

GUIDELINES ON MINIMUM REQUIREMENTS FOR IMPLEMENTING AGENTS IN THE BASIC EDUCATION SECTOR



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA



GUIDELINES ON MINIMUM REQUIREMENTS FOR IMPLEMENTING AGENTS IN THE BASIC EDUCATION SECTOR

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FOREWORD



The process of planning, designing, constructing and monitoring the implementation of infrastructure projects involves a number of key role-players. For the process of infrastructure delivery to work smoothly and for all the required deliverables to be realised when they are expected, at the agreed costs, covering all the identified scope, and meeting the required quality standards, the roles and responsibilities of each of the role-players in the delivery chain have to be defined, communicated to all and adhered to at all times. By its very nature, the process of delivering infrastructure projects involves procurement processes and has to follow project management best practices, that when audited by the Auditor-General, must not be found wanting.

One of the critical role-players or Service Providers involved in the delivery of infrastructure projects are Implementing Agents. The use of services of Implementing Agents has gradually increased over years because the public sector is saddled with the reality of dire shortage of professionals in the built environment who have requisite technical and programme/project management skills to manage the implementation of these projects. The basic education sector has not been spared from this dilemma and has also been employing services of Implementing Agents. However, while this is the case, the sector has not enjoyed fully the benefits of engaging services of Implementing Agents primarily because what is expected from them in terms of the service offerings and what they should possess as Implementing Agents, has not been spelt out in any document. This has led to inconsistency of practice, delays in implementing projects and unnecessary audit findings.

The Department of Basic Education has identified this unpalatable problem and considered it necessary to develop this document, the **Guidelines on Minimum Requirements for Implementing Agents in the Basic Education Sector** (the “*IA Guidelines*”). These **Guidelines** have been developed to facilitate the implementation of Sections 3(3) and 5A of the South African Schools Act (No. 84 of 1996), as amended. It provides guidelines on what is to be expected of Implementing Agents when assisting Client Departments with implementing their infrastructure projects. It specifies the roles and responsibilities of Implementing Agents and indicates the basic systems, processes and institutional structures that Implementing Agents should, as a minimum, have in place in order to improve chances of success when providing their services to the public sector clientele. It is also aimed at assisting Client Departments in assessing the suitability of entities they intend to engage, and/or in conducting suitability and performance audits on those already engaged. However, this document does not specify any approach that should be followed by various Client Departments in procuring the services of implementing Agents because this is regulated by the National Treasury.

These **IA Guidelines** were discussed with various entities before they were finalised. These entities include all the Provincial Education Departments, National Treasury and Implementing Agents. Their comments and inputs were incorporated in the documents. Subsequently, these **Guidelines** were approved by the Council of Education Ministers.

We appreciate the fact that these **Guidelines** would be implemented for the first time by the sector and therefore there would be a number of lessons learned, requiring further improvements. Therefore we invite any other suggestions from our stakeholders and the general members of the public to enable continuous improvement of these **Guidelines** to be realised. These should be addressed to the Director-General of the Department of Basic Education, for the attention of Dr M. Mabula at mabula.m@dbe.gov.za

A handwritten signature in black ink, appearing to read 'A.M. Motshekga', written over a horizontal line.

Mrs A.M. Motshekga, MP

MINISTER OF BASIC EDUCATION

Date: 25 April 2019

1. ACRONYMS AND DEFINITIONS

1.1 Acronyms and Abbreviations

AFS	-	<i>Annual Financial Statement</i>
AG	-	<i>Auditor-General</i>
AO	-	<i>Accounting Officer</i>
APM	-	<i>Association for Project Management</i>
B4 / B5	-	<i>Provincial Budget Allocation Document with project lists</i>
BAS	-	<i>Basic Accounting System</i>
B-BBEEA	-	<i>Broad-Based Black Economic Empowerment Act (Act 53 of 2003)</i>
CD	-	<i>Client Department</i>
CEO	-	<i>Chief Executive Officer</i>
CFO	-	<i>Chief Financial Officer</i>
CIDB	-	<i>Construction Industry Development Board</i>
CPS	-	<i>Construction Procurement Strategy</i>
CSD	-	<i>Central Supplier Database</i>
DBE	-	<i>Department of Basic Education</i>
DMCS	-	<i>Document Management and Control System</i>
ECSA	-	<i>Engineering Council of South Africa</i>
EFMS	-	<i>Education Facilities Management System</i>
EMIS	-	<i>Education Management Information System</i>
EPWP	-	<i>Expanded Public Works Programme</i>
FY-E	-	<i>Financial Year-end</i>
GD	-	<i>Government Department</i>
IA	-	<i>Implementing Agent</i>
ICT	-	<i>Information and Communications Technology</i>
IDMS	-	<i>Infrastructure Delivery Management System</i>
IPIP	-	<i>Infrastructure Project Implementation Plan</i>
IPMP	-	<i>Infrastructure Programme Management Plan</i>
IRM	-	<i>Infrastructure Reporting Model</i>
MSP	-	<i>Managing Successful Programmes</i>
NT	-	<i>National Treasury</i>
OGC	-	<i>Office of Government Commerce</i>
PBS	-	<i>Product Breakdown Structure</i>
PED	-	<i>Provincial Education Department</i>
PFMA	-	<i>Public Finance Management Act (Act 1 of 1999)</i>

PgMP	-	<i>Programme Management Professional</i>
PMI	-	<i>Project Management Institute</i>
PMP	-	<i>Project Management Professional</i>
PMQ	-	<i>Project Management Qualification</i>
PPPFA	-	<i>Preferential Procurement Policy Framework Act (Act 5 of 2000)</i>
PRINCE2	-	<i>Projects in a Controlled Environment</i>
PSP	-	<i>Professional Service Provider – also known as a Consultant</i>
SACAP	-	<i>South African Council for the Architectural Profession</i>
SACQSP	-	<i>South African Council for the Quantity Surveying Profession</i>
SAICA	-	<i>South African Institute for Chartered Accountants</i>
SDA	-	<i>Service Delivery Agreement</i>
SHE	-	<i>Safety, Health and Environment</i>
SIPDM	-	<i>Standard for Infrastructure Procurement and Delivery Management</i>
SME	-	<i>Small and Medium Enterprise</i>
SOE	-	<i>State-owned Entity</i>
SP	-	<i>Service Provider</i>
TCS	-	<i>Tax Clearance Status</i>
VO	-	<i>Variation Order</i>
WBS	-	<i>Work Breakdown Structure</i>
WIP	-	<i>Work-in-Progress</i>

1.2 Definitions

For the purpose of these *IA Guidelines*, the following terms shall bear the meanings reflected herein under:

- Client Department** : Means any Government Department that has engaged services of an Implementing Agent.
- Constitution** : Means the Constitution of the Republic of South Africa (Act 108 of 1996).
- Contract Duration** : Means the duration of a contract between a Client Department and an Implementing Agent (IA) that, as a minimum, should cover the duration of contracts the IAs would have with the Service Providers it would transact with, which, preferable, should not be less than three (3) years for infrastructure projects.
- Department** : Means the Department of Basic Education and any of the nine (9) Provincial Education Departments.
- Entity** : Means any public or private sector organisation that is legally registered in South Africa or mandated to provide certain services.
- Government Department** : Means any Government Department as contemplated in the Constitution.
- Implementing Agent** : Means any entity that provides professional services, as contemplated in Section 8 of these *IA Guidelines*, in assisting Client Departments with implementation of their infrastructure projects, and meeting all the minimum standard requirements as listed in Section 9 of these *IA Guidelines*.
- Implementing Agency Services** : Means a list of services to be provided by an Implementing Agent to a Client Department, as contemplated in Section 8 of these *IA Guidelines*.
- Professionals in the Built Environment** : Means Architects, Civil/Structural Engineers, Electrical/ Mechanical Engineers and/or Quantity Surveyors.
- State-Owned Enterprise** : Means any Public Entity that is classified as such, per the provisions of the *Public Finance Management Act*.
- Service Providers** : Means Professional Service Providers and Contractors (Main Contractors and Sub-contractors) that would be appointed by an Implementing Agent to implement projects awarded to it by a Client Department.

