



FINAL

Design Oversight Committee on Commercial Fishing

Terms of Reference

For the Regional Fund Administrator

**For Compensatory Mitigation for Offshore Wind Impacts to Commercial and For-Hire
Recreational Fishing**

I. Overall Objective

To establish a credible regional administrator (RFA) and claims process for managing and distributing fisheries compensatory mitigation funds for the potential adverse effects of offshore wind (OSW) development on fishing and associated shoreside businesses located on the US eastern seaboard. This claims process will provide the fishing community an accessible, equitable, and consistent claims process for filing and receiving claims for individual costs and losses imposed on fishing enterprises by one or more OSW projects across all participating OSW projects (for more information please see [RFA Info](#)).

II. Fund Administrator Procurement Background

The eleven states involved in this effort (the Atlantic Seaboard states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina, the “States”) released a Request for Proposals (RFP) in early February 2024 to select a suitable candidate to perform the initial functions of the RFA to design and develop the claims process. The selection process was managed by the New York State Energy Research and Development Authority (NYSERDA). The due date for responses was March 26, 2024. The NYSERDA procurement process included a scoring committee comprised of select fishing community members, offshore wind developers, and states (for more information please see [NYSERDA RFP](#)). The States have selected a preferred vendor via the procurement.

III. The Design Oversight Committee Background

The States received feedback as part of the stakeholder outreach process that, once a RFA was selected, there must be a dedicated entity to provide robust guidance and feedback to the RFA. This entity especially would be needed to help navigate the intricate and varied fisheries-specific issues that may arise and require consultation with knowledgeable stakeholders in the region. Based on this feedback, the States decided to initiate the formation of the Design Oversight Committee (DOC), comprised of



representatives from the commercial fishing community, the States, and OSW developers. The DOC is meant to be a short-term governance structure for the design and development phase. A long-term governance structure will be needed for the administration of claims once the claims process is established. There is a separate For-Hire Committee (FHC) Terms of Reference (TOR) which mirrors this document.

IV. The DOC Purpose

During the design and development of the claims process for commercial and for-hire recreational fisheries compensatory mitigation, the DOC will provide the Administrator advice, guidance, and support to ensure that a legitimate, functional, efficient, and equitable regional claims process and its administration are established. The DOC is an important part of and shall accompany a robust RFA commercial fisheries engagement with diverse fisheries, regions, and ports.

Finally, while there are numerous issues related to OSW development and commercial fishing, the DOC is not a primary forum to discuss issues other than the compensatory mitigation approach. While the issue of how monies are calculated, negotiated, and provided to any fund are important, as well as issues such as resilience, they are not within the core scope of the RFA other than those tasks outlined specifically in the RFP.

The questions of how monies are calculated, negotiated, and provided to any project-specific or regional fund that in turn would become the source of dollars for payment to fishermen are important, and many answers are outstanding. While the focus of the RFA is to design a functional compensatory payment process (money out), such funds (money in) may have restrictions and limitations, and ones that may vary across projects that will have to be considered. While the RFA is not tasked with altering or changing the ways monies for compensation come into being, the DOC may wish to consider this issue as it relates to funds administration and the sufficiency of funds to pay out the claims likely to be made.

