5.10), less than 85 % of the capacity covered by the contract is connected to the grid, a retention penalty will be payable. This retention penalty will be payable for the remaining capacity not connected to the grid up to 85 % of the capacity covered by the contract.

If the capacity connected to the grid is less than the capacity covered by the contract, the price premium will only apply to the electricity supplied to the Danish collective electricity supply grid, i.e. the electricity supplied from the capacity connected to the grid.

If the capacity connected to the grid is more than the capacity covered by the contract, the price premium will only apply to a fraction of the electricity supplied to the Danish collective electricity supply grid. This fraction will be inversely proportional to the capacity connected to the grid, i.e. calculated as the ratio between the capacity covered by the contract and the grid connected capacity. This fraction is calculated at the time of each grid connection and will otherwise remain constant for the entire aid period.

If the installation(s) covered by the contract include multiple technologies, onshore wind equivalent units will be used, see clause 5.4. For solar PV installations the AC-capacity (kW) covered by the contract is applied.

### *5.11.3 Calculation of retention penalty*

The retention penalty depends on the capacity covered by the bid, cf. section A.2 in Appendix 1 or any later Appendix 6.b. The retention penalty will be calculated as DKK 0.17 per kWh on the basis of the capacity covered by the bid and an assumed full-load hours per year for each technology.

The amount of retention penalty for a given technology will thus be calculated using the following formula:

$$\text{Retention penalty} = \text{capacity} * \text{full load hours per year} * 0.17$$

If the bid includes multiple technologies, the retention penalty is calculated as the sum of the individually calculated retention penalties for each technology.

For wind turbines, wave power plants and hydroelectric power plants the stated capacity (kW) covered by the bid, cf. section A.2 in Appendix 1 or any later Appendix 6.b, is applied. For solar PV installations the stated DC-capacity (kWp) covered by the bid, cf. section A.2 in Appendix 1 or any later Appendix 6.b, is applied.

The calculation of the retention penalty will include the same number of full-load hours per year as the calculation of the capacity limit and 90% threshold, see clause 6.4:

|                                       |   |
|---------------------------------------|---|
| Onshore wind turbines:                | 3,400 <sup>23</sup> full-load hours per year. |
| Wave power plants:                    | 2,500 <sup>24</sup> full-load hours per year. |
| Hydroelectric power plants:           | 2,500 <sup>25</sup> full-load hours per year. |
| Solar PV (DC-capacity stated in kWp): | 1,075 <sup>26</sup> full-load hours per year. |
| Offshore wind turbines:               | 4,500 <sup>27</sup> full-load hours per year. |

Examples:

For a bid covering onshore wind turbines with a capacity of 50,000 kW, the retention penalty will amount to DKK 28.90 million.

For a bid covering wave power plants or hydroelectric power plants with a capacity of 50,000 kW, respectively, the retention penalty will amount to DKK 21.25 million.

For a bid covering solar PV installations with a capacity of 50,000 kWp, the retention penalty will amount to DKK 9.14 million.

For a bid covering open door offshore wind turbines with a capacity of 50,000 kW, the retention penalty will amount to DKK 38.25 million.

#### 5.11.4 Guarantees

##### 5.11.4.1 Declaration of intent to provide a demand guarantee

With the bid, the tenderer must submit a declaration of intent (see Appendix 5) in Danish or English from a financial institution stating that said institution will provide a demand guarantee issued to the Danish Energy Agency corresponding to the amount of the retention penalty, see clause 5.11.3. The tenderer must use the Danish or English template enclosed as Appendix 5. The Danish version and English version of Appendix 5 have equal status and have the same validity.

##### 5.11.4.2 Demand guarantee

Prior to signing of the contract, the winning tenderer must provide a demand guarantee in Danish or English from a financial institution for an amount corresponding to the amount of the retention penalty, see clause 5.11.3. The tenderer must use the Danish or English template enclosed with the contract as Appendix 3. The Danish version and English version of Appendix 3 have equal status and have the same validity. It is a prerequisite that the Danish Energy Agency has received the original demand guarantee from the winning tenderer before the Danish Energy Agency signs the contract.

##### 5.11.4.3 Lapse of the demand guarantee

The demand guarantee will lapse when 85 % of the capacity covered by the contract has been connected to the grid, however see clause 5.11.2. In situations covered by clause 5.11.2, the demand guarantee will lapse upon payment of the retention penalty for the remaining capacity not connected to the grid up to 85 % of the capacity covered by the contract. The time of grid

<sup>23</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>24</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>25</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>26</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.

