

**APPENDIX 6: CONTRACT MANAGEMENT
FINANCIAL & LEGAL REVIEW ASSESSMENT TOOL**

Contracting Parties :			
Name of Institution			
Name of Appointed Bidder			
Other (If Applicable)			
Bid Number (If Applicable)		Contract Number	
Contract Type		Original Contract Value	
Contract ID		Contract Duration	
Contract Period		Value after Extension (If Applicable)	
Contract Extension Period (If Applicable)			
Description of Goods/Works/Services			
Financial Analysis			
Legal Analysis			
Action Required			
General Comments			

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SECTION A: FINANCIAL REVIEW

Objective: *To Ensure Government Uses Contract Management to Achieve Economy, Efficiency and Effectiveness!*

No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan
1.	Procurement Plan	1.1 Were the goods / services / works included in the Procurement Plans for the relevant years and at correct amounts?							
2.	Budget	2.1 Were the goods / services / works budgeted for in the approved budget of the Department/ Municipality for the financial year in which the contract was awarded?							
		2.2 Enter the budget amount for the baseline year.							
3.		3.1 If it is a multi-year contract, has the contract been included in the MTEF budgets?							
		3.2 Enter the budget amount for subsequent years.							
		3.3 Total budgeted amount for the contract.				Automatic sum of 2.2 and 3.2			
4.	Escalations	4.1 Are there any price inflation/escalation clauses and/or exchange rate fluctuations in the contract?							
		4.2 If the answer to 4.1 above is yes, what is escalation based on (i.e. CPI Index or % based)?						CPI / %	
5.	Contract Value	5.1 Contract value.				Amount as per the contract register.			

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No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan
		5.2 Value of variations.				Amount as per the contract register.			
		5.3 Value of price inflation / escalations / exchange rate fluctuations.							
		5.4 Perform a recalculation of the total contract value (i.e. sum of the original contract awarded + variations + escalations etc.) and correct the contract register, if necessary.				Sum of 5.1, 5.2 and 5.3.			
		5.5 Compare the total contract value to the total budgeted for this contract.				Equal to 5.4 less 3.3 – If result is a positive amount, an exception should be raised to indicate that “Contract awarded exceeds budgeted amount”.			
6.	Payments made	6.1 Total payments to date.				Amount (need to obtain report of all payments from commencement of contract to date).			
		6.2 Compare the total value of the contract awarded (i.e. sum of the original contract awarded + variations + escalation etc.) to the total amount paid to date to determine if any over expenditure has been incurred (i.e. unauthorised expenditure).				5.4 – 6.1 – If the result is a negative amount, an exception should be raised to indicate that “Contract over expenditure has incurred”.			

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No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan
		6.3 By discussion with the Contract Manager, determine/establish the level of completion of the project (percentage).							
		6.4 Corroborate to the best extent possible 6.3 through minutes of project meetings or documentation attached to inter alia the last payment made on this contract.							
7.	Payment milestones	7.1 Are payment milestones specified in the contract (could be progress or delivery based)?							
		7.2 If the answer to 7.1 above is yes, have the payments made to date been made in terms of these milestones (select latest payment and test)?							
8.	Payments in terms of contract	8.1 Is a purchase order raised in relation to the contract value?							
		8.2 Are the purchase orders aligned to the values of the deliverables?							
		8.3 Have payments been made in terms of the contract? [i.e. evidence of delivery, unit price and quantity per invoice agree to amounts and quantities specified in the contract] (select latest payment and test).							

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No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan
		8.4 If answer to 8.2 above is no, provide details of exceptions.						Details	
9	Supporting documentation	9.1 Does the contract specify what the required supporting documents are that need to be included and submitted with the invoice, in order for payments to be effected?							
10.	Penalty Clauses	10.1 Are there any penalty clauses specified in the contract relating to non-performance?							
		10.2 If the answer to 10.1 above is yes, are the penalty clauses specific? (i.e. do they detail the amount / percentage to be recovered and under what circumstances the penalty clause is to be implemented.)							
		10.3 Include details of penalty clauses under the comments section.						Details	
		10.4 By discussion with the Project Manager, determine whether the penalty clause been implemented and the amounts due withheld from the subsequent payment to the supplier?						If the answer is no, raise an exception "Penalty clause not implemented"	
		10.5 If answer above is yes, then enquire from the Project Manager the amount of penalty recovered.							

