

Section II: Schedule of Requirements

eSourcing reference:RFP/2021/27816

TERMS OF REFERENCES

Upgrading Energy Regulations for the Energy Regulatory Commission of the Philippines (ERC) and Design

I. Background and Introduction

1. The Philippines has submitted its second nationally determined contribution (NDC) to the UNFCCC, committing to 75% greenhouse gas (GHG) reduction by 2030.¹ This constitutes, together with the 2019 moratorium of coal fired energy production a basis for decarbonizing the Philippine economy and energy sector, twin goals aimed at enabling a conversion of the Philippines into a low carbon economy. A significant responsibility for decarbonizing the economy falls onto the energy sector, with the balance being shared by other sectors, predominantly industry, forestry, and agriculture.
2. The Philippines energy sector is governed by the policy making Department of Energy (DOE) under its Philippine Energy Plan (PEP) 2018–2040² embodying the United Nations Sustainable Development Goal (SDG) of affordable and clean energy, the Renewable Energy Act, Energy Efficiency Act, and the policy on Resiliency of Energy System and Infrastructure, PEP outlines eight energy sector strategy directions to: (i) ensure energy security, (ii) expand energy access; (iii) promote a low carbon future; (iv) strengthen partnership and collaboration between private sector and Government agencies on energy-related issues; (v) monitor and integrate sectoral roadmaps and action plans; (vi) advocate the passage of DOE's legislative agenda; (vii) strengthen consumer welfare and protection; and (viii) foster international relations and partnerships.
3. The Philippines is projected to rely heavily on imported fossil fuel, even after 25 years. The renewable energy (RE) provides some 10% of the total primary energy supply (TPES) mix, down from exceeding a quarter of the TPES, giving way to a dramatic increase of coal and gas. The RE Act of 2008 and its National Renewable Energy Program aim to triple RE supply from the 5,440 MW by 2030 and raise it to 20,000MW of capacity by 2040. Electricity generation bears the greatest responsibility for the Philippines growth in GHG emissions estimated at 4.5% from 75.9 million tons in 2010 to 230.2 million tons by 2035, ie. 6% per year and from coal-fired generation by 7.4% per year with domestic transport and industry sharing this responsibility among other sectors.

Philippines Energy Regulatory Commission

4. Republic Act No. 9136 of Electric Power Industry Reform Act (EPIRA) of 2001³ created the ERC of the Philippines as a successor to the Energy Regulatory Board as an independent, quasi-judicial regulatory body. ERC is tasked to promote competition, encourage market development, ensure customer choice and penalize abuse of market power in the electricity industry.
5. In compliance with its mandate, the Commission set up the competitive framework in the electricity

¹ <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Philippines%20First/Philippines%20-%20NDC.pdf>

² DOE. Philippine Energy Plan 2018-2040.

https://www.doe.gov.ph/sites/default/files/pdf/pep/pep-2018-2040_20210323.pdf

³ <https://www.doe.gov.ph/sites/default/files/pdf/issuances/20010608-ra-09136-gma.pdf>

markets through the issuance of the rules and regulations governing the competitive markets. In such rules, the market participants are required to submit periodic reportorial requirements necessary for the Commission to monitor the behavior of the stakeholders and the market. ERC capacity is central to the functioning of the electricity markets in the Philippines, particularly to ensure that competitive and economic choices are available for the Philippine consumer markets.

6. In view of developing these capacities, ERC has sought technical assistance from ETP for the (i) development for the regulatory framework for the use of electric vehicles and establishment of electric charging stations, (ii) revisiting the existing technical, operational and performance standards for renewable energy generators, (iii) rules and regulations for ancillary services responsive with variable renewable energy technology and (iv) rules and regulations for smart grid facilities, (v) sustainable energy initiatives for smarter and greener cities, and (vi) revision and amendments on the existing Philippine small grid guidelines. The proposed program also supports ERC with a review of the energy sector regulatory framework to identify any potential impediments that the regulations may have set for energy transition.
7. **Rationale:** Overarching the technical assistance requirements of ERC, there is an opportunity to enable ERC to serve a strong facilitating role in the pursuit of competitiveness and cost effectiveness benefits of a low carbon economy. Considering the Government's NDC commitment, the energy sector is crucial if the Philippines is to achieve the goal together with the transport, industry, waste management and agriculture sectors. The Project supports ERC with its specific technical requirements under an umbrella program that involves adjusting the regulatory review toward a whole-sale change in view of the NDC commitment. This mind-set change is pursued through setting standards and regulations that foster clean energy solutions and a low carbon energy production regime across the country.