<sup>27</sup> Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue.



connection is defined in accordance with clause 5.6. For solar PV installations the AC-capacity (kW) covered by the contract is applied.

#### *5.12 Joint and several liability*

If the Danish Energy Agency establishes a contract with a consortium, all members of the consortium will be jointly and severally liable for all obligations covered by the contract.

If the tenderer is an undertaking in the process of being established, the founders of the undertaking will have to assume joint and several liability with the tenderer on the date of signing of the contract and until the undertaking has been registered, see section 41(3) of the Danish Companies Act.

Any claim arising pursuant to the contract may therefore be directed towards 1) any of the participants in the consortium, and 2) any founders in situations in which the tenderer is an undertaking in the process of being established.

Joint and several liability will only be enforced to the extent that the winning tenderer is in breach of the contract and if such a breach is not remediated by the winning tenderer on demand from the Danish Energy Agency. Joint and several liability only covers claims by the Danish Energy Agency.

#### *5.13 The loss-of-value scheme, the option to sell scheme, the RE bonus scheme, payment to green fund and the guarantee fund*

The winning tenderer is subject to the loss-of-value scheme, the option to sell scheme, the renewable energy bonus scheme and payment to green fund pursuant to the at any time current rules and regulations of the Danish Promotion of Renewable Energy Act.

Tenderers can participate in the technology-neutral tendering procedure regardless of whether they have applied for the provision of a guarantee under the at any time current rules concerning the guarantee fund, which is set up to support the financing of wind turbine-, wave power-, hydroelectric power plant- and solar PV-cooperatives' preliminary surveys, etc. pursuant to the Danish Promotion of Renewable Energy Act.

## **6. Award criterion, ranking, flexibility mechanism and capacity limit.**

### *6.1 Award criterion*

The Danish Energy Agency will conclude contract(s) for electricity generated by installation(s) covered by the winning bid on the basis of the award criterion **lowest offered bid price**, which will be assessed as follows:

- **The offered bid price in øre per kWh covering electricity production for 20 years from the time of grid connection**

The price premium in the CfD-model will for each winning tenderer be calculated according to the principle of "pay-as-bid". Each contract will therefore contain the bid price (expressed in øre per kWh) that the winning tenderer has submitted in its bid. Accordingly, each contract will contain the capacity that the winning tenderer has submitted in its bid, cf. section A.2 in Appendix 1, however see clause 6.3.

The offered bid price is to be a fixed øre amount (constant in current prices) and will not be indexed. The offered bid price is to be stated as an amount in øre per kWh with maximum 2 decimal places.

Bids with an offered bid price above 25.00 øre per kWh will not be accepted.

### *6.2 Ranking*

A contract will be awarded to the tenderer(s) that submit compliant bids with the lowest bid price, see clause 6.1, and that can be kept within the capacity limit or that can be kept within 90 % of the total offered capacity (onshore wind equivalent) if the capacity limit is not reached, see clause 6.4.

If several bids contain the same offered bid price, the bids in question will be ranked according to capacity (onshore wind equivalent), from the largest to the smallest. For solar PV installations the DC-capacity (kWp) is applied.

If several bids, each of which can be accommodated within the capacity limit or the 90 % threshold see clause 6.4, contain the same offered bid price and the same capacity (onshore wind equivalent), the bids in question will be ranked through drawing lots to the extent that it is not possible to award all of the bids a contract within the capacity limit and the 90 % threshold, see clause 6.4.

### *6.3 Flexibility mechanism*

If the Danish Energy Agency decides that there is a marginal bid, the Danish Energy Agency will offer the tenderer with the marginal bid the opportunity to downscale its capacity such that it can be contained within the capacity limit or the 90 % threshold described in clause 6.4, but at the bid price originally offered in accordance with Appendices 6.a-6.c. The "marginal bid" means a compliant bid, which – assessed on the basis of the price in the bid – can be awarded a contract, but which would entail that either the capacity limit or the 90% threshold described in clause 6.4 would be exceeded.