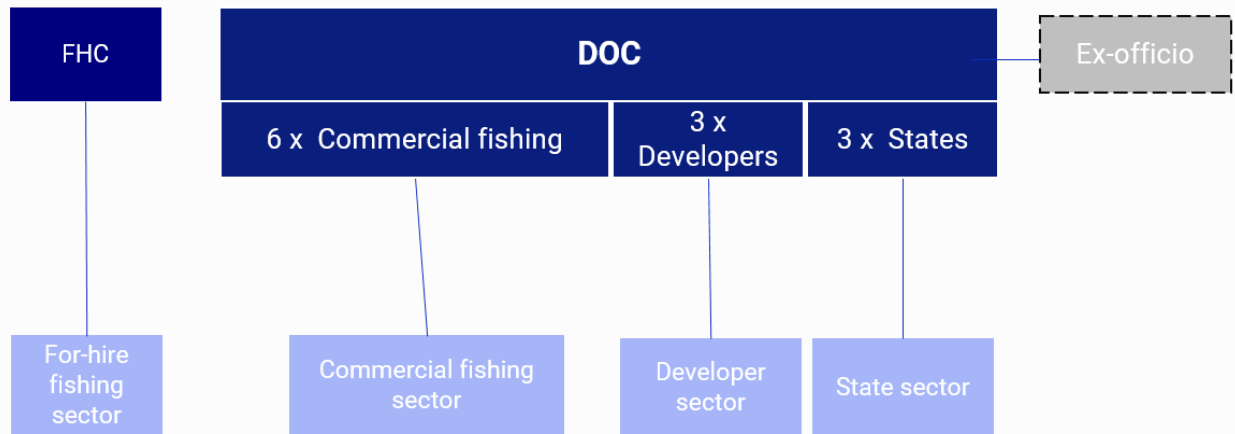
V. DOC Tenure and Termination

The DOC is intended to function from the time the RFA is selected through the procurement process described above, until a functioning claims process, administration, and long-term governance are established. The RFA will be responsible, with DOC guidance, for outlining considerations for a long-term governance structure to operate during the actual implementation of the regional claims process. The States, in consultation with the fishing and OSW DOC sectors, will review that outline and will decide if, when, and how to sunset the DOC. The time frame is expected to be up to 24 months from the DOC's formation.



VI. The DOC's Relation to the Funders

- A. A group of funding entities comprised of the States, OSW developers, and foundations (“the RFP Funders”) contributed funds to support the procurement of the RFA for design and development. The RFP Funders are represented by two entities (“the RFP Funding Representatives”):
 - (1) NYSEDA as the contracting agent with the RFA on behalf of the States, and
 - (2) the Special Initiative on Offshore Wind (SIOW) as the contracting agent with the RFA on behalf of OSW developers and foundations.
- B. The RFP Funder Representatives have contractual rights to use, reproduce, or disclose the RFA’s work product.
- C. The RFP Funder Representatives are the *sole* contracting entities of the RFA and hold final decision-making regarding contracting with, maintaining the scope of the work within the contract, performance reviews, and terminating the RFA, on behalf of and in concert with their relevant constituents. However, the RFP Funder Representatives intend *to seek advice and guidance* from the DOC and States on significant issues like termination. Given their role, the RFP Funder Representatives may serve as liaisons to, but not members of, the DOC.
- D. The DOC is the primary focal point for cross-sector guidance to the RFA on the design and development of the claims process. A “sector” includes all relevant stakeholders that belong to one of the sub-groups – commercial fisheries, OSW developers, or states (see Section XI).
- E. While the RFP Funding Representatives will ensure that the RFA stays within the contract and performs adequately, the DOC will be the primary mechanism for reaching consensus on the technical details of the claims process. The RFP Funding Representatives are not intended to be the primary drivers of cross-sector advice. That is the role of the DOC.



- We will help to facilitate regular meetings between DOC members and their sector
- Fisheries sector includes stakeholders from diverse fisheries, regions and ports

Figure 1 Depicting the relationship between the DOC and the Sectors

- F. In the unlikely event that the Funding Representatives determine that the contracts with the RFA must be terminated, the Funding Representatives will seek to do all that they can to remedy issues so the process for establishing the regional fisheries compensation fund can go forward.

VII. DOC Tasks

- A. While there are a specific number of DOC seats dedicated for each of the three sectors, the RFA will work closely with DOC members to facilitate conversations and feedback from members of their sector to deliver sector-wide consensus-based advice to the RFA on the fund design.
- B. The DOC will advise the RFA on:
- (1) Key RFA-led processes, including but not limited to, work plan evolution, advancement of the stakeholder engagement plan, and the proposal for long-term governance that will be developed at the conclusion of the design and development process.
 - (2) Key elements of the draft final claims process considerations including but not limited to program eligibility; evidence of impacts and burden of proof; compensable costs and losses; multipliers and processor compensation; data sources and verification; and the overall design of the claims process and its administration to ensure a simple, verifiable, and efficient claims process.
 - (3) Policies, procedures, and operational manuals, including quality and fiduciary controls, for the claims process outlined by the RFA.
 - (4) The final proposed claims process in total outlined by the RFA prior to broad sector comment.



(5) Understanding of and acting on sector comments received on the proposed final claims process.

C. The DOC will also advise the RFP Funding Representatives on:

(1) The performance of the RFA during the design and development process; and

(2) Representing the views of the sectors, recommend whether the procured RFA should progress to administer the finalized claims process once in place.

VIII. DOC Composition

A. The DOC will be comprised of representative members from six (6) commercial fishing communities, three (3) offshore wind developers, and three (3) States.

B. The DOC will also include ex-officio members from the Bureau of Ocean Energy Management, the National Marine Fisheries Service, and the Atlantic States Marine Fisheries Commission. Ex-officio members participate actively in discussions and offer their technical advice, but do not join in decision-making.

C. NYSERDA, as an RFP Funding Representative, will also appoint a staff member to the DOC for the sole purposes of contract oversight and management. In this liaison role, NYSERDA may participate actively in discussions but will not join in DOC decision-making.