2. BACKGROUND

2.1 Contextual Issues

Service delivery is key in enabling the South African Government to realise its objectives on economic development, reduction of unemployment, improvement of the well-being and socio-economic emancipation of its citizens, and in providing basic services to the communities. It is a yard-stick by which the Government at large, individual Government Departments and State-owned Enterprises are assessed and judged on their ability to fulfil their mandate.

The ability to realise service delivery presupposes that the entities mandated to deliver these basic services had the requisite skills, technical know-how, adequate personnel and sufficient funding to enable realisation of their goals. Where any of these key drivers falls short, service delivery is hampered.

The Department of Basic Education (DBE) and the nine (9) Provincial Education Departments (“the Department”) have a constitutional mandate and concurrent functions of providing quality education to the learners. This mandate extends to a need to provide complete, purpose-built, safe, and accessible Education Facilities that are of quality and cost effective in which these services could be provided. However, one of the major challenges that the Department has been faced with is the provisioning of the necessary education infrastructure. The nature of problems that have been encountered include timeous completion of these infrastructure projects, quality of deliverables, cost of providing the requisite infrastructure, availability of sufficient budget and a plethora of audit findings arising from the implementation of these projects.

Implementing Agents (IAs) have been used to assist Client Departments (CDs) with the implementation of their infrastructure projects, where some IAs have been “imposed” upon the CDs and others solicited by the CDs. However, not too much relief and joy have been realised by the CDs despite these interventions. The question has been on how this situation could be improved.

2.2 Introduction

From time to time various Government Departments (GDs), at local, provincial and national levels, make use of services of IAs to assist them in facilitating the implementation of their infrastructure projects. The need for utilising the services of IAs stems from the fact that generally a number of GDs do not have the capacity, technical expertise, systems and processes to plan, procure services of various Service Providers (Professional Service Providers and Contractors) and manage the implementation of their infrastructure projects effectively. Therefore IAs have been engaged to provide professional services towards bridging this gap. Section 238 of the Constitution provides for agency and delegation where it allows an executive organ of state in any sphere of government to delegate any power or function to any other executive organ of state. As the case is with any other services, a CD may also opt to solicit services of other entities to provide IA services through other means, as provided for in the National Treasury Regulations. The provisioning of IA services is construed to be in line with these provisions and as accorded in the National Treasury Instruction 04 of 2014/15 and National Treasury Instruction 02 of 2015/16.

While there is a general acceptance of utilisation of IAs in the public sector, there is no sector-specific standard framework or guidelines defining:

- (a) What the entities who regard themselves as IAs should, as a minimum, possess in terms of technical resources, processes, institutional structures and management systems for them to be regarded as IAs;
- (b) The Scope of Services to be provided by IAs; and
- (c) The expected minimum level and standard of services to be provided by IAs.

As a result of this shortcoming:

- (a) Huge inconsistencies have been encountered on the scope and level of services provided by IAs;
- (b) Different interpretations of some of the concepts, particularly of financial nature, and on some reporting requirements;
- (c) Uncertainty on how to deal with some transactional issues pertaining to IAs;
- (d) Inconsistencies on how IAs across the sector are treated or dealt with by CDs;
- (e) Poor performance has been experienced with some of the IAs, leading to poor service delivery, delays in the implementation of projects and unnecessary audit findings against the CDs they provide services to.

The DBE has developed this document, the ***Guidelines on Minimum Requirements for Implementing Agents in the Basic Education Sector*** (the “*IA Guidelines*”), to provide guidance to the basic education sector on the minimum level of service to be expected from entities that provide Implementing Agency Services when providing professional assistance to CDs on the implementation of their infrastructure projects. It also highlights minimum requirements regarding management systems, internal processes, institutional structures and technical skills that such entities should possess.

3. OBJECTIVES OF THE GUIDELINES

- (1) The objectives of these *IA Guidelines* are to:
 - (a) Provide guidance to the sector on the minimum requirements to be met by entities that provide Implementing Agency Services. These minimum requirements include, but not limited to:
 - (i) The nature of services that should be provided by IAs;
 - (ii) The capacity that IAs should have, in terms of their technical human resources;
 - (iii) The skills level of their key technical personnel;
 - (iv) The governance framework that should be in place; and
 - (v) The key management systems and processes that should be provided.
 - (b) Enable the Department to have a meaningful tool that it could use to assess the legitimacy or acceptability of an entity whose IA Services it seeks to engage. It also provides a means by which it could assess the performance of entities that have already been engaged.
 - (c) Implicit in the letter and in spirit, and considering the fact that IAs act as Agents of their Client Departments, these *IA Guidelines* require that, as bare basic minimum, any entity implementing infrastructure projects on behalf of a Client Department, particularly in the Basic Education Sector, observe, adhere and align their business processes to:
 - (i) All the prescripts applicable in the Public Sector on infrastructure provisioning (e.g. Applicable National Treasury Acts and Regulations, Supply Chain Management/ Procurement Policies, Construction Industry Development Board (CIDB) Prescripts, SIPDM, IDMS, etc.);
 - (ii) National and relevant International Standards applicable on infrastructure provisioning;
 - (iii) *Norms and Standards for Education Facilities*; and
 - (iv) Various Guidelines and Framework Documents on infrastructure development that are issued from time to time by the Department of Basic Education.
- (2) The strategic intent and intended outcomes are to:
 - (a) Protect Client Departments (CDs) from inviting and/or engaging entities that do not meet the minimum requirements of an IA, including those solicited through Section 238 of the Constitution;
 - (b) Provide a means by which CDs could deal with IAs that are “imposed” upon them or cease their services if they do not meet the minimum requirements, and/or if their performance does not meet the expected industry standards;
 - (c) Provide a vehicle through which CDs and IAs can have clearly defined and commonly understood Roles and Responsibilities that govern implementation of infrastructure projects;
 - (d) Eliminate delays associated with the implementation of infrastructure projects;
 - (e) Eliminate unnecessary audit findings arising from the failure to observe basic statutory fundamentals and responsiveness to audit queries; and
 - (f) Ensure uniformity of practice, improve predictability of performance standards (processes and outcomes), and instil pursuit of best practices in implementing infrastructure projects, thereby expediting access by learners and teachers to quality schooling infrastructure and access by members of the public to basic services thereby improving quality of their lives.

4. APPLICABLE LEGISLATION AND ASSOCIATED DOCUMENTS

These *IA Guidelines* should be read and construed in the context of the applicable acts, policies, standards, guidelines, notices, as amended from time to time, which include:

- (1) Constitution of the Republic of South Africa (Act No. 108 of 1996);
- (2) National Education Policy Act (Act No. 27 of 1996);
- (3) South African Schools Act (Act No. 84 of 1996), as amended (SASA);
- (4) Public Finance Management Act (Act No. 1 of 1999) (PFMA);
- (5) Division of Revenue Act, as gazetted from year to year (DoRA);
- (6) Preferential Procurement Policy Framework Act (Act No. 5 of 2000) (PPPFA);
- (7) National Treasury Supply Chain Management Guide, February 2004;
- (8) National Treasury Regulations, March 2005;
- (9) Broad-Based Black Economic Empowerment Act (Act No. 46 of 2013) (B-BBEEA);
- (10) National Treasury Preferential Procurement Regulations, 2017;
- (11) National Treasury Instructions:
 - (a) Of 31 May 2011: *Enhancing Compliance Monitoring and Improving Transparency and Accountability in Supply Chain Management*;
 - (b) No. 04 of 2014/15 : *Management Fees to be Charged by the Independent Development Trust (IDT)*;
 - (c) No. 02 of 2015/16 : *Cost Control Measures for Construction of Schools*;
 - (d) No. 04 of 2015/16 : *Standard for Infrastructure Procurement and Delivery Management*;
 - (e) No. 02 of 2016/17 : *Cost Containment Measures*;
 - (f) No. 03 of 2016/17: *Cost Containment Measures Related to Travel and Subsistence*;
 - (g) No. 05 of 2016/17: *30-Day Payments to Suppliers/Creditors*;
 - (h) No. 15 of 2016/17: *Threshold for Local Content for Components for Construction*;
- (12) Construction Regulations (2014), issued by the Department of Labour;
- (13) National Environmental Management Act (Act No. 107 of 1998);
- (14) Occupational Health and Safety Act, (Act No. 85 of 1993) (OHSA);
- (15) National Building Regulations and Building Standards Act (Act (No. 103 of 1977);
- (16) All applicable South African National Standards;
- (17) Any relevant International Standards (e.g. ISO, AASHTO, ASTM, BS, DIN, etc.);
- (18) SATS 1286:2011, Local Goods, Services and Works – Measurement and Verification of Local Content;
- (19) Government Immovable Asset Management Act (GIAMA) (Act No. 19 of 2007);
- (20) Standard for Infrastructure Procurement and Delivery Management (SIPDM), National Treasury, October 2015;
- (21) Standard for Uniformity in Construction Procurement, CIDB;
- (22) Norms and Standards for Education Facilities.