The Danish Energy Agency will send a conditional award letter to the marginal tenderer via the tender portal with information about the downscaled capacity that can be contained within the capacity limit or the 90 % threshold described in clause 6.4, see Appendix 6.a. The conditional award letter will state that in order for the Danish Energy Agency to be able to accept the bid, the tenderer will have to downscale the capacity such that it can be contained within the capacity limit or the 90 % threshold, see Appendices 6.a-6.c.

If the Danish Energy Agency does not receive an acceptance of the conditional award letter from the marginal tenderer in accordance with Appendices 6.a-6.c no later than two days after the Danish Energy Agency has sent the conditional award letter, the Danish Energy Agency will consider this a rejection of the offer to downscale and the conditional offer of contract will lapse without further notice. The marginal tenderer will hereafter receive a refusal of offering a contract, see clause 10.

If the Danish Energy Agency does not receive an acceptance of the conditional award letter that is in accordance with the capacity limit or the 90 % threshold (see Appendices 6.a-6.c) from the marginal tenderer and there are no other bids with the same offered bid price as the marginal bid,

the remaining capacity within the capacity limit or the 90 % threshold described in clause 6.4. will not be utilised.

If the Danish Energy Agency does not receive an acceptance of the conditional award letter that is in accordance with the capacity limit or 90 % threshold (see Appendices 6.a-6.c) from the marginal tenderer and there are other bids with the same offered bid price as the marginal bid, these will be considered in the order from largest to smallest capacity (offshore wind equivalent). For solar PV installations the DC-capacity (kWp) is applied. For such bids, a bid that would entail that either the capacity limit or the 90 % threshold described in clause 6.4 would be exceeded, will be offered to downscale the project, while a bid that can be contained within the capacity limit or the 90 % threshold described in clause 6.4 will be awarded a contract. This procedure will be applied repeatedly until the capacity limit or the 90 % threshold described in clause 6.4 has been reached. This procedure will only be applied in situations where several bids have been submitted with the same offered bid price as the marginal bid.

#### *6.4 Capacity limit and 90% threshold*

Tenderers are to submit a bid price (øre per kWh) and the capacity covered by the bid, cf. section A.2 in Appendix 1. For each technology, the offered capacity must be stated in kW, however for solar PV installations, the offered capacity must be stated in kWp, i.e. the DC-capacity. The offered bid price and the capacity must appear from the individual bid, see Appendix 1, while the assumption concerning full-load hours will depend on the technology, see clauses 5.4 and 5.11.3. The onshore wind equivalent units will be calculated on the basis of the assumed number of full-load hours per year for each technology, see clause 5.4.

Contract(s) will be awarded to the tenderer(s) with the lowest offered bid price per kWh until the capacity limit of 428,570 kW (onshore wind equivalent) has been reached. If there is not enough capacity in the offered bids to reach the capacity limit, contract(s) will be awarded to the tenderer(s) that submit compliant bids with the lowest bid price, see clause 6.1, and that can be kept within 90 % of the total offered capacity (onshore wind equivalent), cf. however clause 6.3. When evaluating the capacity limit and the 90% threshold, the capacity covered by the bid, cf. section A.2 in Appendix 1, is applied.

If a bid includes several technologies, the onshore wind equivalent capacity is calculated as the sum of the individually calculated onshore wind equivalent capacities of each technology.

## **7. Bid, declarations and documentation**

### *7.1 The bid*

A bid must contain one bid price (the offered bid price), which is binding for the tenderer.

The bid must contain a description of the tenderer. The description must contain the following elements:

The name and address of the tenderer:

- The name of a contact person, if the tenderer is a company
- The registration number of the company, if the tenderer is a company (e.g.

- CVR no. (Danish company reg. no.))
- The national identification number of the person, if the tenderer is a natural person (e.g. CPR no.)
- Telephone number of the tenderer or of a contact person
- Email address of the tenderer or of a contact person.

The tender letter template see Appendix 1, which the tenderer must complete when submitting the bid, is available at the tender portal:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

The bid (see Appendix 1) must furthermore include a description of the installation(s) (see Appendix 2). If a bid (see Appendix 1) covers several installations Appendix 2 is to be completed for each installation covered by the bid. Appendix 2 must among other things include the following elements:

- The capacity of the installation covered by the bid (section A.2). The capacity is to be stated in whole kW. If the installation consists of different technologies, the capacity of each technology is to be stated.
- For solar PV installations, the DC effect of the photovoltaic solar panels covered by the bid should also be stated. The DC effect should be stated in whole kWp.

