

**Conditions for
tender of aid for electricity generated by
onshore wind turbines, open door
offshore wind turbines, and solar PV
installations**

December 2017

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List of appendices

- Appendix 1: Tender letter including a declaration on the obligation to construct and connect to the grid etc.
- Appendix 1.1: Template for description of installations covered by the tender letter [NOT ENCLOSED]
 - Appendix 1.2: Declaration of intent to provide a demand guarantee [NOT ENCLOSED]
 - Appendix 1.3: Template for declaration from the municipal board concerning open door offshore wind turbines [NOT ENCLOSED]
- Appendix 2: Draft contract on price premium [NOT ENCLOSED]
- Appendix 2.1: Template for demand guarantee [NOT ENCLOSED]

1. The contracting authority

Danish Energy Agency (Energistyrelsen)
Centre for Energy Resources
Att.:
Amaliegade 44
1256 Copenhagen K, Denmark
Tel.: + 45 33 92 67 00
CVR no. (company reg. no.): 59 77 87 14
www.ens.dk

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

[*]

2. Regulation of the technology-neutral tender

The Danish Energy Agency's technology-neutral tendering of, and entering of contract(s) on, price premiums for electricity generated in Denmark by onshore wind turbines, open door offshore wind turbines, and/or solar installations are not covered by the Danish Public Procurement Act¹, the EU Public Procurement Directive² or the EU Utilities Directive.³

The Danish Energy Agency has decided to expose the contract(s) on price premiums to competition. The tendering procedure is therefore subject to the general principles of EU law in the TFEU Treaty regarding, among others the principle of equal treatment, transparency, proportionality and prohibition of discrimination on grounds of nationality. Furthermore, the procedure will be organised and state aid notified in accordance with the European Commission's Guidelines on State Aid for environmental protection and energy 2014-2020.⁴

The rights and obligations of the Danish Energy Agency and of the winning tenderer(s) under this technology-neutral tendering procedure will be described in the contract on price premium.

3. Voting agreement on the technology-neutral invitation to tender

In accordance with the voting agreement of 26 September 2017 between the government (Venstre – the Liberal Party of Denmark, Liberal Alliance and the Conservative People's Party) and the Danish People's Party on a new aid model for wind turbines and solar PV in 2018-2019

¹ Act no. 1564 of 15 December 2015 (in Danish: udbudsloven)

² 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.

³ 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.

⁴ 2014/C 200/01.

(in the following referred to as 'the voting agreement') it was decided to set aside a total of DKK 1.165 billion (2017 prices) for new aid to renewable energy in 2018 and 2019. Of this amount, a total of DKK 1.015 billion was set aside for an annual technology-neutral invitation to tender for wind and solar energy in 2018 and 2019. The financial budget of DKK 1.015 billion is to be distributed across the entire aid period for both tendering rounds.

A total of DKK 365 million (2017 prices) has been set aside for a tendering procedure in 2018, and DKK 650 million (2017 prices) for a tendering procedure in 2019.

The voting agreement of 26 September 2017 is available in Danish via the Danish Energy Agency website:

www.ens.dk/vindogsoludbud

4. The tender documents

The tender documents consist of:

- These tender conditions, which primarily contain guidelines for preparing bids and requirements for tenderers etc.
- The templates for tender letter and declarations (Appendix 1), containing: Appendix 1.1 - description of the installations covered by the tender letter; Appendix 1.2 - declaration of intent to provide a demand guarantee (to be filled out by the tenderer); and Appendix 1.3 - template for a declaration from the municipal board concerning open door offshore wind turbines (to be filled out, if relevant, upon submission of bids).
- Contract on price premium (Appendix 2), containing: Appendix 2.1 - demand guarantee (not to be filled out upon submission of bids). Furthermore, after contract establishment, Appendix 1.1. for the tender letter will be included as Appendix 1.1. of the contract (in the following referred to as 'the contract on price premiums').

