



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

November 9, 2023

Gregory Lampman  
Director, Offshore Wind  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

**RE: SCIPRFI23-1 Response**

Dear Director Lampman,

The BlueGreen Alliance (BGA) unites labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a clean, prosperous, and equitable economy. Our partnership is firm in its belief that we don't have to choose between good jobs and a clean environment—we can and must have both. Thank you for the opportunity to weigh in at this vital moment in the development of offshore wind energy in New York. Offshore wind presents a rare opportunity to develop the clean energy economy in a way that grows high-quality jobs and advances environmental and economic justice while reducing the impacts of climate change. The nation-leading investments that the legislature and governor are making to build out the offshore wind supply chain demonstrate a shared commitment to this vision.

Global supply chain constraints remain one of the biggest challenges for achieving offshore wind deployment targets. Building out a domestic supply chain for offshore wind is therefore critical to meet the state's deployment and broader climate goals. At the same time, this challenge represents a significant opportunity to help revitalize U.S. manufacturing and create good union jobs across the supply chain. Supporting domestic manufacturing will also provide opportunities for disadvantaged communities, as wages are substantially larger for median-wage, non-college educated employees, with Black workers in manufacturing earning 17.9% more than non-manufacturing industries; Hispanic workers earning 17.8% more; Asian American Pacific Islander (AAPI) workers earning 14.3% more; and white workers earning 29% more.<sup>i</sup>

The New York State Energy Research and Development Authority's (NYSERDA) efforts to invest in domestic supply chain capacity for offshore wind are critical. We offer comments below with respect to the significance of these public expenditures to advance private economic activity, as well as the need to contain costs and maximize return on investment. The long-term benefit of developing this industry in a way that creates high-road, family-supporting jobs in New York, and that creates real pathways into these jobs for historically disadvantaged communities, cannot be overestimated.

**Project Expenses, Funding, and Supply Chain Impacts**

***What, if any, additional capital expenses not eligible for use of NYSERDA funding under ORECRFP22-1 (which are listed above in Section V) should be permitted in the new SCIP RFP, and what are the potential issues associated with those expenses?***

### **Re-tooling or Investing in Clean Manufacturing Processes**

In addition to capital expenses to build new manufacturing facilities, we encourage NYSERDA to support investments aimed at reducing industrial emissions of greenhouse gasses and other pollutants, including re-tooling existing facilities in the offshore wind supply chain. NYSERDA can facilitate clean manufacturing by evaluating projects based on their emissions reduction plan and pollution mitigation efforts, and by allowing funding to be used for existing and new facilities entering the offshore wind supply chain that incorporate clean manufacturing processes. The current guidance allows for grants to be used for investment in manufacturing equipment. NYSERDA could specify or prioritize investments in clean manufacturing technologies. Where state funding is used for investments in new equipment, NYSERDA should require applicants to submit plans for worker engagement, to ensure that incumbent workers receive training and are retained to run new equipment moving forward.

***What project elements should NYSERDA consider when determining the amount of NYSERDA funding a particular project should be eligible to receive?***

NYSERDA should consider project elements that ensure projects funded support family sustaining, high road jobs; the build out of a more robust, union-represented, and diverse workforce; worker rights, benefits, and health and safety on the job; and meaningful community engagement. This includes the following specific provisions.

### **High-Road Wages and Benefits**

Any construction funded through the offshore wind supply chain investment program should adhere to Davis Bacon prevailing wage. Contractors or subcontractors on any New York public works project are required to pay no less than prevailing wage and other fringe benefits. Higher wages on a given project can attract high-road contractors employing skilled professionals who perform high quality work, helping projects meet construction milestones on time and safely, without increasing total construction costs.