D. The DOC will include alternate representative members from six (6) commercial fishing communities, three (3) offshore wind developers, and three (3) States.

(1) DOC alternates will receive all written correspondence that the members receive, may attend meetings of the DOC in an observer status, and may confer with the DOC member and their sector during and between DOC meetings. The alternates will serve as a substitute in meetings where a member from that sector is not able to attend.

(2) Given the varying expertise of members and alternates, members and alternates may “tap in and tap out” in meetings for deliberations and discussions where the alternate is invited to the table by their sector in lieu of a member given a particular agenda topic and that alternate’s expertise. However, members will be judicious in using this provision to ensure continuity among members and the functioning of the DOC as a whole.

(3) For final decisions, the members will decide and alternates will step back unless an alternate is filling the seat of an absent member.

E. Should a member or alternate withdraw from the DOC entirely, a person should be identified that ensures the diversity in fisheries and regions is maintained at the DOC level. Members should give as much notice as possible to provide the sector time to identify a suitable replacement (until such replacement is



identified by the sector, an alternate, as determined by the sector DOC members, will serve as a full member).

IX. Criteria for DOC Membership

Generally, DOC members and alternates must:

- A. Represent an organization, association, agency, or entity that has been and is an active part of that sector.
- B. Work with the RFA to outreach and network across their sector, and not just represent their organization.
- C. Be able and willing to dedicate sufficient time to the effort over approximately 18 months, averaging an estimated 10 hours per month.
- D. Be capable of working in collaborative processes with the RFA and others with differing views (i.e., previous experience on fishery management councils, wind energy stakeholder groups, town committees, etc.).
- E. Have strong interest in this topic.
- F. Be legitimate and capable in the eyes of other sectors.
- G. Identify directly their priorities and motives for joining the DOC and participating in the RFA effort.

X. Compensation

A. Hourly Rates for Time.

- (1) Primary and alternate DOC members from the commercial fishing communities will be compensated for their time at a rate of \$70.75 per hour, up to a total of 180 cumulative hours over approximately 18 months. Thus, more hours may be spent in one month over another, depending on need. Should additional funding become available for DOC compensation, the RFA will notify members and alternates of the availability of such additional funding, and the RFA Funding Representatives, the RFA, and interested members and alternates will coordinate regarding the potential deployment of such additional funds to support demonstrated need for further stakeholder engagement.
- (2) DOC members representing OSW developers will not be compensated by the RFA for their time.
- (3) DOC members representing the States will not be compensated by the RFA for their time.

B. Travel Reimbursement.



- (1) Primary and alternate DOC members from the commercial fishing communities will be reimbursed for their travel expenses to DOC meetings up to \$750 per meeting, for the anticipated two in-person meetings.
- (2) DOC members representing OSW developers will not be reimbursed by the RFA for travel expenses.
- (3) DOC members representing the States will not be reimbursed by the RFA for travel expenses.

XI. DOC Membership Responsibilities and Code of Conduct

A. DOC members and alternates will assume the following responsibilities:

- (1) Advance the purpose of the RFA and the DOC.
- (2) Attend DOC meetings regularly.
- (3) Participate actively in DOC meetings.
- (4) Read materials ahead of time.
- (5) Work with the RFA to engage with their sector (States, OSW Developers, and Fishing Industry) both to receive advice to take to DOC meetings and to share DOC deliberations and decisions back to their sector.
- (6) Be accessible to constituents, be that an interested public or individual to answer general questions and consider comments.
- (7) Be compensated for their time and travel if they are representatives of fishing interests as outlined in Section X above. OSW developers and states are expected to cover their own time and costs.

B. DOC members and alternates will conduct themselves according to the following Code of Conduct:

- (1) They will support and be engaged in the overall RFA project objective and the DOC purpose set forth in Sections I and IV above.
- (2) They will maintain the highest level of personal conduct.
- (3) They will use only legal and ethical means in all DOC activities.
- (4) They will not discriminate on the basis of race, sex, age, religion, national origin, sexual orientation, or disability. Harassment or intimidation of a member, staff, or participant is specifically prohibited and may result in immediate removal from the DOC.
- (5) They will strive to work collaboratively, act respectfully, and avoid making personal attacks.



- (6) They will strive to represent their constituents fully and not advocate for a single business, or sector at the expense of another.
- (7) They will communicate DOC internal and external statements in a truthful and accurate manner.
- (8) They will maintain the confidentiality of privileged information entrusted or known to them by virtue of their office.
- (9) They will identify directly their priorities and motives for joining the DOC and participating in the RFA effort.
- (10) They will abide by all U.S. statutes and regulations regarding anti-trust behavior.
- (11) They will participate regularly and actively in DOC activities.
- (12) They will make every effort to stay on track with meeting agendas, annual work plans, and other process guidance to move deliberations forward and advance the RFA.