In addition a declaration of intent to provide a demand guarantee (see Appendix 5) must be enclosed with the bid.

A single, collected bid may be submitted, covering several different installations, if these installations have the same time limit for grid connection, cf. clause 5.10.1 , or multiple bids may be submitted, one bid for each installation. Tenderers may submit several bids.

Installations covered by a bid must be located in Denmark, including on the Danish continental shelf, except for the Faroe Islands and Greenland.

The tenderer bears the full commercial risk associated with the offered bid price.

## *7.2 Declarations*

In the tender letter (see Appendix 1) the tenderer must give the following declarations:

- 1) solemn declaration stating that the tenderer has complied with any and each requirement for repayment of aid which the European Commission, in a previous decision, has declared illegal and incompatible with the internal market;
- 2) solemn declaration stating that the tenderer is not an undertaking in difficulty as defined in point 20 in the Commission Communication on Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p.1), unless

the tenderer became an undertaking in difficulty in the period between the 1 January 2020 and the 30 June 2021 (OJ C 224, 8.7.2020, p. 2–4);

- 3) solemn declaration on not to receive any other aid than price premiums pursuant to the contract. A guarantee pursuant to the current rules on the guarantee fund in the Danish Promotion of Renewable Energy Act concerning preliminary investigations is not considered other aid in this context;<sup>28</sup>
- 4) solemn declaration on not to have unpaid due debt of DKK 100,000 or more to public authorities regarding taxes, duties or contributions to social security schemes pursuant to Danish legislation or legislation in the country in which the tenderer is established;<sup>29</sup>
- 5) declaration stating that work on the project to construct new installation(s) covered by the tender has not commenced;<sup>30</sup>
- 6) declaration stating that the tenderer's tender letter does not include any reservations, including to the tender documents;
- 7) declaration stating that the tenderer is informed that the Danish Energy Agency will process personal information given by the tenderer in connection with submitting the bid; and
- 8) declaration stating that the tenderer is informed that the Danish Energy Agency is eligible to publish information regarding the winning bid including bid price, capacity, location, technology and the name of the winning tenderer.

### 7.3 Documentation

The tenderer must also if relevant in relation to technology submit the following documentation with the tender letter:

For onshore wind turbines, solar PV installations and hydroelectric power plants subject to requirements for planning documentation:

- an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exists pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment (see clause 5.9).

For solar PV installations and hydroelectric power plants not subject to requirements for planning documentation:

- a declaration from the municipality or from the tenderer itself that there is no requirement for an adopted local development plan including an EIA report or an EIA decision that there

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<sup>28</sup> See section 21 of the Danish Promotion of Renewable Energy Act, cf. Consolidating Act no. 125 of 7 February 2020.<sup>29</sup> See the principles in section 135(3) and 135(4) of the Danish Public Procurement Act.

<sup>29</sup> See the principles in section 135(3) and 135(4) of the Danish Public Procurement Act.

<sup>30</sup> The definition of when a project has been commenced is given in section 5(1), no. 6, of the Promotion of Renewable Energy Act, cf. Consolidating Act no. 125 of 7 February 2020, and clause 5.2 provides the definition of a new installation.

is no obligation to prepare an EIA report; a rural zone permit and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment (see clause 5.9).

For open door offshore wind turbines and wave power plants:

- a construction license and an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist for the part of the project that is located onshore pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment (see clause 5.9).
- A completed template on declaration from the municipal board stating that the municipal board does not have any objections to construction and grid connection of the open door offshore wind turbine project covered by the bid (see clause 5.9). The tenderer must submit a declaration from all relevant municipalities.

#### *7.4 Incomplete tenders*

The Danish Energy Agency will not consider bids in which the tender letter, declarations or documentation pursuant to clauses 7.1-7.3 are missing.

### **8. Deadline for bids and formal requirements**

The deadline for receipt of bids is

**[22 October] 2021, at 12:00 noon**

Bids received after this deadline will not be considered.