NYSERDA should ensure that projects proposed by applicants will provide long-term jobs that pay living wages and have good benefits. The details of the expected jobs should be reported as part of the application. NYSERDA should also ask for disclosure of whether there is a collective bargaining agreement with a labor union for the permanent jobs that are created or retained. Union contracts provide workers with higher wages and improved fairness in the workplace. Across sectors, the U.S. Department of Labor (DOL) reports that unions raise wages for all workers and the

U.S. Bureau of Labor Statistics reports that non-union workers earn just 83% of what unionized workers earn. [ii](#), [iii](#)

## **Union-Affiliated Training Programs, Registered Apprenticeship, Pre-Apprenticeship**

NYSERDA should incentivize the use of:

- **Union-Affiliated Training Programs**: Industrial unions work with their employers on a variety of structures for labor-management training programs—some are registered apprenticeship programs—that provide a combination of classroom and on-the-job skills training. These programs provide workers with job training and career development opportunities to help them gain new skills and advance their careers. These industrial workforce development programs are industry based and co-created with workers, resulting in a highly skilled, committed, and competitive workforce.
  - One example of a model program is the US Wind partnership with the United Steelworkers at Sparrows Point in Maryland, where the union and the company are working jointly to secure resources, develop training, and recruit workers. For an example of state policies that support these kinds of training programs, NYSERDA can look to California’s High Road Training Partnerships (H RTP) program, which is advancing “a systemic approach to industry-led workforce development that can critically address issues of equity, job quality, worker voice, industry efficiency, and environmental sustainability.”<sup>iv</sup>
- **Registered Apprenticeship**: A registered apprenticeship program is a training program that combines on-the-job training and classroom instruction. Apprenticeships are sponsored by employers, industry groups, or labor-management training committees. Registered apprenticeship programs are overseen by DOL or a DOL-recognized state apprenticeship agency.
- **Pre-Apprenticeship**: A pre-apprenticeship program is a training program designed to prepare individuals for entry into an apprenticeship program, providing the basic skills and knowledge needed to succeed in an apprenticeship. The use of these programs can help to promote equity in the workplace by providing opportunities for individuals from underrepresented groups to access training and career advancement.

These kinds of training programs are the gold standard for building career pathways, and often offer wrap-around services to support trainees through the programs and help ensure that workers have a clear path towards skills advancement and career

development. NYSERDA should incentivize the use of these programs to promote workforce development and ensure that workers receive appropriate training and education.

### **Supplier Codes of Conduct**

To ensure best practices that result in well-trained personnel, safety, and the orderly and expeditious development of components for New York's offshore wind industry, NYSERDA should require recipients of state funds to employ a supplier code of conduct, including (1) commitments to freedom of association without employer involvement; (2) health and safety committees; (3) workplaces free from harassment and discrimination; (4) equitable access to jobs and inclusion of disadvantaged workers; (5) family sustaining wages; and, where applicable, (5) training programs that are industry-recognized by both employers and labor unions, have stackable credentials, are portable, and accredited.

### **Ensure Uninterrupted and Efficient Development**

Applicants should be required to provide information on how the applicant is party to or plans to enter into a Project Labor Agreement (PLA), Labor Peace Agreement, Collective Bargaining Agreement, Memorandum of Understanding, or other similar mechanism. These measures will serve the state's public interest in ensuring the uninterrupted and efficient development of offshore wind power and a high-road offshore wind supply chain. They are also important tools for promoting workers' rights; improving wages, benefits, and working conditions; and ensuring greater economic and social justice. Furthermore, these are powerful tools for comprehensively and consistently raising standards across an industry.

### **Health & Safety**

Funding applicants should be requested or required to describe planned activities and policies that ensure worker engagement in the design and execution of workplace safety and health programs. These programs should include a comprehensive analysis and a management plan for all risks. They should also address how a strong safety culture will be built and maintained, how open communication about safety and lessons learned will be encouraged, how workers will be protected from harassment and discrimination, how retention rates will be measured, and how worker and workplace concerns will be addressed.

One way to help achieve this is by requiring applicants to express commitment to the Contract Work Hours and Safety Standards Act (CWHSSA) and the U.S. Occupational Safety and Health Administration (OSHA) at the time of the application, and during the use of program funds. Requiring compliance with CWHSSA ensures that workers are not exposed to unsanitary, hazardous, or dangerous working conditions on federal and federally financed construction projects. Frequently, workers in the construction

industry are subject to overtime hours and the CWHSSA offers an avenue for intervention by the workers if the contractor violates the overtime requirements.