C. Repeated violations of the above responsibilities and conduct will be grounds for dismissal by other sector members or alternates within the DOC. Any concerns regarding violations of this Section XI should be brought to the RFA's or facilitator's attention promptly for potential consideration by the DOC, excepting the alleged violating member or alternate.

XII. Sector-Wide Engagement

On a regular and scheduled basis, the RFA will work with DOC members and alternates will convene their sector around key milestones, decisions, or issues to inform them of progress and issues for consideration, promoting transparent communication. The RFA will provide administrative support to DOC members to the extent reasonably possible to facilitate DOC member engagement with their constituencies. The sectors and RFA will advise and inform the DOC member(s) and alternate(s) about opportunities and challenges to design components to bring back to the DOC as appropriate.



XIII. DOC Authority and Decision-Making

- A. The RFA is the final decision-making entity in the design and development of the claims process. However, the RFA is expected to work closely with the DOC, and to the greatest extent possible, develop jointly the claims process that is efficient, legitimate, and effective. In turn, the DOC members should assist the RFA in engaging in constructive conversations with the sectors. The RFA should make very substantial efforts to utilize the advice of the DOC to develop recommendations that the DOC can reach consensus on for the final claims process.
 - The RFA may proceed without consensus to move the design and development of the claims process forward after consensus has been meaningfully sought and resolution of differences tried.
- B. A quorum for purposes of decision making is at least 2/3rds member participation from each DOC sector, meaning four out of six commercial fishing members, two out of three offshore wind developers, and two out of three States. One of the purposes of the alternate members is to ensure that the DOC at all or most times not only has a quorum but has all or most all 12 seats filled.
- C. The DOC will operate by consensus as defined here that all or most members can at least agree with, even with reservations, the approach or at least will not stand in the way of the recommendation of the DOC.
 - (1) To achieve consensus, at least 2 members each of the OSW Developer and State sectors, respectively, and 4 members of the commercial fishing sector must consent.
 - (2) An individual or sector may abstain from deciding on an issue or option presented by the RFA.
 - (3) If despite best efforts, there is not a consensus, the DOC should consent on the narrowest range of options per an issue and clearly identify the pros and cons of each option for the RFA to move forward on.

XIV. Recording Keeping

- A. The RFA or facilitator shall keep a record of DOC agendas and meeting summaries without attribution. Summary meeting minutes will be publicly available on a website or similar electronic means and posted in a timely manner of each DOC meeting. Presentations and background material may also be posted to the extent reasonably possible.
- B. All decisions should be recorded by the RFA, including any dissensions and their rationales, by sector, but not by individual. Individual members or sectors may record their dissent in writing to the RFA after that member or members has



sought consensus in good faith, that consensus was not achieved, and the RFA has made its decision.

- C. Where appropriate, and with consideration for the critical importance of transparency and its balance with candor and facilitation, certain meetings and materials may not be public.

XV. Responsibilities of the RFA to the DOC

The RFA will:

- A. Provide support to the DOC regarding scheduling of DOC meetings, including paying for appropriate meeting costs.
- B. Provide meeting materials, including an agenda in advance of a DOC meeting.
- C. Compensate fishing members for time and travel as described above, and implement fiscal processes to facilitate compensation.
- D. Implement the stakeholder engagement plan as reviewed by and consented on by the DOC.
- E. Develop considerations for frameworks, options, and ideas for the claims process to be deliberated upon by the DOC.
- F. Be clear in its rationale for recommendations.
- G. Narrow options and alternatives for elements of the claims process and bring them to the DOC for consideration.
- H. Support the DOC in reaching consensus to the greatest extent possible.
- I. Help resolve conflict among the DOC if it emerges.
- J. Attempt to build consensus within and between sectors to move the design and development of the claims process forward.
- K. Make final decisions on the design of the claims process based on feedback from the broader stakeholder engagement plan, DOC advice and guidance, and past technical expertise and professional experience in such matters.

XVI. Limitations

This Terms of Reference will be amended as appropriate to reflect specific terms and conditions outlined in the contractual requirements or as necessary to provide further clarification to the articles included within. Nothing in this ToR shall supersede nor replace nor abridge any more formal contract among the RFA and RFP Funder Representatives, existing statutes and regulations, and the authorities and rights of the participating parties.