All the tender documents are available on the Danish Energy Agency's website and in the tender portal via the following links:

www.ens.dk/vindogsoludbud

[*]

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 technology-neutral tendering of price premiums for electricity generated by onshore wind turbines, open door offshore wind turbines, and/or solar PV installations in 2018 (in the following referred to as 'the 2018 technology-neutral tendering round') pursuant to [*] of the Danish Promotion of Renewable Energy Act. The 2018 technology-neutral tendering round covers new installations and does not cover installations connected to the grid in a consumer installation.

“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.

Open door offshore wind turbines that are planned to be located up to 8 km from the coastline of a municipality, and that participate in the 2018 technology-neutral tendering round, are subject to the municipality's right to object, cf. clause 8.3 below. This requirement does not apply to 1) open door offshore wind turbines subject to the municipality's right to object pursuant to the current regulations in the Danish Promotion of Renewable Energy Act, and 2) open door offshore wind turbines that are planned to be located more than 8 km from the coastline of a municipality and that participate in the 2018 technology-neutral tendering round.

A contract on price premium for electricity generated by onshore wind turbines, open door offshore wind turbines, or solar PV installations provides access to production aid in the form of price premiums for all electricity generated by installations covered by the contract and delivered to the Danish collective electricity supply grid, for 20 years from the date of grid connection.

Installations covered by the contract are considered as connected to the grid from when the installation supplies electricity to the Danish collective electricity supply grid for the first time. Electricity is considered to be delivered to the Danish collective electricity supply grid for the first time when the grid and transmission companies have registered the delivery for the first time in the register of master data (in Danish: stamdataregistret).⁵

The total number of contracts to be issued has not been determined. The intention is to conclude one or several contracts on the basis of the award criterion lowest price premium, cf. clause 6 below, until the total budget of DKK 365 million (2017-prices) has been spent, cf. clause 6.4 below.

5.2 Fixed price premium and aid period

Aid is in the form of a fixed price premium in øre per generated kWh added to the electricity price.

⁵ Cf. Executive Order no. 1208 of 14 November 2014 on control and inspection of payments of price premiums and other support to electric power generating plants etc.

The fixed price premium is provided for electricity generated by installations covered by the contract, for 20 years from the grid connection, cf. clause 6.4 below.

Aid is provided for the entire actual electricity produced and is paid for the entire amount of actual electricity production delivered to the Danish collective electricity supply grid. The actual aid paid out will not be affected by the Danish Energy Agency's calculation of budget allocation, cf. clause 6.4 below.

Price premiums will not be granted for production during hours when the spot price for electricity is not positive. The spot price for electricity is the hourly price per kWh on the spot market for the relevant area (DK1 or DK2) stated by the Nordic Electricity Exchange, NordPool.

5.3 Projects at an advanced stage (late bidding)

Tenderers are responsible for finding a suitable location for the installations covered by the bid and for obtaining all relevant permissions, approvals and possible dispensations for the establishment of the installations; just as tenderers are responsible for achieving grid connection for the installations covered by a contract on price premiums.

Tenderers who wish to bid for a fixed price premium for electricity generated by onshore wind turbines must submit an approved local development plan with their bid, including an EIA approval.

Tenderers who wish to bid for a fixed price premium for electricity generated by open door offshore wind turbines must submit a construction licence with their bid, as well as a completed template from the municipal board indicating that the municipal board is positive towards the construction of the open door offshore wind turbine project. This template must be submitted, if the project will be located up to 8 km from 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.

Tenderers who wish to bid for a fixed price premium for electricity generated by solar PV installations must submit a copy of an approved local development plan with their bid, including an EIA screening, dispensation and/or rural zone permit. For solar PV installations that are not subject to requirements for approval in the local development plan (including the requirement for an EIA screening, dispensation and/or rural zone permit), tenderers must submit a declaration with the bid from the municipal board or from the tenderer that there are no legal requirements for approval, dispensation or other authorisation under the Danish Planning Act and/or any other relevant legislation.

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

5.4.1 Obligation to construct projects and connect them to the grid

A 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 signing the contract, a winning tenderer must have grid connected the onshore wind turbines and solar PV installations covered by the contract, cf., however, clause 5.4.2 below on extending the time limit for grid connection.

Within four years of signing the contract, a winning tenderer must have grid-connected the offshore wind turbines covered by the contract, cf., however, clause 5.4.2 below on extending the time limit for grid connection.