5. APPLICABILITY OF THE GUIDELINES

- (1) The provisions of these *IA Guidelines* are applicable to:
 - (a) The Department of Basic Education (DBE) and all the Provincial Education Departments (PEDs);
 - (b) Any other Government Department and State-owned Enterprise that may wish to use them;
 - (c) All the entities that have intentions of providing Implementing Agency Services to the Department;
 - (d) All entities that have already been engaged (either voluntarily or “imposed”) or in the process of being engaged by the Department to provide Implementing Agency Services.
- (2) The provisions of these *IA Guidelines* would be applicable:
 - (a) When soliciting or procuring services of an entity that intends to provide Implementing Agency Services to a CD;
 - (b) When assessing or auditing the extent to which an IA that has already been engaged by a CD meets the minimum standard requirements of an IA, per the provisions of these *IA Guidelines*; and
 - (c) When assessing level of performance on an IA that has already been engaged by a CD.
- (3) The provisions of these *IA Guidelines* are applicable regardless of the programme under which the basic education infrastructure projects would be / are implemented.

6. NATURE OF PROBLEMS ENCOUNTERED IN THE IMPLEMENTING AGENCY SPACE

- (1) Numerous problems have been experienced in the implementing agency space – problems experienced by Client Departments (CDs) with Implementing Agents (IAs) and problems experienced by IAs with CDs. This has led to poor performance and late delivery of projects.
- (2) This section highlights the nature of problems that have been encountered in the implementing agency space. Its primary purpose is to create awareness and to ensure that such pitfalls are managed tightly and avoided when IAs are engaged.

6.1 Problems Encountered by Client Departments with IAs

(1) Misalignment of Objectives

- (a) Misalignment of key business and strategic objectives of an IA from a CD's, with the measure of performance assessed differently for the same item, especially where public entities provide IA services.
- (b) Audit findings and failure to perform by an IA not levelled against an IA concerned as well but reported only against a CD.

(2) Capacity Related Challenges:

- (a) Lack of capacity – not enough qualified and competent professionals to manage projects.
- (b) Lack of requisite skills – involvement of people with no know-how in implementing infrastructure projects, with a tendency of being a conduit for information, passing it through without reviewing, scrutinising or interrogating it before being submitted to a CD. This is not only limited to technical or project management skills but also to other skills in the associated fields such as Project Accounting; Supply Chain Management; Contracts Management; Safety, Health & Environment; and Document Management.
- (c) Assigning fairly junior members of staff on projects and/or overloading Project Managers with a number of projects to reduce overhead costs.

(3) Procurement Related Challenges:

- (a) Not following due processes on procurement when soliciting services of Professional Services Providers (PSPs) and Contractors, with fair and transparent processes not followed at all times.
- (b) Absence of well-constituted procurement structures (e.g. Bid Specification Committee, Bid Adjudication Committee, Bid Evaluation Committee, etc.).
- (c) Not following PFMA prescripts in constituting bid committees (proper delegations) and/or no proper processes followed where changes need to be effected on the composition of these committees.
- (d) Protracted procurement processes leading to delays in the implementation of infrastructure projects.
- (e) Appointment of Service Providers (SPs) with no requisite skills and with no statutory documentation e.g. Valid Tax Clearance Certificates, correct CIDB Grading, etc.).
- (f) Not checking properly the capacity of SPs before recommending them for appointment.

- (g) Allowing SPs to resume work without the necessary mandatory/contractual documentation which include letters of appointment, documented Client approvals, agreements, guarantees, necessary insurances, and Health & Safety Files.

(4) Challenges with Planning Processes:

- (a) Poor planning of projects leading to poor execution, delays with their implementation, poor expenditure of allocated budget, high number of Variation Orders, and budget overruns;
- (b) Misalignment between the CD's Infrastructure Programme Management Plan (IPMP) and the IA's Infrastructure Project Implementation Plan (IPIP);
- (c) Poor management of processes associated with various approvals (Construction Work Permits, land ownership transfers, land-use rezoning applications, environmental approvals, Site Development Plans, applications for Municipal connections, etc.);
- (d) Poor management of PSPs, allowing them to proceed to tender stage for Contractors:
 - (i) Without site investigations been carried out to inform the designs;
 - (ii) Without Design Reports;
 - (iii) With incomplete or incorrect tender documentation, especially Tender Drawings, Technical Specifications and/or Bill of Quantities;
- (e) Site handed over process carried out and Contractors allowed to commence with construction activities without proper documentation.

(5) Challenges with Institutional Processes:

- (a) Poor documentation or paper trail on the processes followed such as procurement, project management, contracts management, financial transactions, changes to initial approvals or baselines, etc.;
- (b) Poor record keeping leading to loss of critical documentation such as procurement documentation, payment certificates, minutes of meetings, record of approvals by CDs, record of approvals by various authorities, instructions to SPs, submissions to and approvals by internal structures, etc.;
- (c) Lack of organisational quality management systems – leading to poor quality planning processes and poor quality control measures on the projects being implemented with respect to the processes followed and the intended deliverables (both specialist and physical products); and
- (d) Lack of robust financial management systems and controls – poor financial management protocols, poor financial reporting, poor reconciliation of financials, payments to SPs exceeding the contracted amounts.

(6) Challenges with Contracts Management Processes:

- (a) Poor and/or unauthentic reporting to CDs;
- (b) PSPs appointed without proper service contracts that define critical terms of engagement such as the Scope of Service;
- (c) Absence of well-established and effective systems for monitoring and controlling SPs;
- (d) Letting poorly performing SPs to continue working on projects, lack of proper and adequate paper trail in monitoring the performance of SPs, and not following correct processes in terminating services of poorly performing SPs;
- (e) Not blacklisting poorly performing SPs on the National Treasury Database.

(7) Challenges with Project/Programme Management Protocols:

- (a) Poor development, management and execution of Project Management Subsidiary Plans (i.e. Integration, Scope, Schedule, Cost, Risk, Quality, Resource, Stakeholder, Communication, and Procurement Management Plans);
- (b) Poor Project Management processes - Basic processes of initiating a project, poor scope definition leading to unnecessary Variation Orders (VOs), proper planning and design processes not followed leading to fundamental steps such as necessary site investigations and approvals by the relevant authorities not solicited and processes being missed leading to avoidable VOs;
- (c) VOs dealt with as *post facto* where changes to the initial Scope of Work are effected without prior approvals been solicited, and VOs submitted to the CDs for approval request at the end of the project not when they occur;
- (d) Lack of detailed information when reporting on scope changes that have financial implications. Typically, this is encountered mostly with claims for additional funds associated with remeasurables but without explicitness on what they are.
- (e) Not meeting the reporting requirements associated with furnishing requisite information on the management systems such as EFMS and IRM – information either submitted late, incomplete and/or incorrect.
- (f) Protracted processes of closing projects after the Practical Completion Stage has been reached – collation of relevant certificates (e.g. Certificates of Compliance, Electrical Occupancy Certificates, Fire Certificates, etc.) guarantees/warranties, maintenance plans, finalisation of Final Accounts, preparation and finalisation of Close-out Reports.