FINAL

For-Hire Committee

Terms of Reference

For the Regional Fund Administrator

**For Compensatory Mitigation for Offshore Wind Impacts to Commercial and For-Hire
Recreational Fishing**

I. Overall Objective

To establish a credible regional administrator (“RFA”) and claims process for managing and distributing fisheries compensatory mitigation funds for the potential adverse effects of offshore wind (“OSW”) development on fishing and associated shoreside businesses located on the US eastern seaboard. This claims process will provide the fishing community an accessible, equitable, and consistent claims process for filing and receiving claims for individual costs and losses imposed on fishing enterprises by one or more OSW projects across all participating OSW projects (for more information please see [RFA Info](#)).

II. Fund Administrator Procurement Background

The eleven states involved in this effort (the Atlantic Seaboard states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina, the “States”) released a Request for Proposals (“RFP”) in early February 2024 to select a suitable candidate to perform the initial functions of the RFA to design and develop the claims process. The selection process was managed by the New York State Energy Research and Development Authority (“NYSERDA”). The due date for responses was March 26, 2024. The NYSERDA procurement process included a scoring committee comprised of select fishing community members, offshore wind developers, and states (for more information please see [NYSERDA RFP](#)). The States have selected a preferred vendor via the procurement.

III. The For-Hire Committee Background

The States received feedback as part of the stakeholder outreach process that, once a RFA was selected, there must be a dedicated entity to provide robust guidance and feedback to the RFA regarding for-hire fishing. This entity especially would be needed to help navigate the intricate and varied for-hire fisheries-specific issues that may arise and require consultation with knowledgeable stakeholders in the region. Based on this feedback, the States decided to initiate the formation of the For-Hire Committee (FHC),



comprised of representatives from the for-hire fishing community, the States, and OSW developers. The FHC is meant to be a short-term governance structure for the design and development phase. A long-term governance structure will be needed for the administration of claims once the claims process is established. There is a separate Design Oversight Committee (DOC) Terms of Reference (ToR) for the commercial fishing industry which mirrors this document.

IV. The FHC Purpose

During the design and development of the claims process for commercial and for-hire recreational fisheries compensatory mitigation, the FHC will provide the Administrator advice, guidance, and support to ensure that a legitimate, functional, efficient, and equitable regional claims process and its administration are established. The FHC is an important part of and shall accompany a robust RFA for-hire fisheries engagement.

Finally, while there are numerous issues related to OSW development and for-hire fishing, the FHC is not a primary forum to discuss issues other than the compensatory mitigation approach. While the issue of how monies are calculated, negotiated, and provided to any fund are important, as well as issues such as resilience, they are not within the core scope of the RFA other than those tasks outlined specifically in the RFP.

The questions of how monies are calculated, negotiated, and provided to any project-specific or regional fund that in turn would become the source of dollars for payment to fishermen are important, and many answers are outstanding. While the focus of the RFA is to design a functional compensatory payment process (money out), such funds (money in) may have restrictions and limitations, and ones that may vary across projects that will have to be considered. While the RFA is not tasked with altering or changing the ways monies for compensation come into being, the FHC may wish to consider this issue as it relates to funds administration and the sufficiency of funds to pay out the claims likely to be made.