The obligation to connect to the grid will be considered met when 95% of the installed capacity covered by the contract has been connected to the grid. Grid connection will be considered to have taken place as described in clause 5.1 above.

Payment of grid connection costs will be in accordance with the regulations in force at any time.

5.4.2 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 the contract 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 successful tenderer has no control, for example war, 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. The winning tenderer does not obtain the required permits and approvals from the authorities, although the winning tenderer has applied for such permits and approvals from the relevant authorities more than one year before the obligation to construct the project and grid-connect takes effect, cf. clause 5.5.1 above.
6. Decisions by a board of appeal to stay of execution in connection with an appeal regarding an approved local development plan, an EIA approval, a construction licence or building permit.
7. The grid company or the transmission company are not ready to connect onshore wind turbines to the Danish collective electricity supply grid with their full capacity before the time limit for grid connection, and the winning tenderer has entered into a grid connection agreement concerning onshore wind turbines no later than six month before expiry of the time limit for grid connection, cf. clause 5.5.1 above.

8. The grid company or the transmission company are not ready to connect solar PV installations to the Danish collective electricity supply grid with their full capacity before the time limit for grid connection, and the winning tenderer has entered into a grid connection agreement concerning solar PV installations no later than six months before expiry of the time limit for grid connection, cf. clause 5.5.1 above.
9. The grid company or the transmission company are not ready to connect open door offshore wind turbines to the Danish collective electricity supply grid with their full capacity before the time limit for grid connection, and the winning tenderer has entered into a grid connection agreement concerning open door offshore wind turbines no later than 12 months before expiry of the time limit for grid connection, cf. clause 5.5.1 above.
10. If more than two UXOs are to be removed in connection with the establishment of open door offshore wind turbines.

The extension of the time limit will correspond to the actual delay caused by conditions in 5.4.2 claimed by the tenderer. Tenderers entitled to an extension of the time limit must immediately 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, winning tenderers must be able to substantiate that the delay in question was caused by the conditions claimed by the tenderer, and that the delay could not reasonably have been avoided or limited.

Price premiums will not be disbursed after 23 years from signing a contract on onshore wind turbines and solar PV installations. If an installation covered by a contract is connected to the grid later than three years after establishment of the contract, irrespective of the reason, the period with price premiums will be reduced proportionately with the delay exceeding the three years.

Price premiums will not be disbursed after 25 years from signing a contract on open door offshore wind turbines. If an installation covered by a contract is connected to the grid later than five years after establishment of the contract, irrespective of the reason, the period with price premiums will be reduced proportionately with the delay exceeding the five years.

5.5 Retention penalty and guarantees

5.5.1 Retention penalty

The right to price premium will lapse and a retention penalty (a contractual penalty) will fall for payment immediately upon demand:

- if, after the entering of a contract on price premiums for electricity generated by installations covered by the contract, a winning tenderer notifies the Danish Energy Agency in writing that, irrespective of the reason, it will not or cannot establish and/or connect to the grid installations covered by the contract;

- if the circumstances shows that the winning tenderer will not or cannot establish and/or connect to the grid installations covered by the contract, cf., however, clause 5.4.2 on extending the time limit for grid connection;
- if onshore wind turbines covered by the contract have not been connected to the grid by no later than two years after signing the contract, cf., however, clause 5.4.2 on extending the time limit for grid connection;
- if solar PV installations covered by the contract have not been connected to the grid by no later than two years after signing the contract, cf., however, clause 5.4.2 on extending the time limit for grid connection; and
- if open door offshore wind turbines covered by the contract have not been connected to the grid by no later than four years after signing the contract, cf., however, clause 5.4.2 on extending the time limit for grid connection.

If one or more of the above conditions exclusively relates to part of the installed capacity covered by the contract, the retention penalty will be calculated proportionally.

If a winning tenderer is awarded several contracts on price premiums, security for the retention penalty must be provided for each of the contracts. The retention penalty will be calculated as DKK 170 per expected MWh per year, rounded to the nearest million with one decimal place.