II. The Purpose of the Project

8. **Purpose of the Project:** The Project will provide technical assistance for ERC in the strategic context of the evolving role of power sector regulation, the regulator and the emerging objectives. Against the enhanced ambitions under the GHG reduction target within the Philippines NDC, ERC is in a critical position to ensure that the Government's Clean Energy Scenario, low carbon energy plans, energy transition road maps and energy sector development plan, deliver on the GHG targets for the energy sector by implementing a flexible regulatory framework that recognizes the importance of innovation and the dynamic sector development context and the newcomers into the energy business. This involves assessing the regulatory options to pursue a low carbon energy system from the upstream and thus set the leading parameters for the investments and competencies required to move to a low carbon energy system. The Project endows ERC with the specific technical advice under this broader strategy to develop an overarching regulatory framework that is focused on competitiveness to harness low carbon energy objectives of the Government and to reinforce ERC's ambition to be a truly *“a world class and independent electric power industry regulator that equitably promotes and protects the interests of consumers and other stakeholder”*.

III. Scope and Objectives of the Project

9. **The overall goal** of the Project is to ensure that ERC holistically supports energy transition and transition to low carbon energy systems and the Government's NDC. More specifically, the Project has the following specific objective:

10. Provision of technical support to a broad scanning of its regulatory framework for the energy sector to ascertain that all the regulations enable and facilitate energy transition and identify any areas within its regulations that may work against or impede efforts of the Philippines to move toward a low carbon economy and to reach its stated NDC. It also provides technical advice and expertise for ERC in three thematic areas of renewable energy supply, grids and battery energy storage, energy efficiency and demand management under the specific areas identified in Table 1.

Table 1. Technical Assistance under Thematic Areas with for Regulatory Improvement (Component A)

	Project	Primary Objective	Timeline	ERC Dept
Renewable Energy				
1	Revisiting the Existing Technical, Operating and Performance Standards for Renewable Energy Generators	To update the issued National Grid Code and Distribution Code as well as other relative ERC resolutions, rules, and regulations on modern RE technologies.	Six months	
Grids and Battery and Energy Systems				
2	Rules and Regulations for Ancillary Services Responsive with Variable Renewable Energy Technology	To establish the regulatory framework for the entry of modern RE technologies aided by ancillary services, its related features, services, functionalities, and pricing methodology	Six months	
3	Rules and Regulations for Smart Grid Facilities	To empower the utilization of smart grid technologies to promote demand side management, and to ensure that the technology embedded in smart grid facilities are compliant with international safety standards and technical standards for device specification and network interconnection	Six months	
4	Revisions and Amendments on the Existing Philippine Small	Update the issued Philippine Small Grid Guidelines to cover modern technologies used in the electric power system	Six months	

	Grid Guidelines			
Energy Efficiency				
5	Sustainable Energy Initiatives for Smarter and Greener City	Develop streamlined rules and regulations for the utilization of energy-efficient technologies. Likewise, to improve the load profile of the Philippine electrical system while aiming for a cleaner and greener energy characteristic	Six months	
6	Procurement of Consultancy Services for the Promulgation of the Distribution systems Loss Cap	Develop a new system loss caps based on the criteria provided in the Electric Power Industry Reform Act (EPIRA)	Six months	
Strategic Regulatory Review				
7	Strategic review of the regulatory framework to assess its pertinence and pursuit of energy transition.	Strategic overview of ERC's regulatory framework in view of the Philippine NDC, identification of strengths and weaknesses, challenges, and opportunities in reduction of the potential hindrance and amplifying the incentives in places on rapidly moving to low carbon energy systems.	12 months	

IV. Outcomes, Objectives and Milestones

11. **Outcomes and Outputs for Policy and Technical Assistance to ERC:** Upon completion of the policy and technical assistance to ERC, the Project will achieve the following outcome and outputs:

Outcome: ERC makes measured impact to ensure a flexible, dynamic and innovative regulatory framework that pertains to and pursues greenhouse gas emissions reduction target of -75% by 2030 established under the NDC

Output 1: Strategic overview of ERC's regulatory framework to ascertain its pertinence and pursuit of a low carbon energy system, low carbon economy, and the Government's NDC.

- By June 2022: An assessment of the regulatory framework of ERC in view of the Philippine NDC and low carbon economy goals; and
- By September of 2022: Options assessment for regulatory areas where ERC can further align its regulations with the Philippine climate goals.

Output 2: Capacity developed at ERC on the specific technical areas of renewable energy supply, battery and energy storage, and energy efficiency to specifically drive the energy transition objectives in the context of the Government's NDC.