(8) Challenges Related to Financial Management:

- (a) Inability to produce reasonable accurate cash-flow projections for project roll-out, leading to effective management of projects.
- (b) Inability to provide reasonably accurate monthly cash-flow projections, leading to premature depletion of transferred Programme Funds, late payment delays to Service Providers (SPs) and late completion of projects.
- (c) Inability to account, to a reasonable level of accuracy, the utilisation of transferred Programme Funds.
- (d) Late payments to SPs while Programme Funds had been transferred to IAs – leading to cash-flow problems experienced by SPs, abandonment of work on site by SPs, delays with completion of projects, high cost of doing work associated with interest charges, necessary re-working after protracted work stoppages, high coverage for late payment risk imposed by the SPs at bidding stage, good performing SPs opting for other projects leading to the sector remaining with average or poorly performing SPs.
- (e) Use of transferred funds for unintended purposes /unauthorised expenditure, paying SPs who were not included in the request for Tranche Payments.
- (f) Processing payments to SPs without confirming that value for money was realised on site.
- (g) Duplicate payments made to SPs.

6.2 Problems Encountered by IAs with Client Departments

- (1) **Late transfer of tranche payments** for Programme Funds – leading to inability to pay SPs on time, compromise cash-flow status of SPs especially SMEs, various threats to Project Managers by SPs, looming court challenges, dented image of IAs.
- (2) **Late issuing or confirmation of project lists** – leading to IAs being unable to plan human resource allocation on time, insufficient time for proper planning by IAs and PSPs, lots of VOs during project execution, inability to deliver projects on expected dates, and inability to spend allocated budget.
- (3) **Inadequate time** allowed to conduct detailed and proper analysis of tendered rates (sensitivity and risk analysis) by IAs leading to poor choice of SPs who in turn “cut corners” to save costs.
- (4) **Delays with processing of approval requests** – leading to IAs and SPs being unable to proceed to the next stage of the project, inability to implement the project at the planned pace, late completion of projects, and inability to spend the allocated budget.
- (5) **Impromptu Budget Cuts** – leading to compromised liquidity and cash-flow of SPs, loss of momentum in executing projects, Project Managers under-utilised, dented image of IAs.
- (6) **Low percentage of Implementing Agency Fees** – leading to IAs being unable to fund all the required resources (technical and support), junior Project Managers assigned on the projects, and too many projects assigned to one Project Manager. In turn these lead to poor management of projects and inability to deliver on expectations.
- (7) **Lack of document management system** - leading to CDs being unable to file/store copies of critical project/contract documentation (e.g. letters of appointment, contracts, procurement documentation, change request approvals, completion certificates, guarantees, As-built Drawings, Close-out Reports, etc.) misplacement of documents submitted by IAs, duplicate requests for the same information, and increased cost doing work.
- (8) **Poor utilisation of developed systems** such as the Education Facilities Management System (EFMS) to track progress, manage projects, retrieve required information and to make informed decisions but rather, primarily, used as a punitive measure where it has not furnished by IAs. Information that is readily available in ICT Systems, such as the EFMS, still requested for from IAs during audit period.
- (9) **Tendency to impose inappropriate technical solutions** to IAs, leading to costly (from Life-cycle Cost Analysis) and unsustainable solutions being implemented.

7. DEFINING AN IMPLEMENTING AGENT

7.1 What is an Implementing Agent?

- (1) While some Government Departments are expected to deliver infrastructure projects, including basic education infrastructure, they are either not set up or well-constituted to implement these infrastructure projects in-house because of:
 - (a) Lack of or insufficient **Technical Capacity**, i.e. not enough number of relevant and competent human resources (professionals in the built-environment, in project accounting, supply chain management, contracts management, etc.) to implement infrastructure projects;
 - (b) Lack of **Technical Skills**, i.e. lack of requisite technical and professional know-how in disciplines such as Engineering, Quantity Surveying, Architecture and in knowledge areas such as Project Management, Project Accounting, Safety Health & Environment, Contracts Management, and Supply Chain Management;
 - (c) Inadequate proper **Governance Framework**, i.e. relevant processes and organisational structures to manage Procurement Processes, Project Management Processes, Project Financial Management and Project Accounting Processes, and Internal Audit Functions; and
 - (d) Lack of appropriate **Management Systems**, i.e. effective and reliable Procurement Systems, Financial Management Systems, Project Management Systems, Contracts Management Systems, and Document Management & Control Systems.
- (2) The lack of critical framework highlighted in paragraph (1) above leads to poor planning, weak controls, poor monitoring and oversight functions, budget overruns, inordinate delays in implementing projects thereby hampering service delivery, and unnecessary audit findings.
- (3) An Implementing Agent (IA) therefore is an entity:
 - (a) That has a formidable and tested framework for implementing infrastructure projects in the public sector, therefore has been active in this space for a reasonable period of time.
 - (b) That, as a minimum, possesses all the requirements highlighted in paragraphs (1)(a) to (d) above, and those reflected under Sections 7.2, 8 and 9 of these *IA Guidelines*;
 - (c) Whose services are solicited by CDs to bridge short-comings experienced by those CDs and to assist them in carrying out activities that ought to have been carried out by the respective CD;
 - (d) That, for all intents and purposes, acts on behalf of the CDs they provide services to;
 - (e) That, because of the positioning stated in paragraph (d) above, must have in place systems and process that are aligned to those in the Public Sector and must follow the prescripts and legislative framework that govern the Public Sector in implementing infrastructure projects;
 - (f) That, as a consequence of paragraphs (d) and (e) above, should be capable of being audited by the Auditor-General as part of the process of auditing their CDs; and
 - (g) That should be juristic person / legal entity that can sue and/or be sued jointly and severally with their CDs on matters pertaining to infrastructure projects they are implementing.
- (4) Following paragraph (3) above and the provisions of Sections 7.2, 8 and 9 of this document, it should be appreciated that the services of IAs are more intricate, more involved and span way beyond the provision of normal project management services that most Service Providers are accustomed to.
- (5) Any entity will be regarded as an IA only and only if it meets the minimum requirements set out in

paragraphs (1) and (3) above and minimum requirements set out under Sections 7.2, 8 and 9 of these *IA Guidelines*, and can demonstrate that it has been having these in place and implementing them fully over a reasonable number of years, where experience gained through the learning curve and maturity of its systems and processes could be attested to. This seeks to guard against instances where entities attempt to set up this business (w.r.t systems and processes) only after they have been engaged by a CD, leading to a flurry of unwanted failures when the contracts are executed.

- (6) Where a CD considers engaging an IA that is a start-up, because of its developmental agenda/or and in pursuit of a quest for expanding the market, it must condition itself for teething problems at the infancy stage because it is not only a question of “what” is in place that matters, but, most importantly, it is also the “how” of execution. This period, i.e. the learning curve, could last up to 1.5 years or more. This drive is not encouraged as it would be pursued at the expense of service delivery and should therefore be avoided at all costs especially if an entity that is considered was not organically set up to implement infrastructure projects in the public sector and had not been engaged in such activities over reasonable period of time of about 5 years or more. Where this has to be considered because of strategic imperatives, start-ups should be appointed together with existing IAs that are well-established and well-performing.
- (7) In pursuing further the objectives and intent of paragraph (6) above, it should be emphasized that while PSPs do provide consultancy services in the project implementation space and might have provided project management services, such are not deemed to be equivalent to day-to-day activities of entities that have been organically set up to provide Implementing Agency Services and should therefore not be construed, considered, assumed or regarded in the same light.

7.2 Strategic Intent and Value-add Proposition of IAs

- (1) From a CD’s perspective, the primary and single-most important objective of seeking services of an IA is for such entity to provide professional assistance/services to the CD concerned on the implementation of its infrastructure projects. Therefore an IA’s value-add proposition, as a business entity, should be on the quality and efficacy of professional assistance/service it provides.
- (2) If an IA cannot provide professional assistance to the satisfaction of a CD they seek to provide services to, then there is no value-add and they are of no use to the CD concerned but an unnecessary impediment.
- (3) An ability to provide the required quality and efficacy of professional service/assistance would be premised on the assumption that an IA has in place all the basic necessities (the “must-haves”) reflected in Section 7.2, as summarised in **Table 1** below.
- (4) The quality and efficacy of the professional service/assistance provided by IAs would then be attested through the realisation of the Value-add Propositions (VAPs) reflected in **Table 2** below and assessed through the Performance Measures reflected therein.
- (5) The overall performance of IAs would be assessed through the Performance Measures in Table 1, with the minimum requirements reflected under sub-section 7.2 used as Qualifying Disqualifiers, i.e. the “must-haves” as they are a key determinant towards the realisation of the quality and standard of their service offering and the expected outputs.
- (6) Where an IA scores below the minimum threshold points, they will not be deemed fit to be considered as entities to provide IA Services in the basic education sector.