Requiring compliance with applicable OSHA and other safety standards ensures that the safety and health of workers are prioritized. Federal and state OSHAs are responsible for setting and enforcing standards related to workplace safety and health, and for providing education, training, and assistance to employers and workers to help them comply with these standards. OSHA's standards cover a wide range of hazards and risks that can arise in the workplace. Where OSHA coverage is not applicable, the project should comply with other relevant worker safety regulations.

While workplace safety is the employer's responsibility, workers and their representatives must have a seat at the table. Ideally this takes the form of a joint labor-management committee on safety and health where workers—not representatives of the company—select the worker representatives. As part of its requirements for the OREC's program, NYSERDA must ensure that developers commit not to retaliate or discriminate against any employee or contractor who raises a health and safety concern on the job.

## **Community Benefits and Engagement**

Host communities and communities adjacent to new or upgraded manufacturing facilities will have to experience not just the construction portion, but the long-term presence of projects for years to come. NYSERDA should mitigate the added pressure of large-scale projects by requiring strong Community Benefits Plans that offer not only economic, but cultural benefits for these communities. NYSERDA should prioritize projects in low-income communities, communities of color, and communities enduring deindustrialization, energy transition, or environmental injustice, so long as these communities actively support the projects. NYSERDA can do this by focusing on the following recommendations:

1. Targeting investments in disadvantaged communities with a focus on deindustrialized, impacted, and underserved communities, consistent with New York's Climate Leadership and Community Protection Act:
  - a. Disadvantaged Communities: To ensure that a minimum 35% of benefits from NYSERDA's offshore wind supply chain investments accrue to disadvantaged communities pursuant to New York's groundbreaking Climate Leadership and Community Protection Act, NYSERDA should provide program guidance, technical assistance, and clear reporting requirements.
  - b. Energy Communities: We welcome NYSERDA to also pay attention to awarding funding opportunities to projects located in communities

facing recent closures of coal mines and coal-fired electric units. To ensure these targeted investments adequately address the needs of coal communities, a coal mine should be considered “closed” once it has begun the reclamation process or has ceased operations and not produced coal in the previous two years. A coal-fired electric unit should be considered “retired” after December 31, 2009, if the unit is listed as "retired" after that date in the EIA-860 data provided by the U.S. Energy Information Administration.

2. Utilizing hiring and procurement policies that benefit low-income communities, people of color, and women; and requiring or incentivizing Community Benefits Agreements (CBA) and/or Community Workforce Agreements (CWAs) that increase economic opportunities for communities and local workers—especially for people of color and low-income communities. This can be done with a CBA, which is a legally binding agreement used to ensure that community interests are taken into account in large construction projects. CBAs can be negotiated with both union and community partners. NYSERDA should incentivize CBAs to ensure community interests are front and center for large scale construction of transmission or grid related infrastructure projects. By requiring a CBA, NYSERDA can ensure developers are held accountable for providing benefits they promise, and that community groups have a say in the development process.
3. Ensuring investments and policies are in line with the scale of change needed to meet targets for climate action; quality job growth; and economic, racial, and environmental justice. NYSERDA should prioritize projects that will result in the greatest net decrease in greenhouse gas emissions and the greatest benefits for impacted workers and affected communities.
4. Prioritizing projects that provide concrete benefits for local communities, such as local employment opportunity or other economic benefits.

