

REQUEST FOR QUOTATION (RFQ)

Legal Review: Legislative Landscape for Small Scale Embedded Generation

Request for a suitability qualified and experienced service provider to do a legal review in relation to small scale embedded generation installations

Date advertised	27 September 2023
Non-compulsory briefing session	2 October 2023; 11h00 – 11h30 Zoom link ¹
Closing date to submit quotation and proposals	5 October 2023, 9h00

INTRODUCTION

Established in 2010, GreenCape is a non-profit organisation that drives the widespread adoption of economically viable green economy solutions from South Africa. GreenCape works with businesses, investors, academia, and government to unlock the investment and employment potential of green technologies and services, and to support a transition to a resilient green economy. Our aim is to be globally relevant in driving the uptake of green economy infrastructure solutions in the developing world.

One of our current projects focuses on the professionalisation of the solar PV industry in South Africa. As part of this project, GreenCape is seeking expert legal advice (possibly augmented with technical support) to help clarify the legislative landscape governing small scale embedded generation (SSEG).

Interested organisations are invited to submit quotations to undertake this work.

BACKGROUND

The current legislative framework and the large-scale uptake of solar PV and battery storage systems by customers implementing mitigations against loadshedding appear to have resulted in many loopholes for installations being exploited. It is important to drive safe and legal installations and ensure that customers (and the wider ecosystem of stakeholders) have the requisite understanding to follow the correct procedures and processing to enable legally compliant installations, and the necessary understanding and backing to know what steps to take if something goes wrong.

¹<https://us06web.zoom.us/j/89324477268?pwd%3Dw0CjnUPrMUKTNIK3boq5taGTZTejua.1&sa=D&source=calendar&ust=1696229899863578&usg=AOvVaw3SZwmdHo8gK--7T3SG0ty2>

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Company Registration No. 2012/039750/08

Refer to the GreenCape website for director details

SCOPE OF WORK

The key questions that need to be investigated are:

- Which acts, regulations, and laws govern SSEG²?
- Who has the authority to sign off the respective installations (i.e. residential, commercial and industrial)?
- Where are there potential loopholes that could be exploited?
- In the case of non-compliance (or reasonable suspicion of illegal behaviour) and/or failure (catastrophic or other) of a PV system with battery storage, without battery storage or a stand-alone battery system, what would be the legal recourse (and associated reference documents or clauses) for each relevant individual stakeholder (including the customer, installation company, person who signed the COC³, ECSA⁴-registered professional who signed off on the installation, debt finance provider, insurer, electricity supplier (Eskom/municipality)? (The City of Cape Town context can be used as a case study, if the case is not generalisable between Eskom and municipalities or across all municipalities.)
- Who are the relevant stakeholders that can influence the legislative landscape?

To assist in answering the above questions, the following are the proposed (but not exhaustive) sub-components of the legal review:

Confirmation of the mandate of SANS⁵ 10142-1⁶

- What level of enforcement does this standard enable?
- Based on the current document, what is covered for SSEG installations?
- Who can issue the COC for SSEG installations? (Single Phase Tester, Installation Electrician or Master Installation Electrician?)
- Which normative references apply? What weight do normative references have for legal enforcement?

Occupational Health and Safety Act (OSHAct)

- Within the OSHAct, what would be applicable for SSEG?
- What is the mandate given by the OSHAct to the EIR⁷?

Electrical Installation Regulations (EIR)

- Within the EIR, what mandate is given to SANS 10142-1?
- What other clauses within the EIR would be applicable to SSEG?
- What would be the process for amendments or changes to the EIR?

(Scope of work continued overleaf)

² Small-scale embedded generation (SSEG) refers to power generation installations less than or equal to 1MV, typically located on residential, commercial or industrial sites, and generated power is mainly for self-consumption.

³ COC = certificate of compliance

⁴ ECSA = Engineering Council of South Africa

⁵ SANS = South African National Standard

⁶ SANS 10142-1 Wiring of Premises Part 1 Low voltage installations

⁷ EIR = Electricity Installation Regulations

What would be the mandate of SANS 10142-1-2⁸ be once issued?