Table 1: *Qualifying Disqualifiers, the “must-haves” for IAs.*

Qualifying Disqualifiers (QQs)	Sub-categorisation of QQs	Performance	
		Q ²	DQ ³
(1) Technical Capacity ¹	Programme Managers/Directors		
	Project Managers		
(2) Skills Set 2.1 Technical ⁴	Head of the Unit providing IA Services		
	Programme Managers		
	Projects Managers		
2.2 Support Functions ⁵	Finance Unit		
	Supply Chain Management Unit		
	Legal Services/Unit		
	Safety Health & Environment Unit		
	Social Facilitation Unit		
	ICT Unit		
(3) Governance Framework ⁶	Procurement Management System		
	Financial Management Framework		
	Project Management Framework		
	Change Review Framework		
	Internal Audit Function		
(4) ICT Systems ⁶	Supply Chain Management System		
	Financial Management System		
	Project Management System		
	Contracts Management System		
	Document Management & Control System		

1 Number of Technical Resources per size of portfolio.

2 Q = Qualifying.

3 DQ = Disqualifying.

4 Skills set per the provisions of Section 9(b).

5 Available and adequately resourced to provide dedicated support to the Unit providing IA Services.

6 In place, functional and effective.

Table 2: Value-add Propositions of Implementing Agents and Performance Measures to be used to assess and score them, thereby determining their level of performance.

Value-add Proposition	Performance Measures
(a) Usefulness of technical advice provided on technical matters.	<ul style="list-style-type: none"> • Extent and number of times technical advice is provided to the CD. • Quality and usefulness of technical advices provided to the CD.
(b) Expedited procurement processes , having all the due processes applicable in the public sector been followed.	<ul style="list-style-type: none"> • Average time taken to conclude procurement of PSPs from the day projects were awarded to the IA to the day PSPs were appointed. • Average time taken to conclude procurement of Contractors from the day the PSPs finalised the Tender/Bid documents to the day Contractors were appointed.
(c) Effectiveness of Contracts Management Processes	<ul style="list-style-type: none"> • Ability to make SPs do the work they were appointed to do. (≡ Effective Management of SPs). • Average time taken to pay SPs, having Programme Funds been made available to IAs. • Time taken and swiftness in dealing with poorly performing SPs. • Extent to which non-performing SPs are blacklisted on the NT's System.
(d) Effectiveness of Management Processes:	<ul style="list-style-type: none"> • Number of scope changes, having due stakeholder management processes been followed; • Number of VOs with financial implications; • Number of VOs exceeding 20% or R20m;
(i) Scope Management	
(ii) Time Management	<ul style="list-style-type: none"> • Ability to meet set deadlines for various deliverables; • Timeous completion of projects, to Practical Completion – PC (Extent to which projected timelines were met); • Timeous closure of projects (Projects reaching Final Completion within 3 months of reaching Practical Completion);
(iii) Quality Management	<ul style="list-style-type: none"> • Quality of specialist products produced (Number of times the submitted documents are returned because of quality problems); • Quality of finished physical products (Outcomes of Value-for-Money Audits to be carried out by an Independent Technical Assessor);
(iv) Cost Management	<ul style="list-style-type: none"> • Determination of realistic Cost Estimates (Use of private sector and public sector rates as a benchmark, through a Three-point Estimation Model); • Management of tendered rates (Ability to scrutinise tendered rates, ensuring no unrealistic rates that are out of market trends); • Reasonable correct Accumulative Cash-flow Projections (percentage difference between Planned Value and Actual Value); • Cost over-runs (Number of times and extent to which initial budget was exceeded, excluding CPAP items and Scope changes initiated by the CD);
(e) Reliability of Progress Reporting	<ul style="list-style-type: none"> • Extent of correctness and accuracy of Progress Reporting as assessed against realities on the ground and/or triangulated information;
(f) Effectiveness of Financial Management Controls	<ul style="list-style-type: none"> • Financial Accountability (ability to account for all Programme Funds); • Unauthorised expenditure (Number of times and value); • Quarterly Bank Reconciliations (Availability and correctness);

(g) Availability of Project and Programme Management Information (≡ Audit Information)	<ul style="list-style-type: none"> • Availability; • Accessibility; • Completeness; • Orderliness; • Correctness;
(h) Audit Savviness	<ul style="list-style-type: none"> • Responsiveness to Audit Requests; • Number of Audit findings (i.e. Extent); • Materiality - Number of serious audit findings; • Repeat Audit Findings - Number and materiality of repeat audit findings;

7.3 Who Can Provide Implementing Agency Services in the Sector

- (1) Following the provisions of Sub-section 7.1 and 7.2 with respect to the “what” is required and the required value-add to a CD, the next question is: who can provide IA Services? This is the focus of this sub-section.
- (2) The 3 different groups of entities that have sought to provide IA Services in the past, with varying degrees of success, are:
 - (a) State-owned Enterprises that are structured and have systems and processes in place to implement infrastructure projects, *en mass*, as part of their day-to-day business operations;
 - (b) Non-Government Organisations (NGOs) whose primary business is to implement infrastructure projects, therefore being set up and have systems and processes in place to implement them; and
 - (c) Government Departments, which include:
 - (i) CDs seeking to implement their own infrastructure projects in-house through their Infrastructure Units; and
 - (ii) Department of Public Works, as “imposed” upon other Departments, as a “sole” IA.
- (3) Although CDs have attempted to act as IAs through their Infrastructure Units, these aspirations have not yielded any good results and, invariably, they perform the worst in all the aspects of programme and project management compared to other IAs. This is the case because by their nature, CDs were not set up nor have systems and processes in place to provide IA Services, much as they are not poised to do so. They are primarily set up to undertake Portfolio and Programme Management Planning and thereafter provide monitoring and oversight functions. Therefore use of Infrastructure Units to provide Implementing Agency Services is not encouraged and should be avoided.
- (4) The notion of having some entities “imposed” upon CDs as “sole” IAs has been fraught with a multitude of well-documented repeat problems, with a constant outcry from the CDs for despicable poor service they receive consistently from such entities. While the motivation for such might have been looked at in the light of pursuing *raison d’etre* for such entities, this has contributed immensely towards poor service delivery, high costs of providing infrastructure projects, and serious compromise endured by the very CDs they intended to provide services to because of immense delays with implementation of projects, poor expenditure of allocated budget and multitude of serious audit findings.

- (5) In addressing the predicament highlighted in paragraph (3) above, such should be pursued only and only:
- (a) Through the provisions of Section 238 of the Constitution;
 - (b) Initiated and driven by the receiving CD; and
 - (c) Done within the realms of the provisions of Section 41(1)(e) to (h) of the Constitution.

The Constitution of RSA

Agency and Delegation

S.238. An executive organ of state in any sphere of government may—

- (a) delegate any power or function that is to be exercised or performed in terms of legislation to any other executive organ of state, provided the delegation is consistent with the legislation in terms of which the power is exercised or the function is performed; or
- (b) exercise any power or perform any function for any other executive organ of state on an agency or delegation basis.

Principles of Co-operative Government and Intergovernmental Relations

S.41. (1) All spheres of government and all organs of state within each sphere must—

- (e) respect the constitutional status, institutions, powers and functions of government in the other spheres;
- (f) not assume any power or function except those conferred on them in terms of the Constitution;
- (g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
- (h) co-operate with one another in mutual trust and good faith.