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No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan	
11.	Discount Clause	11.1 Is there a discount clause in the contract?								
		11.2 If Yes, has this been effected?								
12.	Termination of contract	12.1 If for whatever reason the contract is terminated for default, is there a clause that considers all financial obligations?								
		12.2 Details of the clause.						Details		
		12.3 If the answer to 12.1 above is yes, has the clause been implemented? (e.g. Performance guarantee claim or excess costs of procuring the goods claimed from the original supplier.)								
		12.4 What are the reason(s) for termination?							Details	
		12.5 If the contract was terminated, what of the total amount paid, if any, COULD be considered to be fruitless and wasteful expenditure? (e.g. Construction contract terminated after design stage results in the expenditure relating to the design being fruitless and wasteful)								
13.	Expired contracts	13.1 If the contract has expired, have any payments been made for services/goods/works performed subsequent to the expiry of the contract?								
		13.2 Details of work performed and amount.						Details		

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No.	Category	Question	Yes	No	N/A	Amount	Evidence	Comments	Action Plan
14.	Expired contracts still in use	14.1 Has the contract expired and been extended on a month-to-month basis for more than 6 months?							
		14.2 If the answer to 14.1 above is yes, then include the number of months the contract has been extended for.						No of months extended for	
		14.3 Obtain the reasons for the above contract not going out to tender in a timely manner.						Details	

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SECTION B: LEGAL REVIEW

Objective: *To Ensure that Government's Interest is Protected!*

No.	Category	Question	Informative / Actionable	Yes	No	N/A	Evidence	Comments	Action Plan
1.	Classification	1.1 Is the Contract clearly classified?	I						
		1.2 If yes, what type of Contract?	I						
2.	Parties	2.1 Are the parties clearly defined?	I						
		2.2 Is a resolution confirming contractual capacity of the supplier attached to the contract?	I						
		2.3 Has the applicable regulatory authority the supplier subscribes to been identified in the contract? E.g. CIDB, Law Society, etc.?	I						
3.	Duration	3.1 Commencement date?	I						
		3.2 Date of completion?	I						
		3.3 Any renewal period?	I						
		3.4 Any extension mechanism?	I						
4.	Subject matter: goods and services	4.1 Description of goods/services?	I						
		4.2 Quantities?	I						
		4.3. Scope of services?	I						
		4.4 Contract price?	I						
5.	Performance by Supplier	5.1 Specifications?	A						
		5.2 Service standards?	A						
		5.3 Delivery dates?	A						
		5.4 Performance monitoring method?	A						
		5.5 Responsible contact person?	I						
6.	Performance by	6.1 Are the terms of payment defined?	A						

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No.	Category	Question	Informative / Actionable	Yes	No	N/A	Evidence	Comments	Action Plan
	government	6.2 Are there any milestones defined?	A						
		6.3 Are the obligatory actions clearly defined?	A						
		6.4 Are the dates clearly stipulated for 6.3?	A						
		6.5 Responsible official?	I						
7.	Contract Suspension	7.1 Is there a suspension clause?	A						
		7.2 Grounds for suspension?	A						
8.	Termination	8.1 Any provision for early termination by either party?	A						
		8.2 Grounds for early termination?	A						
		8.3 Remedies upon early termination?	A						
9.	Penalties	9.1 Is there a penalty clause?	A						
		9.2 Are there penalty triggers?	A						
		9.3 Are there penalty consequences?	A						
		9.4 Penalty remedies for government?	A						
10.	Breach	10.1 Is there a breach clause?	A						
		10.2 Are there breach events?	A						
		10.3 Are breach events clearly defined (enforcement of the terms and conditions/ claim for damages)?	A						
11.	Dispute Resolution	11.1 Is there a dispute resolution clause?	I						
		11.2 What type of dispute resolution?	I						
12.	Variation	12.1 Is there a variation clause?	A						
		12.2 Does the clause set parameters for purposes of variation?	A						
13.	Warranties	13.1 Are there any warranties that the supplier provides?	I						
		13.2 Is there a monitoring mechanism of warranties?	I						