The retention penalty depends on the size of the individual winning project and will be calculated as DKK 170 per MWh on the basis of the stated capacity in the bid and the Danish Energy Agency's estimated full-load hours per year for the relevant technology.

The amount of the retention penalty for each winning project will thus be calculated using the following formula:

$$\text{Retention penalty} = \text{capacity} * \text{full – load hours per year} * 170 \text{ DKK/MWh}$$

Tenderers are requested to indicate MW installed capacity in their bid for wind turbines, while for solar PV installations; tenderers are requested to indicate MWp, which is the DC effect of the photovoltaic solar panels used.

The calculation of the retention penalty will use the same number of full-load hours per year as the calculation of the budgetary allocation:

Onshore wind turbines: 3,400⁶ full-load hours per year.

Solar PV: 1,155⁷ full-load hours per year.

⁶ Corresponding to the 50% proportionally best producing existing onshore wind turbines and adjusted upwards due to expected technology developments.

⁷ Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue, adjusted upwards with 10%..

Offshore wind turbines: 4,450⁸ full-load hours per year.

Examples: For a contract on price premium for onshore wind turbines with a capacity of 50 MW, the retention penalty will amount to DKK 28.9 million.

For a contract on price premium for solar PV installations with a capacity of 50 MWp, the retention penalty will amount to DKK 9.8 million.

For a contract on price premium for open door offshore wind turbines with a capacity of 50 MW, the retention penalty will amount to DKK 37.8 million.

5.5.2 Declaration of intent to provide a demand guarantee

With the bid, the tenderer must submit a declaration of intent, cf. Appendix 1.2, in Danish or English from a financial institution stating that said institution will provide a demand guarantee toward the Danish Energy Agency corresponding to the amount of the retention penalty. The tenderer must use the Danish or English template enclosed as Appendix 1.2 with the tender letter.

5.5.3 Demand guarantee

Immediately prior to signing the contract on a price premium, the 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. The tenderer must use the Danish or English template enclosed with the contract as Appendix 2.1.

5.5.4 Lapse of the demand guarantee

The guarantee will lapse when electricity corresponding to 95% of the installed capacity is delivered for the first time to the Danish collective electricity supply grid from installations covered by the contract.

[5.6 Joint and several liability

If the Danish Energy Agency establishes a contract on price premiums 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 that has not yet been established, the establishing undertakings will have to assume joint and several liability with the tenderer on the date of conclusion of the contract.

Any claim arising pursuant to the contract may therefore be directed towards 1) any of the participants in the consortium, and 2) any of the establishing undertakings in situations in which the tenderer is an undertaking that has not yet been established.

Joint and several liability will only be enforced to the extent that the winning tenderer is in breach of the contract on price premium and if such a breach is not remediated by the winning

⁸ Corresponding to the assumed number of full-load hours for Kriegers Flak

tenderer on demand from the Danish Energy Agency. Joint and several liability only applies to claims by the Danish Energy Agency.]

5.7 The loss-of-value scheme, the option-to-purchase scheme, and the guarantee fund

The winning tenderer is subject to the loss-of-value scheme and the option-to-purchase scheme pursuant to the regulations in the Danish Promotion of Renewable Energy Act in force at any time.

Tenderers can participate in the technology-neutral tendering procedure regardless of whether they have applied for the provision of a guarantee under the current rules applying to the guarantee fund set up to support financing of preliminary surveys etc. by wind turbine cooperatives and solar PV cooperatives pursuant to the regulations in the Danish Promotion of Renewable Energy Act in force at any time.

6. Award criterion, ranking, flexibility mechanism and budget allocation

6.1 Award criterion

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

- **The amount of the offered price premium in øre per kWh for electricity production for 20 years from grid connection**

6.2 Ranking

If several bids contain the same price premium, the bids in question will be ranked according to the size of the expected production (the capacity offered*the pre-defined number of full-load hours), from the largest to the smallest.

If several bids, each of which can be accommodated within the budget, contain the same price premium and the same expected production (the capacity offered*the pre-defined number of full-load-hours), 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 budget.

Bids above 13.00 øre per kWh will not be accepted.