### **Targeted and Local Hire**

NYSERDA should require or incentivize targeted hire benchmarks to help support the hiring of workers on a project from certain communities, which could include: women; people of color; veterans; formerly incarcerated people; dislocated workers; indigenous people; economically disadvantaged communities; historically marginalized populations; communities heavily impacted by climate change, pollution, energy transition, or deindustrialization; and many others. These communities may be prioritized for funding opportunities through contracting requirements, hiring requirements, or the use or establishment of pre-apprenticeship programs. Ideally,

these provisions establish long-lasting pipelines for members of disadvantaged communities to access good jobs and careers in the clean economy. NYSERDA should further require or incentivize local hire benchmarks to help support the hiring of workers from within the state or local community. Local hire provisions may mandate a certain percentage of local workers be used. They may offer incentives to hire local workers, or they may simply require that local employment impacts be considered alongside other benefits of projects being evaluated. Creating a local hire task force that is embedded in a CBA or other community engagement plan would ensure local hire goals are met. Further, the task force could be instructive for linking existing registered apprenticeship programs with disadvantaged communities and integrating programs with wrap around services, such as childcare and transportation.<sup>v</sup>

***When evaluating proposals submitted in response to the SCIP RFP, how (if at all) should NYSERDA consider the regional and national supply chain ecosystem beyond New York State?***

To maximize the value of New York's investments in developing an offshore wind supply chain, it makes sense to review not just supply chain gaps within the state, but where there are gaps regionally and nationally, and competitive opportunities to fill them in-state. NYSERDA should lead the way in collaborating with other states in the region to build out a comprehensive approach to supply chain development. One resource that may be useful to NYSERDA in analyzing the supply chain beyond state borders is BGA's detailed map and spreadsheet of clean energy supply chain manufacturers, available here: <https://www.bluegreenalliance.org/resources/clean-energy-supply-chain-analysis/>

### **Protecting Projects from Cost Overruns and Delays**

***What are the primary causes of cost overruns and/or delays in project development, and what efforts can NYSERDA employ to reduce the risk?***

***How should NYSERDA consider evaluating each project's plan to mitigate cost overrun risk?***

A range of mechanisms, such as Project Labor Agreements (PLA), Labor Peace Agreements, Collective Bargaining Agreements, Memoranda of Understanding, or other similar mechanisms can reduce cost overruns and/or delays in project development and ensure uninterrupted and efficient development.

For example, an effective way to manage both costs and risk in project development is through the use of PLAs. PLAs have been demonstrated to reduce project costs for developers, save public funds in the long run, and produce increased economic benefits for the local community.<sup>vi</sup>

President Biden's Executive Order 14063, *Use of Project Labor Agreements for Federal*

*Construction Projects*, issued February 4, 2022, underscores the benefits of utilizing PLAs for large-scale construction projects. Specifically, EO 14063 §1b states:

“Project labor agreements...provide structure and stability to large-scale construction projects...[and] avoid labor-related disruptions by using dispute-resolution processes to resolve worksite disputes and by prohibiting work stoppages, including strikes and lockouts. They secure the commitment of all stakeholders on a construction site that the Project will proceed efficiently without unnecessary interruptions.”<sup>vii</sup>

In addition, PLAs often lead to safer working conditions as a result of a more skilled workforce that union training programs provide.<sup>viii</sup> A 2021 Canadian study found that unionization in institutional, commercial, and industrial construction, maintenance, and repair work was associated with a 25% lower lost-time injury rate, 23% lower incidence of musculoskeletal lost-time injury claims, and 16% lower incidence of critical lost time injury claims.<sup>ix</sup> Data also suggests that accidents in the construction industry are more common in states with low-road contractors.<sup>x</sup>

Union firms are also 16% less likely to report difficulty in filling open positions, 13% less likely to fail in retaining skilled workers and 21% less likely to report project delays due to retention issues, which is key to timely and efficient deployment during construction labor shortages.<sup>xi</sup> Data also indicates PLAs decrease the significant gap between expected and realized energy savings in various energy efficiency measures.<sup>xii</sup> Because PLAs often include provisions around apprenticeship utilization and recruitment of women, people of color, veterans, and other underrepresented workers, they also contribute to more equitable career pathways for a diverse workforce.

As a market participant making significant investment in expanding the offshore wind supply chain in New York, NYSERDA can and should require the use of PLAs for all construction related activities.