- (6) Invariably the notion of regarding some entities as “sole” IAs is initiated through provincial structures and transcripts on the proviso that they would be using their own financial resources. Therefore, where this is considered it should only and only be applicable on the portion of funds that are sourced from the Provincial Equitable Share for implementing such projects. Where funds for implementing infrastructure projects are sourced from special National Grant Funds such as Education Infrastructure Grant (EIG), School Infrastructure Backlogs Grant (SIBG) and any other Special Grant Funds that may be determined from time to time at national level, such provincial provisions would not be applicable on the projects to be implemented utilising portion of such Grant Funds and CDs are at liberty to utilise services of any entity that they deem capable of providing quality IA Services to them. This is consistent with Sections 238 and 41(1) of the Constitution.
- (7) Where the expected level of IA Services is not realised, having an IA been solicited through the provisions of paragraphs (5) and (6) above, there would be a full justification for a CD:
- (a) To be fully accountable for the performance of an entity they solicited; and
 - (b) To dispense of the entity that is failing them expeditiously and solicit services of other IAs so as not to compromise the much needed service delivery.
- (8) Although the private sector entities such as Consulting Engineering Firms, have been contemplated as potentials in providing IA Services, organically their processes and systems are not set up to provide these services in the public sector. Where they are considered:
- (a) Potential Conflict of Interest should be assessed and avoided per the provisions of Section 5.5 of National Treasury’s Supply Chain Management (SCM) Guide of 2004. They should not be allowed to act as Professional Service Providers (Consultants) and at the same time provide IA Services on the same CD Infrastructure Programme;
 - (b) They would be limited in accessing various provisions of PFMA and Treasury Regulations that public sector entities enjoy;
 - (c) It is the knowledge of the public sector, proficiency on repeat practice in the IA space that brings about the necessary experience, effectiveness and efficiency with the IA processes.

In this regard, Private Sector entities are poised to providing services to the Public Sector therefore do not have the necessary exposure on the day-to-day operations of the public sector that State-owned entities or some NGO that have established specifically to provide these services have.

- (d) Therefore while the public sector would have formidable unquestionable skills on Project Management, they would not necessarily or automatically have the requisite skills to provide IA Services in the public sector. Following these observations and dire limitations, the use of Private Sector entities to provide IA Services in the public sector should be viewed with circumspect unless all the provisions set out in these *IA Guidelines* are met.

8. ROLES AND RESPONSIBILITIES

8.1 Roles and Responsibilities of IAs

- (1) This section provides critical Roles and Responsibilities (R&Rs) of an IA, per the generic stages of Project Management, but not limited to.
- (2) A Client Department (CD) may decide on additional functions to be carried out by an IA.
- (3) The critical Roles and Responsibilities of an IA are:
 - (a) **Pre-project Processes:**
 - (i) Assist with the development of a Business Case and preparation of applications for funding to Third Parties, where this is required.
 - (ii) Assist with the budgeting processes of the CDs with respect to the identified projects.
 - (iii) Assist with the School Rationalisation and Re-alignment Process to arrive at the final decision on mergers and closures of micro schools that are part of portfolio of projects allocated to them.
 - (iv) Assist with stakeholder management processes associated with projects assigned to them.
 - (v) Assist with solicitation of requisite approvals from relevant authorities which include land acquisition and transfer, land-use rezoning, Heritage Council approvals, environmental approvals, etc.
 - (b) **Project Initiation Stage:**
 - (i) Plan and prepare for implementation of Project Management best practices in initiating, planning & design, monitoring & control, and closing of projects.
 - (ii) Advise CDs on project/programme management best practices, provide best technical solutions to the identified problems having considered alternative solutions.
 - (iii) Assist with the clarification of scope of deliverables via a Project Charter.
 - (c) **Planning and Design Stage:**

Preparatory Work

 - (i) Undertake Project Management Planning Processes including development of Work Breakdown Structure (WBS) or Product Breakdown Structure (PBS), Infrastructure Project Implementation Plans (IPIPs), having Infrastructure Programme Management plans been received from CDs.

Procurement of PSPs

 - (ii) Prepare Requests for Proposal, Requests for Quotation, or Bid Documents to solicit services of Professional Service Providers.
 - (iii) Undertake the procurement of Professional Service Providers (PSPs) on behalf of a CDs, ensuring that the procurement processes are in line with the provisions of PFMA, PPPFA, B-BBEEA, and applicable Treasury Regulations.
 - (iv) Ensure that PSPs that performed poorly in the past are not awarded contracts, per the provisions of Section 13.4 of this document.

- (v) Solicit concurrence of the CD on the preferred first and second bidders.
- (vi) Ensure that all the necessary documents (Resource and Implementation Plans, Insurances and Guarantees) are solicited from the PSPs prior to concluding contracts with them.
- (vii) Enter into contracts with procured PSPs and administer those contracts thereof, monitor and record their performance, including termination of their services in case of poor performance, having due processes been followed.
- (viii) Blacklist poorly performing PSPs on the National Treasury's List of Blacklisted Companies, having their contracts been terminated expeditiously.

Planning and Design Activities

- (ix) Refer to the latest *Norms and Standards for Education Facilities*, various Guidelines and Framework Documents issued from time to time by the Department of Basic Education and adhere to their provisions.
- (x) Manage and ensure that all the necessary investigations on site have been conducted, necessary approvals (including municipal, environmental, etc.) have been solicited from the relevant authorities.
- (xi) Ensure that stakeholder management processes have been followed and that their needs have been incorporated in the designs, with the written prior approval of the CD.
- (xii) Review the designs of the PSPs (Layout Plans, Technical Drawings and Design Report, etc.).
- (xiii) Ensure that items that are reflected as Provisional Sums in the Bill of Quantities (BoQ) are eliminated or kept to absolute minimum.

Procurement of Contractors

- (xiv) Review the Tender Documents prepared by PSPs towards procurement of Contractors.
- (xv) Undertake the procurement of Contractors on behalf of the CDs, ensuring that the procurement processes are in line with the provisions of PFMA, PPPFA, B-BBEEA, CIDB Prescripts, and applicable Treasury Regulations.
- (xvi) Ensure that Contractors that performed poorly in the past are not awarded contracts, per the provisions of Section 13.4 of this documents and those that performed poorly on the current CD projects are listed on the National Treasury's Blacklisted Companies, having their contracts been terminated expeditiously.
- (xvii) Solicit concurrence of their CDs on the preferred first and second bidders.
- (xviii) Ensure that all the necessary documentation (Resource Plan, Implementation Plan/Schedule, Balanced Bill of Quantities, Environmental Method Statement, Insurances and Performance Guarantees) are solicited from the Contractors prior to concluding contracts with them.
- (xix) Enter into contracts with procured Contractors and administer those contracts following Contracts Management Processes.

Documents Management and Reporting

- (xx) Ensure that all the documentation confirming the paper trail on all the processes followed is filed according in the Document Management and Control System.
- (xxi) Provide progress reports to the CD per the proscribed standards or best standards

where these are not provided.

- (xxii) Furnish the CD's Management System such as EFMS and IRM with the requisite information at the prescribed intervals.

(d) **Production/Construction Stage:**

- (i) Plan for and ensure realisation of socio-economic imperatives (maximisation of job opportunities, involvement of Technical Interns for experiential training, and SME involvement on the projects);
- (ii) Manage environmental issues following the applicable legislation;
- (iii) Undertake Quality Control Processes, as would be detailed in the Quality Management Plan, on all the project deliverables (both the specialist and physical products);
- (iv) Ensure that all the necessary site and technical meetings take place and are recorded/ minuted;
- (v) Ensure that regular Progress Reports are produced and submitted to the CD in the prescribed format, and that the relevant CD reporting ICT Systems are updated regularly with reliable and authentic information;
- (vi) Take upon itself all the risks associated with transacting with SPs, where it could be sued as an IA or jointly with the CD and has to defend itself where there are disputes on contractual matters with Third Parties;
- (vii) Receive Programme Funds from the CD. Such funds should be deposited into dedicated and auditable IA Bank Accounts, assess value created and pay the SPs accordingly on time for the work done and certified;
- (viii) Implement the developed financial management controls including preparation of regular financial reconciliations as part of regular financial reporting;
- (ix) Ensure proper control of changes to project baselines and solicitation of due approvals by the relevant change management and review structures and authorities;
- (x) Ensure proper document management and control – filing and archiving of all the documents produced during implementation of a project over the prescribed period of time;
- (xi) Allow and give access to the Auditor-General (AG) to conduct audits of the project information as part of auditing its CD, and respond to all the audit queries timeously on, *inter alia*, the procurement processes followed, contracts administration, financial controls and financial transactions for the projects implemented on behalf of a CD; and
- (xii) Ensure timeous Practical Completion of projects, management of snags and Final Completion of projects within three (3) months of reaching Practical Completion.