A contract on price premiums will be awarded to one or more tenderers that submit a bid with the lowest price premium in accordance with the price premium offered in each of the accepted bids, and which can be contained within the budget, cf. clause 6.4 below. Each contract will contain the price premium, stated as øre per kWh, at which price the winning tenderer, through the bid has offered to establish the installations covered by the contract (pay as bid).

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

6.3 Flexibility mechanism

If the marginal bid exceeds the budget of the tendering round, the Danish Energy Agency will offer the tenderer the opportunity to downscale the project to a size that can be contained within the remaining budget but at the original price premium offered.

If the tenderer cannot deliver the relevant project in accordance with the remaining budget, and if there are no other bids with the same price premium as the marginal bid which can be contained within the remaining budget, the remaining budget will not be allocated as described in clause 6.4 below.

If the tenderer cannot deliver the relevant project in accordance with the remaining budget, and if there are other bids with the same price premium as the marginal bid, these will be considered in the order from largest to smallest expected production. Projects that exceed the budget will be offered to downscale the project, while projects that do not exceed the budget will be awarded a contract. This procedure will be applied until the full budget has been utilized. This rule will only be applied in situations where several projects have been submitted with the same price premium as the marginal project.

6.4 Budget allocation

The 2018 technology-neutral tendering round has a total budget of DKK 365 million (2017 prices).

Tenderers are to submit a price premium per kWh and the capacity of the project (MW). For solar PV installations, the project's capacity is to be stated in MW_p, which is the DC effect of the photovoltaic solar panels used.

Expected annual production will be calculated on the basis of the assumed number of full-load hours per year, cf. below, i.e. the Danish Energy Agency will calculate an expected annual production and corresponding amount of aid, including the share of the budget that the bid absorbs.

The aid will be granted to the lowest bids until the total budget of DKK 365 million (2017 prices) has been spent.

The budget allocation for the individual project will be calculated using the following formula:

$$\text{Budget absorbed} = \sum_{\text{year}=0}^{\text{year}=20} \frac{\text{price premium} * \text{capacity} * \text{full - load hours per year}}{\text{index of consumer prices}_{\text{year}}}$$

The price premium offered and the project's capacity must appear from the individual bid, while the assumption concerning full-load hours depends on the technology used. In

connection with the evaluation, the calculation will be based on the following production assumptions for each technology:

Onshore wind turbines: 3,400⁹ full-load hours per year.

Solar PV: 1,155¹⁰ full-load hours per year.

Offshore wind turbines: 4,450¹¹ full-load hours per year.

The calculation of the budget allocation for each bid in connection with the evaluation of bids will be based on the assumption that installations covered by the contract will be grid-connected from 1 January 2020. The calculation of the budget allocation is solely of an evaluation-technical nature and the assumptions used in the calculation will therefore not affect the actual aid payment, the date of grid connection or similar.

The index of consumer prices has been projected by the Danish Ministry of Finance. The index is shown in the table below for each individual year:

Table. Index of consumer prices

2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
0.9851	1.000	1.0144	1.0306	1.0478	1.0678	1.0885	1.1096	1.1313	1.1539	1.1771	1.2007

2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
1.2246	1.2488	1.2740	1.2996	1.3257	1.3523	1.3793	1.4068	1.4348	1.4633	1.4924

Source: Danish Ministry of Finance, updated 2025 scenario, [August 2017].

Example:

A solar PV project of 50 MWp with a bid of 11.00 øre/kWh (corresponding to DKK 110.0/MWh) will result in a total budget allocation of DKK 103.3 million:

	2019	2020	2021	...	2039
<i>DKK 103.3 mill.</i> =	0	+ $\frac{110.0 * 50 * 1,155}{1.0306}$	+ $\frac{110.0 * 50 * 1,155}{1.0478}$	+ ...	+ $\frac{110.0 * 50 * 1,155}{1.4924}$

7. Bid, declarations and documentation

7.1 The bid

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

Tenderers are not entitled to make reservations in their bid, including in respect of the tender documents.

⁹ Corresponding to the 50% proportionally best producing existing onshore wind turbines and adjusted upwards due to expected technology developments.