## **Interplay with Domestic Content Federal Bonus Tax Credit and Domestic Iron and Steel Policies**

### ***Should NYSERDA apply provisions regarding domestic iron and steel similar to those outlined in ORECRFP22-1 (the first round of funding) to the upcoming RFP?***

NYSERDA should maintain the same provisions for domestic iron and steel as in the first round of funding. For offshore wind to succeed in the United States in the long term, it is imperative to develop a domestic supply chain, and no element is more vital than steel production. The industry needs strong and consistent demand signals that domestic steel will be prioritized early and throughout the growth of the domestic supply chain. New York is taking a strong lead in incentivizing local manufacturing and will benefit for years to come from the jobs and revenue growth associated with these investments, including incentives for in state and domestic steel production.



## ENDNOTES

---

<sup>i</sup> Economic Policy Institute, “New Report Finds Workers of Color Have Been Especially Hard Hit by Manufacturing Job Losses Associated with Globalization,” January 31, 2002. Available online: [https://www.epi.org/press/new-report-finds-workers-of-color-have-been-especially-hard-hit-by-manufacturing-job-losses-associated-with-globalization/#:~:text=For%20median%2Dwage%2C%20non%2Dper%20year%20\(%2B29.0%25](https://www.epi.org/press/new-report-finds-workers-of-color-have-been-especially-hard-hit-by-manufacturing-job-losses-associated-with-globalization/#:~:text=For%20median%2Dwage%2C%20non%2Dper%20year%20(%2B29.0%25)

<sup>ii</sup> U.S. Department of Labor, The Union Advantage. Available online: [www.dol.gov/general/workcenter/union-advantage](http://www.dol.gov/general/workcenter/union-advantage)

<sup>iii</sup> U.S. Bureau of Labor Statistics, “Union Members,” January 19, 2023. Available online: [www.bls.gov/news.release/pdf/union2.pdf](http://www.bls.gov/news.release/pdf/union2.pdf)

<sup>iv</sup> California Workforce Development Board, *Essential Elements of High Road Training Partnerships*, January 2020. Available online: [https://cwdb.ca.gov/wp-content/uploads/sites/43/2020/01/HRTP-Essential-Elements\\_ACCESSIBLE.pdf](https://cwdb.ca.gov/wp-content/uploads/sites/43/2020/01/HRTP-Essential-Elements_ACCESSIBLE.pdf)

<sup>v</sup> Ibid.

<sup>vi</sup> Illinois Economic Policy Institute, *Efficiencies of Project Labor Agreements*, May 18, 2015. Available online: <https://illinoisepi.org/site/wp-content/themes/hollow/docs/wages-labor-standards/Illinois-PLAs-in-CDB-Projects-FINAL.pdf>

<sup>vii</sup> White House, *Executive Order on Use of Project Labor Agreements for Federal Construction Projects*, Feb. 4, 2022. Available online: <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/04/executive-order-on-use-of-project-labor-agreements-for-federal-construction-projects/>

<sup>viii</sup> The Journal of Labor and Society, *Right-to-work Laws and Fatalities in Construction*, June 2011. Available online: <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/98283/j.1743-4580.2011.00334.x.pdf?sequence=1>

<sup>ix</sup> Institute for Work and Health, *Updating a study of the union effect on safety in the ICI construction sector*, January 2021. Available online:

[https://www.iwh.on.ca/sites/iwh/files/iwh/reports/iwh\\_report\\_union\\_safety\\_effect\\_construction\\_update\\_2021.pdf](https://www.iwh.on.ca/sites/iwh/files/iwh/reports/iwh_report_union_safety_effect_construction_update_2021.pdf)

<sup>x</sup> UC Berkely Labor Center, *Workforce Issues and Energy Efficiency Programs: A Plan for California’s Utilities*, 2014. Available online: <https://laborcenter.berkeley.edu/pdf/2014/WET-Plan-Appendices14.pdf>

<sup>xi</sup> Illinois Economic Policy Institute, *The Union Advantage During the Construction Labor Shortage: Evidence from Surveys of Associated General Contractors of America Member Firms*, 2022. Available Online:

<https://illinoisepi.files.wordpress.com/2022/02/ilepi-pmcr-construction-labor-shortage-agc-report-final.pdf>

<sup>xii</sup> Ibid.