- By the end of February 2022: Completed provision of knowledge transfer and exchange of

information and best practices in the thematic areas of 1 and 2, e.g. renewable energy supply and battery and energy storage.

- By the end of June 2022: Completed provision of knowledge transfer and exchange of information and best practices in the thematic areas of 3, e.g. energy efficiency.
- By the end of September 2022: Raised awareness on green energy and climate mitigation towards a successful energy transition through an upgrade of capacities and regulations, standards, and measurement capacity of ERC.

V. Implementation Methodology

12. The Project will be implemented by making use of all existing information in the country, and particularly capitalizing on the existing knowledge of the policy, regulatory, legal, financial and energy sector standards and conditions prevailing in the Philippines. The methodology comprises a close contact and liaison with the staff of ERC at all levels, identification of capacity building and transfer of technology, in design and implementation of the regulations, and development of a deep understanding of the technical and implementation challenges of ERC. The implementation methodology also assures legally and otherwise required consultations, stakeholder coordination and processes to ensure full capacity for compliance by the entitles. The implementation methodology will strengthen ERC's leadership and technical capacity in all areas under the Project.

VI. Scope of Work

13. The applicants shall provide all necessary resources, expertise, templates, data and Project management and coordination tasks and schedules required to meet the objectives and to complete the scope of work under the objectives in the specified time. The implementing agency will combine a fundamental practical knowledge of the best practices in the energy regulatory frameworks and global trends in development and evolution of the role of the regulator in pursuing energy transition and low carbon energy systems and knowledge of the conditions prevailing, challenges to and opportunities for energy transition in the Philippines.

VII. Payment Schedule:

1. **First payment:** Twenty (20) percent of the contract amount after completion of inception report providing a time-bound work plan, scheduling the work based on the ERC's priorities designating in the order of priority and segmented to phase 1 and phase 2, and pathways for accomplishing the assignment under each phase, and a time-lined interactions and consultations with the ERC and relevant stakeholder agencies throughout the process and a fully detailed results-based monitoring framework for the Project.
2. **Second payment:** Twenty (20) percent of the contract amount after a completion of First Interim Report based on priority areas and accomplishment of the prioritized technical assistance and technology transfer objectives under activities under areas within phase 1; and accomplishment of the prioritized technical assistance and technology transfer objectives under activities under the milestones.
3. **Third payment:** Twenty (20) percent of the contract amount after a completion of Second Interim Reports based on the priority areas and the strategic assessment of the regulatory

framework overall and accomplishment of the prioritized technical assistance and technology transfer objectives under activities under these thematic areas; and the Phase 2 deliverables for ERC and accomplishment of the prioritized technical assistance and technology transfer objectives under activities under this milestone.

4. **Fourth payment:** Twenty (20) percent of the contract amount after the completion of a fully developed prioritized options assessment for the regulatory measures and recommendations for ERC to champion the implementation of a low carbon energy system in view of the NDC and GHG reduction; and accomplishment of the prioritized technical assistance and technology transfer objectives under activities under this milestone.
5. **Fifth payment:** Twenty (20) percent of the contract amount after the completion of a Final Report, which incorporates comments from the government parties and UNOPS, as well as relevant collaborating development partners, and comprises references to all the prior activities, provides a compendium of recommendations and a final results-based monitoring matrix duly filled with results data.

VIII. Assumptions

14. The following information are provided to enable you to properly schedule and resource the project:

- The proposal will be delivered by a competent energy regulator consultancy or energy regulatory entity with a fundamental knowledge of the energy transition issues, challenges and opportunities, as well as the regulatory conditions and standards prevailing in the Philippines.
- Building on existing available information, ERC will ensure that all data and documents are available for the implementing entity and its staff and management remain reasonably available to support the Project and to receive the technical assistance at each of its stages.
- The selected consultancy or entity will identify best practices and best pathways for ERC to adopt changes to its regulatory framework in the identified areas and beyond that where these are deemed to support pursuit of energy transition and low carbon energy systems.
- ERC will sequence the work based on its priority areas to cater to the needs of the market for energy services to advance energy transition.
- Building on existing available information, ERC will ensure that all data and documents are available for the implementing entity and its staff and management remain reasonably available to support the Project and to receive the technical assistance at each of its stages.
- The Project will also capitalize on the latest information globally available on the energy regulatory frameworks and role of the regulators to ensure a dynamic and conducive regulatory basis for the evaluation of the energy system in the direction that is capable of meeting the NDC objectives.
- The Project will also capitalize on the latest information globally available on market implementation and integration of ESS in the power grid directed towards the achievement of the NDC and energy transition objectives.
- The Project will work under the overall guidance of ETP Steering Committee, its Secretariat and

Advisory Committee, the ERC, and the Government of the Philippines. The Government will arrange for an inter-agency review process to provide guidance for the outputs of the Project and advise on its directions and focus to ensure comprehensive coverage of the energy sector responsibility and contributions with respect to the NDC goal.