¹⁰ Corresponding to full-load hours in the Danish Energy Agency's most recent technology catalogue, adjusted upwards with 10 %

¹¹ Corresponding to the assumed number of full-load hours for Kriegers Flak.

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 in Danish or English, cf. Appendix 1, which the tenderer must complete when submitting the bid, is available at the tender portal:

[*]

The bid must include a description of the installations covered by the bid, cf. Appendix 1.1 to the tender letter, and a declaration of intent to provide a demand guarantee, cf. Appendix 1.2 to the tender letter.

The description of the installations, cf. Appendix 1.1, must contain the following elements:

- The installed capacity of each installation and all the installations together. The installed capacity is to be stated in whole kW and is the largest active capacity the installation is constructed to supply continually,
- For solar PV installations, the installed capacity is to be stated in MWp, which is the DC effect of the photovoltaic solar panels used, and
- The planned geographical location of each installation.

A single, collected bid may be submitted, covering several installations at different geographical locations, or bids may be submitted individually for each installation. Tenderers may submit more than one bid.

All 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 carries the full commercial risk for the kWh price premium offered.

7.2 Declarations

In the tender letter (Appendix 1), the tenderer must declare:

1) that the tenderer has accommodated any demands to repay aid which it may have received prior to the submission of the bid and which, in a previous decision, the European Commission has declared illegal and incompatible with the internal market;

2) that the tenderer confirms that it is not a firm in difficulty. A firm is regarded as being in difficulty where it is unable, whether through its own resources or with the funds it is able to obtain from its owner/shareholders or creditors, to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to going out of business in the short or medium term.¹²

3) that the tenderer will not receive any other aid than price premiums pursuant to the contract, except for any provision of guarantee pursuant to the current rules on the guarantee fund in the Danish Promotion of Renewable Energy Act;¹³

4) that the tenderer does not 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 established¹⁴; and

5) that work on the project to construct installations covered by the tender has not started.¹⁵

7.3 Documentation

The tenderer must also submit the following documentation with the tender letter, where relevant:

1) For onshore wind turbines: an approved local development plan, including an EIA approval, cf. clause 5.4 above.

2) For open door offshore wind turbines: a construction licence, cf. clause 5.4 above.

3) For solar PV installations: an approved local development plan, including an EIA screening, dispensation and/or rural zone permit, cf. clause 5.4 above. For solar PV installations which are not subject to requirements for approval in the local development plan (including EIA screening, dispensation and/or rural zone permit), a declaration from the municipal board or from the tenderer stating that there are no requirements for approval, dispensation or other authorisation under the Danish Planning Act and/or other relevant legislation, cf. clause 5.4 above.

4) A completed template from the municipal board that the board is positive towards the establishment of the open door offshore wind turbine project covered by the bid, cf. clause 5.1 above.

7.4 Incomplete tenders

¹² Cf. Communication from the Commission — Community Guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).

¹³ Please refer to section 21 of the Promotion of Renewable Energy Act, cf. Consolidating Act no. 1288 of 27 October 2016 that implements the definition of start of work as stated in the guidelines.

¹⁴ Please refer to the principles in section 135(3) of the Public Procurement Act.

¹⁵ 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. 1288 of 27 October 2016.

Bids in which the information pursuant to clauses 7.1-7.3 above is missing will not be considered.

8. Tender deadline and formal requirements

The deadline for receipt of bids is

[*] 2018, at 12:00 noon

Bids received after this date and time will not be considered.

A bid must contain:

- a completed and signed template in Danish or in English for the tender letter and declarations (Appendix 1), cf. clause 8.1 above;
- a completed template with a description in Danish or in English of the installations covered by the tender (Appendix 1.1), cf. clause 8.1 above;
- a declaration of intent from a financial institution for the provision of a demand guarantee in Danish or in English (Appendix 1.2), cf. clause 8.1 above;
- an approved local development plan, including an EIA approval or screening, whatever is relevant, dispensation and/or rural zone permit, construction licence, a declaration from the municipal board or the tenderer itself, cf. clause 7.3 above; and
- a completed template from the municipal board that the board is positive towards the establishment of the open door offshore wind turbine project covered by the bid, cf. clause 8.3 above.