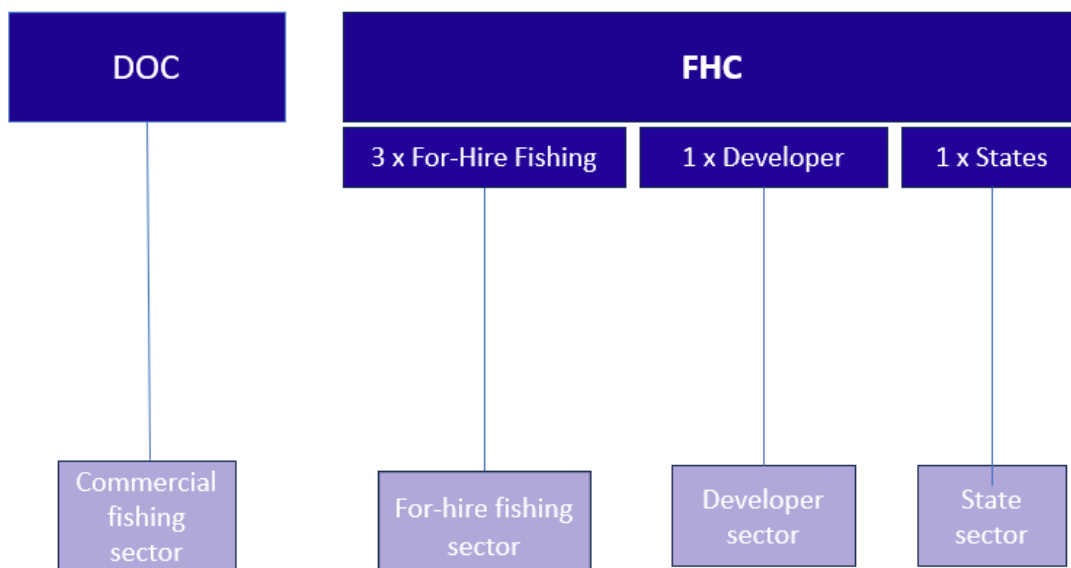
V. FHC Tenure and Termination

The FHC is intended to function from the time the RFA is selected through the procurement process described above, until a functioning claims process, administration, and long-term governance are established. The RFA will be responsible, with FHC guidance, for outlining considerations for a long-term governance structure to operate during the actual implementation of the regional claims process. The States, in consultation with the fishing and OSW DOC sectors, will review that outline and will decide if, when, and how to sunset the FHC. The time frame is expected to be up to 24 months from the FHC's formation.

VI. The FHC's Relation to the Funders



- A. A group of funding entities comprised of the States, OSW developers, and foundations (“the RFP Funders”) contributed funds to support the procurement of the RFA for design and development. The RFP Funders are represented by two entities (“the RFP Funding Representatives”):
- (1) NYSERDA as the contracting agent with the RFA on behalf of the States, and
 - (2) the Special Initiative on Offshore Wind (SIOW) as the contracting agent with the RFA on behalf of OSW developers and foundations.
- B. The RFP Funder Representatives have contractual rights to use, reproduce, or disclose the RFA’s work product.
- C. The RFP Funder Representatives are the *sole* contracting entities of the RFA and hold final decision-making regarding contracting with, maintaining the scope of the work within the contract, performance reviews, and terminating the RFA, on behalf of and in concert with their relevant constituents. However, the RFP Funder Representatives intend *to seek advice and guidance* from the FHC and States on significant issues like termination. Given their role, the RFP Funder Representatives may serve as liaisons to, but not members of, the FHC.
- D. The FHC is the primary focal point for for-hire fishing guidance to the RFA on the design and development of the claims process.
- E. While the RFP Funding Representatives will ensure that the RFA stays within the contract and performs adequately, the FHC will be the primary mechanism for reaching consensus on the technical details of the claims process related to for-hire fishing. The RFP Funding Representatives are not intended to be the primary drivers of advice. That is the role of the FHC.



- We will help to facilitate regular meetings between FHC members and their sector
- Fisheries sector includes stakeholders from diverse fisheries, regions, and ports



Figure 1 Depicting the relationship between the FHC and the Sectors

- F. In the unlikely event that the Funding Representatives determine that the contracts with the RFA must be terminated, the Funding Representatives will seek to do all that they can to remedy issues so the process for establishing the regional fisheries compensation fund can go forward.

VII. FHC Tasks

- A. While there are a specific number of FHC seats dedicated for each of the three sectors, the RFA will work closely with FHC members to facilitate conversations and feedback from members of their sector to deliver sector-wide consensus-based advice to the RFA on the fund design.
- B. The FHC will advise the RFA on:
 - (1) Key RFA-led processes, including but not limited to, work plan evolution, advancement of the stakeholder engagement plan, and the proposal for long-term governance that will be developed at the conclusion of the design and development process.
 - (2) Key elements of the draft final claims process considerations including but not limited to program eligibility; evidence of impacts and burden of proof; compensable costs and losses; multipliers and processor compensation; data sources and verification; and the overall design of the claims process and its administration to ensure a simple, verifiable, and efficient claims process.
 - (3) Policies, procedures, and operational manuals, including quality and fiduciary controls, for the claims process outlined by the RFA.
 - (4) The final proposed claims process in total outlined by the RFA prior to broad sector comment.
 - (5) Understanding of and acting on sector comments received on the proposed final claims process.
- C. The FHC will also advise the RFP Funding Representatives on:
 - (1) The performance of the RFA during the design and development process; and
 - (2) Representing the views of the sectors, recommend whether the procured RFA should progress to administer the finalized claims process once in place.

VIII. FHC Composition

- A. The FHC will be comprised of representative members from three (3) for-hire fishing communities, one (1) offshore wind developer, and one (1) State.
- B. The FHC will also include ex-officio members from the Bureau of Ocean Energy Management, the National Marine Fisheries Service, and the Atlantic States



Marine Fisheries Commission. Ex-officio members participate actively in discussions and offer their technical advice, but do not join in decision-making.