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No.	Category	Question	Informative / Actionable	Yes	No	N/A	Evidence	Comments	Action Plan
		13.3 Are the warranties adequately covered (e.g. under the General Conditions of Contracts and or Special Conditions of Contract) ?							
14.	Indemnities	14.1 What indemnities does the supplier give?							
		14.2 Are the indemnities adequately covered (e.g. under the General Conditions of Contracts and or Special Conditions of Contract)?							
15.	Guarantees	15.1 Are guarantees and other securities provided?							
		15.2 Are those guarantees and securities adequately covered (e.g. in compliance General Conditions of Contracts and or Special Conditions of Contract)?							
		15.3 Is there a due date for provision of guarantees specified?							
		15.4 Is there a monitoring mechanism created for guarantees?							
16.	Insurance	16.1 Is there an insurance clause?							
		16.2 Party responsible for insurance?							
		16.3 Is there a monitoring mechanism created to monitor the insurance?							
17.	Limitation of liability	17.1 Is there a limitation of liability clause?							
		17.2 Is the limitation on penalties and or damages appropriate? (in compliance with the General Conditions and or Special Conditions of Contract.)							
18.	Conditions: Suspensive and Resolutive	18.1 Are conditions of the Contract properly defined?							
		18.2 Action by supplier?							
		18.3 Action by government?							
19.	Ownership of IP	19.1 Is there an ownership of IP clause?							
20.	Conflict of Interest	20.1 Is there a conflict of interest clause ?							

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No.	Category	Question	Informative / Actionable	Yes	No	N/A	Evidence	Comments	Action Plan
21.	Confidentiality	21.1 Is there a confidentiality clause ?	I						
22.	Risk	22.1 Is there a risk management clause?	i						
		22.2 Does the clause refer to a Risk Management Plan. e.g. GAS Risk Management Plan, ENATIS, etc.?	I						
		22.3 Is there a monitoring mechanism created to monitor compliance with the risk management plan?	I						
23.	Validity and Enforceability	23.1 Does the agreement comply with all statutory formalities?	I						
24.	Addendums/ appendixes	24.1 Are there any addendums attached to the contract? If yes, what are the addendums?	I						
25.	Standardisation	25.1 Could the agreement / or any clause be standardised?	I						
26.	General Comments	26.1 Contract biasness (i.e Government, neutral, supplier?)	I						
		26.2 Are there any conflicting terms and blanks?	I						
		26.3 Is there any reliance or relationship to other agreements?	I						
		26.4 Is there any recommendation for further investigation?	A						

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SECTION C: ACTION PLAN

No	Item	Action Plan	Action Date	Status	Risks		
					Impact	Likelihood	Rating
Section A: Financial Review							
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
Section B: Legal Review							
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

RISK RATING

I M P A C T	5	5	10	15	20	25
	4	4	8	12	16	20
	3	3	6	9	12	15
	2	2	4	6	8	10
	1	1	2	3	4	5
	T		1	2	3	4
LIKELIHOOD						

Risk index	Risk Magnitude
20 – 25	Maximum
15 – 19	High risk
10 – 14	Medium risk
5 – 9	Low risk
1 – 4	Minimum risk

SIGNATURES

Financial Reviews

Compiled By: _____

Date: _____

Approved By: _____

Date: _____

Legal Reviews

Compiled By: _____

Date: _____

Approved By: _____

Date: _____