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

[*]

Bids cannot be submitted in any other way.

If the tender portal is down due to technical reasons up to one 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, cf. clause 16 below.

9. Language

The bid, including appendices, must be in Danish or in English, cf. Appendix 1.

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, including appendices, prevails.

10. Award

When the Danish Energy Agency has assessed whether the bids received are compliant, and which bids, within the budgetary framework, have the lowest bid prices, the Danish Energy Agency will notify all tenderers of whether their bids have been accepted. With regard to tenderers that are not awarded a contract, 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 tendering procedure without awarding contracts if there are objective reasons to do so.

Notification of the award decision to the 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 expiry of a ten calendar day period calculated from the day after the day when the Danish Energy Agency submitted its notification to all tenderers concerning the award decision.

It is a condition for the Danish Energy Agency's signing of the contract with the individual tenderer that the guarantee for the retention penalty has been provided, cf. clause 5.5 above.

11. Period of validity of bids 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 (period of validity of bids).

The tenderer's costs in connection with the tendering procedure, including costs of providing declarations etc. from the municipal board and of obtaining the required licences and dispensations, 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.

Furthermore, the Danish Energy Agency is, however, obliged to publish information about the content of the winning price premiums. Also, 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 the bids to the tenderers.

In the evaluation of the bids and the 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. Changes to the composition of the tenderer during the tendering procedure

Furthermore, as a rule, a tenderer cannot be replaced or supplemented during the tendering procedure with one or more economic operator(s), for instance in order to form a consortium. If a tenderer should nevertheless wish to do so, this requires the prior written consent of the Danish Energy Agency. When deciding if a request for a change is acceptable, the Danish Energy Agency will assess the existing law at the time of the request and the general nature and extent of the change.

14. Checklist

Has the tenderer enclosed with the bid:

1. A tender letter (Appendix 1) containing:
 - a. a price premium per kWh for 20 years from grid connection;
 - b. a declaration on the obligation to construct and connect to the grid specified installations;
 - c. a declaration that the tenderer does not have unpaid, due debt to public authorities exceeding DKK 100,000.00;
 - d. a declaration that the tenderer has complied with any and each requirement to repay aid which the tenderer may have received and which, in a previous decision, the European Commission has declared illegal and incompatible with the internal market;
 - e. a declaration that the tenderer is not a firm in difficulty;
 - f. a declaration that the tenderer will not receive other aid than the price premiums under the contract, except for any provision of a guarantee pursuant to the current rules on the guarantee fund in the Danish Promotion of Renewable Energy Act; and
 - g. a declaration that the work on the project has not started.
2. A completed template for the description of installations covered by the bid (Appendix 1.1).
3. A declaration of intent to provide a demand guarantee (Appendix 1.2).
4. A completed template from the municipal board concerning open door offshore wind turbines (Appendix 1.3).
5. An approved local development plan, including an EIA approval, for projects concerning onshore wind turbines.
6. A construction licence for projects concerning open door offshore wind turbines.

7. An approved local development plan, including an EIA screening, dispensation and/or rural zone permit concerning solar PV installations. For solar PV installations that are not subject to requirements for approval in the local development plan (including EIA screening, dispensation and/or rural zone permit), a declaration from the municipal board or from the tenderer that there are no requirements for approval, dispensation or other authorisation under the Danish Planning Act and/or other relevant legislation.

The tender letter must clearly identify the company or the consortium submitting the tender.

15. Questions concerning tender documents

The tenderer can submit written questions regarding the tender documents.

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 conditions during the tender procedure if this is deemed necessary as a response to questions received, or if it turns out to be necessary due to other reasons. However, such amendments will not concern fundamental elements..

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

[*]

All written questions (anonymised) and answers to these will be published on the tender portal. The following link provides direct access to the tender portal:

[*]

Questions received by no later than [date set to three weeks before the deadline for the submission of bids] will be answered by no later than six working days before the deadline for submitting bids. However, tenderers are encouraged to submit questions well before this date.

Questions that are received later than six working days before expiry of the time limit for submitting bids cannot be expected to be answered.

16. 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 website of the Danish Energy Agency:

www.ens.dk/vindogsoludbud