- C. NYSERDA, as an RFP Funding Representative, will also appoint a staff member to the FHC for the sole purposes of contract oversight and management. In this liaison role, NYSERDA may participate actively in discussions but will not join in FHC decision-making.
- D. The FHC will include alternate representative members from one (1) for-hire fishing community, one (1) offshore wind developer, and one (1) State.
 - (1) FHC alternates will receive all written correspondence that the members receive, may attend meetings of the FHC in an observer status, and may confer with FHC members between FHC meetings. The alternates will serve as a substitute in meetings where a member is not able to attend.
 - (2) Given the varying expertise of members and alternates, members and alternates may “tap in and tap out” in meetings for deliberations and discussions where the alternate is invited to the table by their sector in lieu of a member given a particular agenda topic and that alternate’s expertise. However, members will be judicious in using this provision to ensure continuity among members and the functioning of the FHC as a whole.
 - (3) For final decisions, the members will decide and alternates will step back unless an alternate is filling the seat of an absent member.
- E. Should a member or alternate withdraw from the FHC entirely, a person should be identified that ensures the diversity in fisheries and regions is maintained at the FHC level. Members should give as much notice as possible to provide the sector time to identify a suitable replacement (until such replacement is identified by the sector, an alternate, as determined by the sector FHC members, will serve as a full member).

IX. Criteria for FHC Membership

Generally, FHC members and alternates must:

- A. Represent an organization, association, agency, or entity that has been and is an active part of their respective sector.
- B. Work with the RFA to outreach and network across their sector, and not just represent their organization.
- C. Be able and willing to dedicate sufficient time to the effort over approximately 18 months, averaging an estimated 10 hours per month.
- D. Be capable of working in collaborative processes with the RFA and others with differing views (i.e., previous experience on fishery management councils, wind energy stakeholder groups, town committees, etc.).
- E. Have strong interest in this topic.



- F. Be legitimate and capable in the eyes of their sectors.
- G. Identify directly their priorities and motives for joining the FHC and participating in the RFA effort.

X. Compensation

A. Hourly Rates for Time.

- (1) Primary and alternate FHC members from the for-hire fishing communities will be compensated for their time at a rate of \$70.75 per hour, up to a total of 180 cumulative hours over approximately 18 months. Thus, more hours may be spent in one month over another, depending on need. Should additional funding become available for FHC compensation, the RFA will notify members and alternates of the availability of such additional funding, and the RFA Funding Representatives, the RFA, and interested members and alternates will coordinate regarding the potential deployment of such additional funds to support demonstrated need for further stakeholder engagement.
- (2) FHC members representing OSW developers will not be compensated by the RFA for their time.
- (3) FHC members representing the States will not be compensated by the RFA for their time.

B. Travel Reimbursement.

- (1) Primary and alternate FHC members from the for-hire fishing communities will be reimbursed for their travel expenses to FHC meetings up to \$750 per meeting, for the anticipated two in-person meetings.
- (2) FHC members representing OSW developers will not be reimbursed by the RFA for travel expenses.
- (3) FHC members representing the States will not be reimbursed by the RFA for travel expenses.

XI. FHC Membership Responsibilities and Code of Conduct

A. FHC members and alternates will assume the following responsibilities:

- (1) Advance the purpose of the RFA and the FHC.
- (2) Attend FHC meetings regularly.
- (3) Participate actively in FHC meetings.
- (4) Read materials ahead of time.
- (5) Work with the RFA to engage with their sector (States, OSW Developers, and For-Hire Fishing Industry) both to receive advice to take to FHC meetings and to share FHC deliberations and decisions back to their sector.
- (6) Be accessible to constituents, be that an interested public or individual to answer general questions and consider comments.



- (7) Be compensated for their time and travel if they are representatives of fishing interests as outlined in Section X above. OSW developers and states are expected to cover their own time and costs.
- B. FHC members and alternates will conduct themselves according to the following Code of Conduct:
- (1) They will support and be engaged in the overall RFA project objective and the FHC purpose set forth in Sections I and IV above.
 - (2) They will maintain the highest level of personal conduct.
 - (3) They will use only legal and ethical means in all FHC activities.
 - (4) They will not discriminate on the basis of race, sex, age, religion, national origin, sexual orientation, or disability. Harassment or intimidation of a member, staff, or participant is specifically prohibited and may result in immediate removal from the FHC.
 - (5) They will strive to work collaboratively, act respectfully, and avoid making personal attacks.
 - (6) They will strive to represent their constituents fully and not advocate for a single business, or sector at the expense of another.
 - (7) They will communicate FHC internal and external statements in a truthful and accurate manner.
 - (8) They will maintain the confidentiality of privileged information entrusted or known to them by virtue of their office.
 - (9) They will identify directly their priorities and motives for joining the FHC and participating in the RFA effort.
 - (10) They will abide by all U.S. statutes and regulations regarding anti-trust behavior.
 - (11) They will participate regularly and actively in FHC activities.
 - (12) They will make every effort to stay on track with meeting agendas, annual work plans, and other process guidance to move deliberations forward and advance the RFA.
- C. Repeated violations of the above responsibilities and conduct will be grounds for dismissal by other sector members or alternates within the FHC. Any concerns regarding violations of this Section XI should be brought to the RFA's or facilitator's attention promptly for potential consideration by the FHC, excepting the alleged violating member or alternate.