A bid must contain:

- a completed and signed template for the tender letter and declarations (Appendix 1) see clauses 7.1 and 7.2
- a completed template with a description of installation(s) covered by tenders (Appendix 2) see clause 7.1
- for onshore installations: either an adopted local development plan, including an EIA approval or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a completed template with a dispensation from a rural zone permit if such a dispensation exist for installations subject to requirements of planning documentation pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment; or, for solar PV installations and/or hydroelectric power plants not subject to requirements of planning documentation, a completed template on planning documentation with a declaration from the municipality or the tenderer (Appendix 4) see clause 7.3

- for offshore installations: a construction license and an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist for the part of the project that is located onshore pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment
- for open door offshore wind turbines: a completed template on declaration of support from the municipality board concerning open door offshore wind turbines (Appendix 4) see clause 7.3 and/or
- a completed template with a declaration of intent from a financial institution for the provision of a demand guarantee (Appendix 5) see clause 7.1.

All communication must take place electronically. Bids must be submitted via the tender portal, which can be accessed directly from the following link:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

Bids cannot be submitted in any other way, including by email.

If the tender portal is down due to technical reasons within the last week before the deadline for the receipt of bids, the Danish Energy Agency reserves the right to prolong the deadline for submitting bids.

If a tenderer finds parts of the tender documents to be unclear, the tenderer is invited to submit substantiated questions concerning this see clause 14.

## **9. Language**

Bids, including appendices, must be in Danish (see Appendix 1). However, the required declaration of intent to provide a demand guarantee (see Appendix 5) will be accepted in Danish or English.

The Danish Energy Agency has prepared the tender documents in Danish. The tender documents will also be made available in an English translation.

In the event of any discrepancy between the Danish version of the tender conditions, including appendices, and the English translation of the tender conditions, including appendices, the Danish version of the tender conditions, including appendices, prevails, see however clauses 5.11.4.1 and 5.11.4.2.

## **10. Award**

When the Danish Energy Agency has assessed whether the bids received are compliant, and which bids have the lowest offered bid prices within the capacity limit and the 90 % threshold described in clause 6.4 , the Danish Energy Agency will notify all tenderers of whether their bids have been accepted. Notification to any marginal tenderers will happen at the same time. With regard to tenderers that are not awarded a contract and tenderers that have submitted incomplete bids and

therefore will not be considered (see clause 7.4) the notification will also contain a brief account of the relevant grounds for the decision.

The Danish Energy Agency reserves the right to cancel the 2021 technology neutral tendering round without awarding contracts.

The Danish Energy Agency reserves the right to reject one or more offered bids, if the Danish Energy Agency assess that the bid or bids have been submitted to manipulate with the 90 % threshold described in clause 6.4 .

Notification of the award decision to the winning tenderers does not mean that the contract has been concluded. The contract will not be considered concluded (and the tendering procedure finally completed) until the contract has been signed. The contract cannot be signed until after a period of ten calendar days calculated from the day after the day when the Danish Energy Agency submitted notifications about the award of the contract.

It is a prerequisite for the Danish Energy Agency's conclusion of the contract with the winning tenderer that the guarantee for the retention penalty (cf. Appendix 3) has been provided and that the original guarantee for the retention penalty is handed over to the Danish Energy Agency no later than the time of signing of the contract, cf. clause 5.11.4.2.

## **11. Tender validity period and costs of participation**

Tenderers are bound by their bids until signing of the contract(s), however for no longer than three months from expiry of the deadline for submitting bids (tender validity period).

The tenderer's costs in connection with the tendering process, including any costs associated with obtaining the necessary decisions, approvals, licences/permits and dispensations etc., are of no concern to the Danish Energy Agency.

## **12. Processing of bids**

The Danish Energy Agency will treat all bids with confidentiality.

However, the Danish Energy Agency reserves the right to publish anonymised statistics about the tendering round.

The Danish Energy Agency is eligible to publish information about the winning bid(s) including bid price, capacity, location, technology and the name of the winning tenderer. Furthermore, the Danish Energy Agency may be obliged to grant access to documents pursuant to the rules on access to documents in the Danish Public Information Act, the Danish Public Administration Act and the Act on Environmental Information.

The Danish Energy Agency is not obliged to return bids to the tenderers.

In the evaluation of bids and other submitted documentation, the Danish Energy Agency reserves the right to use external assistance if necessary.



The Danish Energy Agency considers it material that the tendering procedure creates effective competition between the tenderers and that all tenderers are treated equally.