- Will it have the same legal standing as SANS 10142-1?
- If not, what needs to be done to allow for this? (Who needs to decide, or to whom should a motivation be addressed to allow this?)
- In the absence of SANS 10142-1-2, what can be done in the interim? SSEG by-law by the municipality? Updated NRS standard? Could a municipality include an IEC standard (e.g. IEC 603-64-7-12⁹) in a SSEG by-law either directly or once adopted as a SANS standard?

DELIVERABLES

Deliverable	Due date
Inception meeting (60 min) ¹⁰	Within 3 working days of signature of service level agreement by both parties
Interim feedback meeting (60 min)	2 weeks after inception meeting
Draft legal review document for feedback	4 weeks after inception meeting
Final legal review document	1 week after receipt of feedback ¹¹
Clarification meeting (60 min)	If required between submission of draft and final legal review

ESTIMATED DATE OF DELIVERY

Draft legal review: 10 November 2023¹²

GENERAL INFORMATION

1. Any quotation submitted after the closing date and time shall **not** be considered.
2. GreenCape reserves the right to cancel the procurement process without notice at any time and not make any appointment on this project.
3. All quotations will be evaluated on the basis of a functionality/price/B-BEEE weighting of 50/30/20 B-BBEE points will be calculated as per the table set out in Annexure A to this RFQ.
4. Each bidder must include in its quotation a confirmation that it does not and will not have any actual or potential conflict of interest in submitting its quotation (see Declaration of Interest attached as Annexure B to this RFQ).
5. Functionality will be based on the following criteria: Proposed approach taking into account the need for both legal and technical insight, team composition (team member(s) CVs and management structure), track record (previous similar project experience), adherence to the scope of work.

⁸ SANS 10142-1-2 The wiring of premises Part 1-2: Additional special requirements for low voltage small scale embedded generator installations connected to THE GRID (provisional title)

⁹ IEC 603-64-7-12 *Low voltage electrical installations - Part 7-712: Requirements for special installations or locations - Solar photovoltaic (PV) power supply systems*

¹⁰ Meetings can be virtual.

¹¹ Feedback can be expected 1-2 weeks after submission of draft

¹² This date will be adjusted as per the delivery table timeframes, but is given as indicative to indicate the pressing nature of the review and thus to assist in resource allocation to the work.

6. The acceptance of a quotation and the awarding of this project or any part thereof to a bidder will be communicated in writing by GreenCape.
7. Following acceptance of a quotation, the appointed bidder will be expected to enter into a service level agreement and a non-disclosure agreement with GreenCape.
8. The successful quote submitted by the bidder will form part of the service level agreement and may not be amended at any time after acceptance unless agreed to in writing by GreenCape and the service provider.
9. The appointed bidder will be expected to comply, inter alia, with the following:
 - 9.1. any applicable health and safety rules and regulations, including, but not limited to, the provisions of the Occupational Health and Safety Act No. 85 of 1993;
 - 9.2. registration and good standing with the Commissioner for Compensation for Occupational Injuries and Diseases and having the necessary employer's liability insurance in respect of its employees/agents in line with the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993, as amended; and
 - 9.3. sufficient insurance to cover its liabilities in respect of the services to be provided and any other insurances that may specifically be required by GreenCape in relation to its appointment on this project, if any.

SUBMISSION REQUIREMENTS

Interested organisations are invited to submit a quote for the outlined scope of work that should include the following:

1. Quotation for the work, broken down by activity
2. A brief work plan that outlines the proposed approach and activities that would be taken to achieve the required scope of work. The work plan should include:
 - a. a brief description of the proposed approach to complete a legal review of the legislative landscape of small scale embedded generation duly noting how the (combination of) legal and technical insight required to address the questions are to be obtained
 - b. the proposed activities to achieve the required scope of work
 - c. the timeframes for each activity
 - d. a risk register and mitigation plan that addresses any key project risks.
3. CVs of proposed team and team structure/organogram
4. Company profile, indicating previous projects with similar requirements
5. Tax Clearance Certificate
6. Company Registration Certificate
7. Declaration of Interest
8. BEE credentials with certificate or affidavit as relevant
9. Letter of good standing from the Compensation Fund in South Africa (COID)
10. Proof of required insurances

Please email the above documentation to johan@green-cape.co.za by 5 October 2023, 9h00, using the reference: Legislative Landscape for SSEG Please note that a failure to submit any of the required documentation could result in the bidder being excluded from the tender process.