XII. Sector-Wide Engagement

On a regular and scheduled basis, the RFA will work with FHC members and alternates will convene their sector around key milestones, decisions, or issues to inform them of progress and issues for consideration, promoting transparent communication. The RFA will provide administrative support to FHC members to the extent reasonably possible to facilitate FHC member engagement with their



constituencies. The sectors and RFA will advise and inform the FHC member(s) and alternate(s) about opportunities and challenges to design components to bring back to the FHC as appropriate.

XIII. FHC Authority and Decision-Making

- A. The RFA is the final decision-making entity in the design and development of the claims process. However, the RFA is expected to work closely with the FHC, and to the greatest extent possible, develop jointly the claims process that is efficient, legitimate, and effective. In turn, the FHC members should assist the RFA in engaging in constructive conversations with the sectors. The RFA should make very substantial efforts to utilize the advice of the FHC to develop recommendations that the FHC can reach consensus on for the final claims process.
 - The RFA may proceed without consensus to move the design and development of the claims process forward after consensus has been meaningfully sought and resolution of differences tried.
- B. A quorum for purposes of decision making is at least 2/3rds member participation. One of the purposes of the alternate members is to ensure that the FHC at all or most times not only has a quorum but has all or most all five seats filled.
- C. The FHC will operate by consensus as defined here that all or most members can at least agree with, even with reservations, the approach or at least will not stand in the way of the recommendation of the FHC.
 - (1) Consensus is framed as a unanimous or overwhelming majority consent of the group. Thus, to achieve consensus, at least 2 members of the for-hire community, the OSW member, and the State member must consent.
 - (2) An individual or sector may abstain from deciding on an issue or option presented by the RFA.
 - (3) If despite best efforts, there is not a consensus, the FHC should consent on the narrowest range of options per an issue and clearly identify the pros and cons of each option for the RFA to move forward on.

XIV. Recording Keeping

- A. The RFA or facilitator shall keep a record of FHC agendas and meeting summaries without attribution. Summary meeting minutes will be publicly available on a website or similar electronic means and posted in a timely manner of each FHC meeting. Presentations and background material may also be posted to the extent reasonably possible.
- B. All decisions should be recorded by the RFA, including any dissensions and their rationales, by sector, but not by individual. Individual members or sectors may



record their dissent in writing to the RFA after that member or members has sought consensus in good faith, that consensus was not achieved, and the RFA has made its decision.

- C. Where appropriate, and with consideration for the critical importance of transparency and its balance with candor and facilitation, certain meetings and materials may not be public.

XV. Responsibilities of the RFA to the FHC

The RFA will:

- A. Provide support to the FHC regarding scheduling of FHC meetings, including paying for appropriate meeting costs.
- B. Provide meeting materials, including an agenda in advance of an FHC meeting.
- C. Compensate fishing members for time and travel as described above, and implement fiscal processes to facilitate compensation.
- D. Implement the stakeholder engagement plan as reviewed by and consented on by the FHC.
- E. Develop considerations for frameworks, options, and ideas for the claims process to be deliberated upon by the FHC.
- F. Be clear in its rationale for recommendations.
- G. Narrow options and alternatives for elements of the claims process and bring them to the FHC for consideration.
- H. Support the FHC in reaching consensus to the greatest extent possible.
- I. Help resolve conflict among the FHC if it emerges.
- J. Attempt to build consensus within and between sectors to move the design and development of the claims process forward.
- K. Make final decisions on the design of the claims process based on feedback from the broader stakeholder engagement plan, FHC advice and guidance, and past technical expertise and professional experience in such matters.

XVI. Limitations

This Terms of Reference will be amended as appropriate to reflect specific terms and conditions outlined in the contractual requirements or as necessary to provide further clarification to the articles included within. Nothing in this ToR shall supersede nor replace nor abridge any more formal contract among the RFA and RFP Funder Representatives, existing statutes and regulations, and the authorities and rights of the participating parties.