- The Project will engage with the public and private energy sector stakeholders through a consultation process to ensure that all aspects of the energy transition are accounted for in the design of the regulations, including that the incentives and penalties these set are fully assessed and account for lessons learned from across the global energy sectors. The consultation process will consider all relevant stakeholder groups, development and investment community, and civil society and its agencies.
- The Project will designate one Team Leader with sub-team experts by the thematic areas relevant to the project. The Team Leader will coordinate the Project and facilitate rapid deployment of the project and timely achievement of its objectives. The Team Leader will be responsible for coordination, quality of analysis and outputs, supervision and synthesis of all analysis, the quality of the inputs to the regulations, the collation of the draft and final reports. Sub team experts will be responsible for providing quality technical content and analysis in their respective area of expertise and contribute and/or prepare thematic reports and contribute to the final report. The lead implementing agency (and the Team Leader) and the agencies in the consortium (the Sub Team Leaders) are assumed to have and maintain strong relationships with ERC and ensure ERC's and the Government's ownership of the processes under the Project.
- The Project will ensure that it accounts for environmental and social impacts in the context of the terms of reference and identifies environmental and social costs and benefits within the road map and its financing plan, with particular attention on potential mitigation requirements in accordance with the Government's policies and international standards. Furthermore, the project shall provide a response that demonstrates its commitment to support gender equality and women's empowerment through its operations.

IX. Timeline

Key Milestones and Deliverables	Mobilization Inception Report (09/2021)	First Interim Report (10/2021)	Second Interim Report (04/2022)	Draft Final Report (06/2022)	Final Report (07/2022)
Inception Report: Work Plan with a Results-Based Project Monitoring Framework for The Project - Mobilization of the Project	x				
First Interim Report: Report on all activities and submissions under the 1st Thematic		x			

Areas, with updated work plan, for the Project.					
Second Interim Report: Strategic Energy Regulatory Assessment and Phase 2 Deliverables, with updated work plan for the Project.			X		
Draft Final Report: Strategic Regulatory Assessment and Phase 3 Deliverables, incorporating the Preliminary Report inputs/ consideration gathered during the public consultations and identified Phase 3 deliverables, with updated work plan for the Project.				X	
Final Report: Final Report: A fully developed report, in publishable English and format, that covers the project timeline, deliverables, and provides a compendium of all outputs of the project including reports of the consultations under all phases and incorporates comments received on the Draft Report.					X

- The Bidders are encouraged to familiarize themselves with UNOPS Gender Parity Strategy as an example, available online at <https://www.unops.org/news-and-stories/news/unops-launches-gender-strategy>.

X. Timeframe

- The expected timeframe for the consultancy is beginning immediately upon award and contract signature, aiming to start from November 2021, for a duration of 1 year, with a possibility of extension. The contract is renewable subject to the performance of the Agency.

XI. Qualification and Experience of the Service Provider

- The consultant's project team should demonstrate the capacity to execute the works and should include all essential roles filled with personnel with relevant experience. CV's of the personnel proposed should be used to verify this information. The lead individual should have the following qualifications:

17. Education

Master's Degree in Energy Regulation and Market Management, Engineering, Economics, Climate Change, Social Sciences, Political Sciences, Development or related field is required. Additional two years of similar experience with a Bachelor Degree is considered equivalent.

18. Work Experience

1. A minimum of 10 years of relevant experience in similar role, with minimum 2 years of leadership experience
2. Professional experience in energy system modeling and forecasting Southeast Asia is preferred
3. Previous successful involvement with, and good knowledge of, donor, government, private sector and civil society is desired
4. Knowledge of the energy sector modelling and forecasting, coal abatement scenarios, energy transition, political, economic and social situation in Philippines is desired
5. Computer literacy in Microsoft packages (MS Word, MS Excel, MS Access, MS Power Point) is required

XII. Evaluation Criteria

Eligibility and Formal Criteria: evaluated on Pass/Fail basis and checked during Preliminary Examination;

Criteria	Documents to establish compliance with the criteria
1. Offeror is eligible as defined in Instructions to Offerors, Article 4	<ul style="list-style-type: none"> ● Form A: Offeror Information Form ● Form B: Joint Venture Partner Information Form, all documents as required in the Form, in the event that the Proposal is submitted by a Joint Venture. ● Form E: Proposal Submission Form
2. Completeness of the Proposal. All documents and technical documentation requested in Instructions to Offerors Article 10 have been provided and are complete	<ul style="list-style-type: none"> ● All documentation as requested under Instructions to Offerors Article 10, Documents Comprising the Proposals
3. Offeror accepts UNOPS General Conditions of Contract as specified in Section IV	<ul style="list-style-type: none"> ● Form C: Proposal Submission Form