For any queries related to this RFQ, please email: johan@green-cape.co.za

Annexure A: B-BBEE score weighting

Table 1 – B-BBEE score weighting

B-BBEE Level Status of Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant	0



Annexure B: Declaration of Conflict of Interest

Any legal person/s having a relationship with persons employed by The GreenCape Sector Development Agency or any of the funders listed in this RFQ may make an offer/s in terms of this invitation to bid. In view of the possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to The GreenCape Sector Development Agency or any of the funders listed in this RFQ, it is required that the bidder or his/her authorized representative declare his/her interest as required below.

1. Have you previously provided services/products to The GreenCape Sector Development Agency or any of the funders listed in this RFQ?

YES NO
If yes, please furnish further particulars:

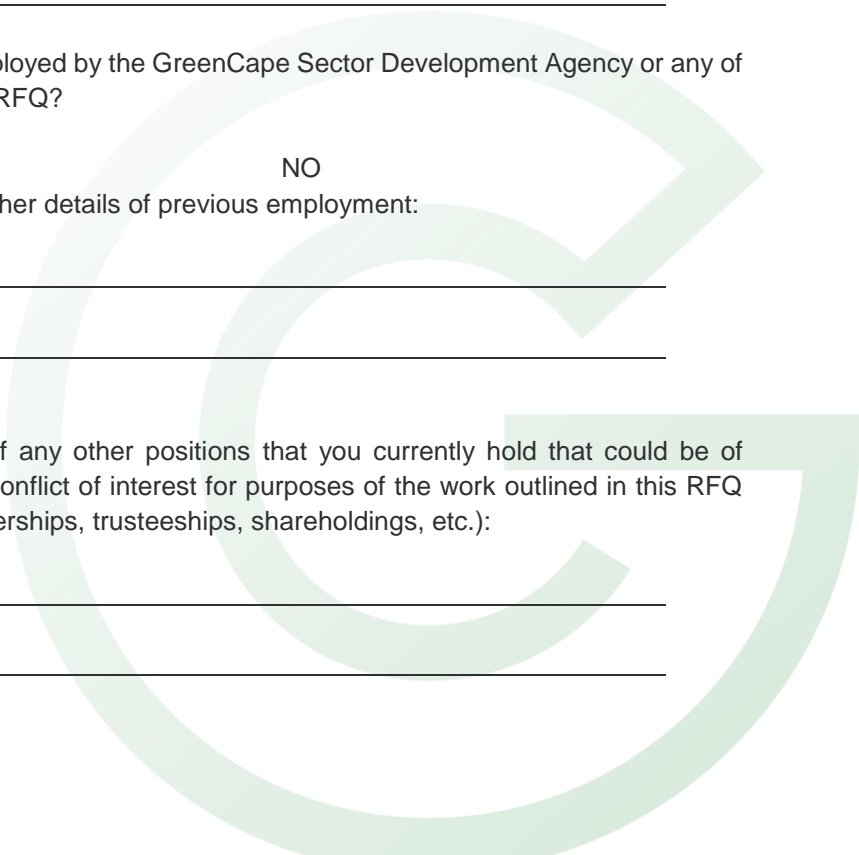
2. Do you have any relationship (family, friend or otherwise) with employees of The GreenCape Sector Development Agency or any of the funders listed in this RFQ?

YES NO
If yes, please furnish further particulars:

3. Were you previously employed by the GreenCape Sector Development Agency or any of the funders listed in this RFQ?

YES NO
If yes, please specify further details of previous employment:

4. Please provide details of any other positions that you currently hold that could be of relevance to assessing conflict of interest for purposes of the work outlined in this RFQ (e.g. directorships, partnerships, trusteeships, shareholdings, etc.):



I am aware that in the event of not accurately declaring any of the above, The GreenCape Sector Development Agency is entitled to terminate the agreement, and take any further action it deems necessary.

I hereby confirm that all the information provided above is true and correct.

SIGNATURE

FULL NAME

DATE

CAPACITY