(e) **Commissioning Stage:**

- (i) The *Norms and Standards for Education Facilities* identify Commissioning as one of the critical stages of project implementation, preparing for the Operations Stage to resume smoothly. The objective is to ensure that the facility is ready for operations and that the end-users know how to operate various components of the facility.
- (ii) The IA has to ensure that Commissioning Processes are included as part of the Project Implementation Plan, and that sufficient time and financial resources are provided for it.

- (iii) The Commissioning Processes would, *inter alia*, include:
 - (01) Training of the end-users on:
 - The operations of the components of the facility; and
 - General Upkeep and Maintenance Processes;
 - (02) Issuing of copies of Close-out Documents which include copy of As-built Layout Plans primarily indicating location of municipal services, Operations Manuals and Maintenance Plans.
- (f) **Close-Out Stage:**
 - (i) Ensure proper and timeous preparation of Final Accounts and their approval by the CD;
 - (ii) Ensure timeous and proper closure of projects;
 - (iii) Ensure preparation of Close-out Report by the PSP and its approval by the CD;
 - (iv) Ensure that all the necessary documentation which includes As-built Drawings, Maintenance Plans, Guarantees/Warranties, and Certificates of Compliance, has been received and filed accordingly.
- (g) **Asset Capitalisation Process and Asset Transfer:**
 - (i) Finalisation and approval of Final Accounts followed by issuing of Final Completion Certificate.
 - (ii) It is upon the finalisation of processes in paragraph (i) above that an asset could be capitalised and transferred to the CD's Asset Register. The IA has to assist with this process and ensure that what is in their records, in terms of list of completed projects, tallies with the CD's.
 - (iii) The Department of Public Works has, through the Government Immovable Asset Management Act (GIAMA), been assigned the responsibility custodianship for fixed assets in the public sector, where this has been granted per GIAMA. Completed projects have to be registered on the Government Immovable Asset Register (GIAR) that is managed by the Department of Public Works. Therefore an IA has to assist the CD in ensuring that after Final Completion of projects that such assets are registered on the GIAR.

8.2 Roles and Responsibilities of CDs

- (1) Much as IAs have to observe some Roles and Responsibilities (R&Rs) pertaining to their areas of accountability, equally, CDs are expected to observe some R&Rs pertaining to their areas of responsibility. This is intended to ensure fairness, consistency and to improve predictability in the system. This sub-section therefore provides some critical R&Rs of CDs, but not limited to.
- (2) The critical R&Rs of CDs are:
 - (a) **Solicitation of services of IAs:**
 - (i) Appoint, request per Section 238 of the Constitution or accept "imposed" entities only if they meet the minimum requirements set out in Sections 7, 8 and 9 of these *IA Guidelines*.
 - (ii) Enter into a contract with an IA by signing a Service Delivery Agreement (SDA). The SDA should be aligned with the provisions of these *IA Guidelines* to ensure consistency, uniformity of practice and predictability within the sector.

- (iii) Manage the SDAs through effective governance structures and ensure that immediate mitigating actions are undertaken by all parties concerned.
- (iv) Manage effectively IAs that provide services to them, ensuring regular and authentic reporting.
- (v) Triangulate information received from IAs, including random site visits.
- (vi) Terminate services of poorly performing IAs timeously per the provisions of Section 13 of these *Guidelines* or reduce the number of projects allocated to them.

(b) Set up effective Programme Management Systems:

- (i) Secure qualified and competent technical resources to undertake Programme Management Planning processes and to provide monitoring and oversight functions, evaluating the work of and to manage IAs.
- (ii) Develop own internal Programme and Project Management systems and processes – to track progress, control and manage projects.
- (iii) Develop own system to receive, manage and track requests for approval submitted by the IAs.
- (iv) Establish Document Management and Control System and store or file electronically the project/programme documentation submitted to it by IAs.

(c) Programme Implementation Processes:

- (i) Issue Project Lists and IPMPs timeously to IAs at least by the end of the third (3rd) quarter of the financial year (FY) preceding the FY on which the projects are to be implemented.
- (ii) Secure sufficient budget to implement the identified projects.
- (iii) Transfer sufficient Programme Funds and process payments due to IAs timeously and at most within fourteen (14) days of request.
- (iv) Process approval requests on time, at most within seven (7) days of request.
- (v) Cause IAs to adhere to the provisions of the *Norms and Standards for Education Facilities*, various *Guidelines* and *Framework Documents* on infrastructure development issued by the DBE from time to time.
- (vi) Monitor the implementation of documents highlighted in paragraph (v) above and provide assistance to IAs on their implementation where necessary.
- (vii) Assist IAs with Stakeholder Management issues when requested to do so. These pertain to:
 - (01) Delays associated with approvals sought from other Government Departments such as EIA Approvals, Construction Work Permits, approvals by Heritage Council, Land-use Rezoning, Land Acquisition and Transfer, Approval of Site Development Plans;
 - (02) Municipal and power connections after all the necessary fees have been paid to respective authorities; and
 - (03) Disruptions caused by third parties (Chiefs, Councillors, SMEs, certain groupings or local community) expressing certain demands on the project (such as demanding appointment of certain groups of people, having a stake on the project on unreasonable rates), and community strikes on matters unrelated to education or provisioning of Education Facilities.

(d) Role in the Procurement Processes of IA:

- (i) In the spirit of transparency, inclusivity and providing a platform for monitoring and oversight functions, in the past IAs sought to invite Client Representatives to be part of their bid evaluation processes. However, while this notion was noble, it invited a new set of problems where:
 - (01) The bid evaluation meetings would be delayed because of unavailability of the Client Representative;
 - (02) Alleged tendency of the Client Representative to try to influence the outcomes of the evaluation process, by “flexing their muscle as a client” therefore impacting upon negatively on the independency required of Bid Committee Members; and
 - (03) Alleged attempts to influencing negatively some of the IA Project Managers towards improper actions.
- (ii) As alluded in Section 8.3(4) below, the role of a CD is to provide an oversight function on the procurement processes followed by an IA by:
 - (01) Requiring that concurrence on the procurement processes followed by an IA and on the preferred service providers be granted by the Accounting Officer of the CD (CD-AO);
 - (02) Requiring that the procurement/bidding process not be regarded as having been concluded, that no communication on the process be issued, and that no bidder be awarded the contract until such time that the concurrence referred to in paragraph (01) above has been granted by the CD-AO; and
 - (03) Requiring that all the documentation indicating how the entire procurement process unfolded be submitted to the CD-AO as part of the documentation submitted for the procurement concurrence approval.
- (iii) Following the considerations in paragraphs (i) and (ii) above, Client Representatives should therefore not be part of the IA procurement process and that the concurrence granted by the CD-AO following the submitted procurement documentation by an IA would be regarded as being adequate in terms of providing an oversight function in this regard.

(e) Post-construction Processes:

- (i) In Project Management it is emphasized that each project is unique despite similarities across most projects. This implies that there are new dynamics associated with each project. It is considered as one of Project Management best practices (typically PRINCE2) to document lessons learned during project execution. This is what is to be expected of an IA.
- (ii) In the spirit of continuous improvement, a CD should refer to the lessons learned and use them for system improvement.
- (iii) Following the established Document Management and Control System, keep safe and intact all the project documentation (As-built Drawings, Close-out Report, Copies of Completion Certificates, Guarantees/Warrantees, and Maintenance Plans, etc.) submitted to it by IAs.