Qualification criteria – evaluated on Pass/Fail basis;

Criteria	Documents to establish compliance with the criteria
Offeror should have annual sales turnover of minimum USD 200,000 for any of the last two years to show financial stability (Bidder must submit relevant financial statements)	<ul style="list-style-type: none"> ● Copy of audited financial statements for the last two years or other relevant document to verify the information

<p>In case of a Joint-Venture, the annual turnover is calculated by combining the annual turnover of the JV members</p>	
<p>The company should have a minimum of 3+ years of continuous experience in delivering similar projects in the past with a track-record of success. In case of a Joint-Venture, the experience is calculated by combining the years of experience of the JV members</p>	<ul style="list-style-type: none"> ● Certification of incorporation of the Offeror ● Form G: Performance Statement Form
<p>Offeror must provide a minimum of three (3) customer references from which similar services have been successfully provided, within any of the last 5 years (references to provide name, company, and contact information such as email address) In case of Joint-Venture, the 3 references is assessed as a consortium</p>	<ul style="list-style-type: none"> ● Form G: Performance Statement Form

Technical criteria – evaluated based on a cumulative analysis methodology;

Criteria	Documents to establish compliance with the criteria
<p>Evaluation will be conducted based on the cumulative analysis of Technical and Financial Proposals with a weighting of 80%-20% (Technical Proposal-Financial Proposal)</p> <p>The total number of points which an Offeror may obtain for its proposal is as follows:</p> <ul style="list-style-type: none"> ● Technical Proposal = 80 points ● Financial Proposal = 20 points <p>The maximum number of technical points is detailed in the below <u>Technical Proposal Evaluation sections</u>.</p> <p>To be substantially compliant, Offerors must obtain a minimum threshold of 70% of total points.</p>	<ul style="list-style-type: none"> ● Form E: Technical Proposal Form ● Form F: Format for Resume of Proposed Key Personnel ● Form G: Performance Statement Form

Technical Proposal Evaluation sections:

Section number/description	Points Obtainable
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1.	Offeror's qualification, capacity and expertise	25
2.	Proposed Methodology, Approach and Implementation Plan	30
3.	Key Personnel proposed and Sustainability Criteria	25
Total Technical Proposal Points		80

Section 1: Offeror's qualification, capacity and expertise		Points	Sub-Point
1.1	Brief description of the organization, including the year and country of incorporation, and types of activities undertaken, including relevance of specialised knowledge and experience on similar engagements done in the past. Experience working with the UN or International Organizations will be considered an asset. (Max 4 pages written text plus Matrix 1)	15	
	1. Experience in projects of comparable size, type, complexity and technical specialty		5
	2. Experience in providing similar services in the region, especially the Philippines		5
	3. Understanding of local context, or partnering up with a Filipino entity to provide for the strategic consultation, translations; as well as the communications expertise		5
1.2	General organizational capability which is likely to affect implementation: management structure, financial stability and project financing capacity, project management controls, extent to which any work would be subcontracted. (Max 4 pages written text)	10	
Total points for section		25	

Section 2: Proposed Methodology, Approach and Implementation Plan		Points	Sub-Point
2.1	Description of the Offeror's approach, sequencing of activities/deliverables and methodology for	15	

	meeting or exceeding the requirements of the Terms of Reference (Max 5 pages written text)		
	1. Management: Capacity to and know how to simultaneously manage logistics and implement the service		5
	2. Technical: The Offeror demonstrates how it envisions undertaking the proposed activities - from energy sector planning and modelling, desk review to report writing. Important aspects of the task have been addressed in sufficient detail and supported by work plan		10
	Details how the different service elements shall be organized, controlled and delivered, including the quality assurance (Max 5 pages written text)	15	
2.2	1. Details how the different service elements shall be organized, controlled and delivered are addressed		7
	2. A plan outlining how the bidder intends to ensure oversight and quality assurance throughout the assignment		8
Total points for section		30	

Section 3: Key personnel proposed and Sustainability Criteria		Points	Sub-point
3.1	Qualifications of key personnel proposed	20	
	1. Project Lead		10
	2. Qualification of the other proposed team members		10
3.2	The bidder should provide a clear statement and/or supporting documentation that outlines how gender is mainstreamed internally. (Max 4 pages written text)	5	
Total points for section		25	