### **13. Checklist**

Has the tenderer enclosed with the bid:

1. A tender letter (Appendix 1) containing:
  - a. a bid price per kWh and the capacity covered by the bid (section A.2) – and for solar PV installations, both the DC-capacity (kWp) and the AC-capacity (kW) covered by the bid
  - b. a solemn declaration on the obligation to construct and connect to the grid specified installations
  - c. a solemn declaration stating that the tenderer does not have unpaid, due debt to public authorities exceeding DKK 100,000
  - d. a solemn declaration stating that the tenderer has complied with any and each requirement for repayment of aid which the European Commission, in a previous decision, has declared illegal and incompatible with the internal market
  - e. a solemn declaration stating that the tenderer is not an undertaking in difficulty as defined in point 20 in the Commission Communication on Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p.1) , unless the tenderer became an undertaking in difficulty in the period between the 1 January 2020 and the 30 June 2021
  - f. a solemn declaration stating that the tenderer will not receive other aid than the price premiums under the contract. A guarantee pursuant to the current rules on the guarantee fund in the Danish Promotion of Renewable Energy Act concern preliminary investigations is not considered other aid in this context
  - g. a declaration stating that the work on the project has not started
  - h. a declaration stating that the tenderer has not included any reservations to the tender documents
  - i. a declaration stating that the tenderer is informed that the Danish Energy Agency will process personal information given by the tenderer in connection with submitting the bid and
  - j. a declaration stating that the tenderer is informed that the Danish Energy Agency is eligible to publish information concerning the winning bid including bid price, capacity, location, technology and the name of the winning tenderer.
2. A completed template for the description of installation(s) covered by the bid (Appendix 2).
3. A completed template for letter of intent to provide a demand guarantee (Appendix 5).
4. For onshore wind turbines: an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone

permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist, in accordance with the Danish Planning Act and the Danish Act on Environmental Impact Assessment, see clause 7.3.

5. For solar PV installations and hydroelectric power plants: either an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist, in accordance with the Danish Planning Act and the Danish Act on Environmental Impact Assessment or a completed template for declaration regarding no requirement of planning documentation from the municipality or from the tenderer itself (Appendix 4), see clause 7.3, for solar PV installations and/or hydroelectric power plants not subject to requirements on planning documentation, cf. the Danish Planning Act and the Danish Act on Environmental Impact Assessment
6. For open door offshore wind turbines and wave power plants: a construction license and an adopted local development plan, including an approved EIA report or an EIA decision that there is no obligation to prepare an EIA report; a rural zone permit; and/or a dispensation from an adopted local development plan and/or a dispensation from a rural zone permit if such a dispensation exist for the part of the project that is located onshore pursuant to the Danish Planning Act and the Danish Act on Environmental Impact Assessment.
7. For open door offshore wind turbines and wave power plants: a completed template on declaration from the municipality board concerning open door offshore wind turbines and/or wave power plants (Appendix 4) see clauses 5.3.2, 5.9 and 7.3.

The tender letter must state which company or combination of companies is/are submitting the bid.

#### **14. Questions concerning tender documents**

Tenderers may submit written questions regarding the tender documents. Questions may be submitted in Danish or in English. Questions/answers in Danish will not be translated into English, and questions/answers in English will not be translated into Danish.

It is essential to the Danish Energy Agency that all tenderers are able to submit relevant bids within the framework of the tender conditions. All potential tenderers are therefore encouraged to use the opportunity to submit written questions on the tender documents, pointing out conditions which the tenderers find unclear or inappropriate. The Danish Energy Agency reserves the right to make amendments to the tender documents during the tender procedure if this is deemed appropriate in the light of questions received or if it turns out to be necessary due to other reasons. Such amendments will however not concern fundamental elements.

Questions must be submitted electronically via the tender portal at the following link:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

All written questions (anonymised) and answers to these will be published on the tender portal.

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>

Questions received by no later than **[8 October 2021]** will be answered at least six days before the deadline for submitting bids. However, tenderers are encouraged to submit questions well before this date.

Questions that are received within the last six days of the time limit for submitting bids cannot be expected to be answered.

It will be possible to submit technical questions regarding the tender portal up until the deadline for receipt of bids. These questions will be answered by the Danish Energy Agency as soon as possible before the deadline for receipt of bids.

#### **15. Information on the tendering procedure**

All information about the tendering procedure, including answers to questions and any changes to the tender documents, will be published on the tender portal:

<https://www.ethics.dk/ethics/eo#/3c8a6b54-b3f3-48f7-a063-68229f7dc151/homepage>