(f) Operations Stage:

- (i) The CD, through its interactions with the facility end-users and the Department of Public Works, should monitor the performance of a completed project for any structural defects over the Latent Defects Liability Period. Where such defects are observed, the Contractor (Main Contractor or sub-contractor) should be called upon to rectify them, as part of their Guarantees/Warrantees.
- (ii) The CD is responsible for ensuring that the Facility Managers of the Education Facilities cause the facilities to be looked after and maintained accordingly.

8.3 Approvals to be Solicited from an Accounting Officer of a CD

- (1) Certain documents and certain requests have to be approved by an Accounting Officer of a CD (CD-AO) before they could be executed by an IA. This is intended to ensure effective control and management of the Programme.
- (2) Some CD-AOs may delegate some of their authority for approvals to other persons in their departments. Such Delegated Authorities should be reduced into writing and signed by the CD-AOs. These Delegated Authorities should be kept safe as they might be required for audit purposes.
- (3) The documents referred to in paragraph (1) above, needing to be approved and signed by the CD-AOs, include the following:
 - (a) New or extension of a contract, i.e. the Service Delivery Agreement (SDA) between the CD and the IA.
 - (b) Letter of Award, indicating the number of projects to be implemented by an IA. The Letter of Award should also indicate:
 - (i) Specific names of Education Facilities on which the project would be implemented, their locations and EMIS Numbers;
 - (ii) Scope of Work required on each project; and
 - (iii) Scope of Services required from an IA.
 - (c) Infrastructure Programme Management Plan (IPMP);
 - (d) Session Letters, ceding projects from a poorly performing IA to the next IA or an IA that has failed completely. (The overall session process is detailed under Sections 13.1 and 13.3.3 of this document.)
- (4) The processes that have to receive explicit / written approval of a CD-AO include the following:
 - (a) Concurrence on the procurement processes followed in soliciting services of SPs (PSPs and Contractors);
 - (b) Changes in the Project List with respect to:
 - (i) Exclusion/termination of certain projects;
 - (ii) Addition of new projects;
 - (iii) Inclusion of replacement projects; and
 - (iv) Utilisation of funds for cancelled projects on other projects awarded to the IA.
 - (c) Request for Scope Change and Variation Order (VO) approvals. Explicit approval of a CD-AO should be solicited before these requests are implemented by an IA.
 - (d) Per the provisions of Sections 3.9.3 and 3.9.4 of NT Instruction Note of May 2011, where the additional value of construction related goods, works or services exceed 20% or R20 million (including all applicable taxes) of the original value of the contract, whichever is the lower, written approval of the relevant Treasury has to be solicited by the CD-AO, subject to the provisions of Section 3.9.5. In actioning this requirement, the following provisions and processes should be followed:
 - (i) An IA should submit a request for approval of such VOs to the CD-AO, advancing cogent reasons on what occasioned them;
 - (ii) The CD-AO may refuse to approve such requests, pending the reasons advanced by an IA;

- (iii) If a CD-AO concurs with the VO submission of an IA, he/she would, in turn, submit the request for approval to a relevant Treasury (National or Provincial depending upon the sphere of government implementing the project with a VO);
- (iv) The Treasury may refuse the request of a CD-AO if the reasons stated therein are not deemed to be good enough.

National Treasury Instruction Note of May 2011

3.9 Management of Expansions or Variation Orders Against the Original Contract

3.9.1 It is recognised that, in exceptional cases, an Accounting Officer or Accounting Authority may deem it necessary to expand or vary orders against the original contract.

3.9.3 In order to mitigate against such practices (*i.e. abuse of the current SCM system*), Accounting Officers and Authorities are directed that contracts may be expanded or varied by no more than 20% or R20 million (including all applicable taxes) for construction related goods, works and/or services of the original value of the contract, whichever is the lower amount.

3.9.4 Any deviation in excess of these thresholds will only be allowed subject to the prior written approval of the relevant treasury. Whilst provision is made for deviations, it is imperative to note that requests for such deviations may only be submitted to the relevant treasury where good reasons exist.

3.9.5 The contents of paragraph 3.9.3 are not applicable to transversal term contracts facilitated by the relevant treasuries and specific term contracts as in such contracts, orders are placed as and when commodities are required and that at the time of awarding the contract, required quantities are not known.

- (e) It is imperative to note that all the requests for Scope Change or VO approvals be solicited from a CD-AO before being executed. This requires foresight planning by PSPs and IAs so that no undue delays are experienced on site while the necessary approvals are sought.
 - (f) Where a VO request contemplated in paragraphs (c) and (d) above have been refused, the planned portion of work that occasioned the VO should then be left out from the scope of services.
 - (g) If the work had already been carried out but without a VO been duly approved, and such VO request been declined, an entity (IA, PSP or Contractor) that caused such work to be carried out should be required to foot the bill for such work from its own financial resources.
- (5) Request for withdrawing IA Fees against the deposited Programme Funds should be sought from a CD prior to such withdrawals been executed by an IA. Such requests should be processed by a CD and approved, following the same approval procedures followed when processing payment approvals of other SPs.
- (6) Invariably, contingencies are allowed for and included as part of the tendered amount for construction work and as such, would be part of the total value of the contract as would be reflected in the Form of Offer. By their nature, contingencies are unspecified monies at the time of awarding a contract to a successful bidder. Contingencies should therefore be construed as amount of monies set aside by a CD as part of the total budget allocation for a specific project. Contingencies are not intended to be used at will by PSPs to make up for financial implications associated with their poor planning and/or poor designs, but are intended for unforeseen circumstances, primarily soil conditions and/or when old structures are renewed. Mostly, construction materials, ICT equipment, furniture, fittings and equipment should be sourced locally (provisions of SATS 1286:2011 and SBD 6.2) therefore no currency fluctuations should be expected, giving rise to a need for contingencies. Also, changes on market prices for some commodities are catered for through the Contract Price Adjustment Provisions (CPAP). Following these considerations, a need for utilising Contingencies should be sought from a CD. The CD-AO may delegate authority to approve the utilisation of Contingencies to other persons in his/her Department.

8.4 Documents to be Signed by an Accounting Officer of an IA

- (1) As the case was with CD-AO, certain documents and processes have to receive explicit approval of an Accounting Officer of an IA (IA-AO).
- (2) An IA-AO may delegate some of his/her authority for approvals to other persons in his/her organisation. Such Delegated Authorities should be reduced into writing and signed by an IA-AO. These Delegated Authorities should be kept safe for audit purposes. All such Delegated Authorities, and any changes thereof, pertaining to a CD's Programme should be communicated in writing to a CD-AO.
- (3) The following documents to be transmitted between a CD and an IA should be signed by an IA-AO:
 - (a) New or extended SDA between an IA and CD;
 - (b) Delegated Authorities for activities that have a direct impact on a CD's Programme; and
 - (c) Letters of Appointment of Members of Bid Committees.
- (4) The following documents to be transmitted between an IA and SPs (PSPs and/or Contractors) should be signed by an IA-AO, unless such authority has been duly delegated to other persons:
 - (a) Contracts between an IA and PSPs;
 - (b) Contracts between an IA and Contractors; and
 - (c) Approval for utilisation of Contingencies.
- (5) Section 16A6.4 of the Treasury Regulations allows an AO to procure goods and services through other means if it is impractical to invite competitive bids. Where an IA has identified a need for such, it should solicit written approval of a CD-AO.
- (6) Sections 16A6.5 and 16A6.6 of the Treasury Regulations allow an AO-IA to participate in transversal term contracts facilitated by the relevant Treasury and in any contract arranged by means of a competitive bidding process by another organ of state, respectively. Where an IA deems it necessary to participate in such contracts, an IA-AO should:
 - (a) Advise a CD-AO, in writing, of its intentions;
 - (b) Prepare and sign a formal request to the relevant Treasury or AO of a public entity in whose contract it wants to participate.

National Treasury Regulations of March 2005

16A6 Procurement of Goods and Services

16A6.4 If in a specific case it is impractical to invite competitive bids, the Accounting Officer or Accounting Authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer or Accounting Authority.

16A6.5 The Accounting Officer or Accounting Authority may opt to participate in transversal term contracts facilitated by the relevant Treasury. Should the Accounting Officer or Accounting Authority opt to participate in a transversal contract facilitated by the relevant Treasury, the Accounting Officer or Accounting Authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.

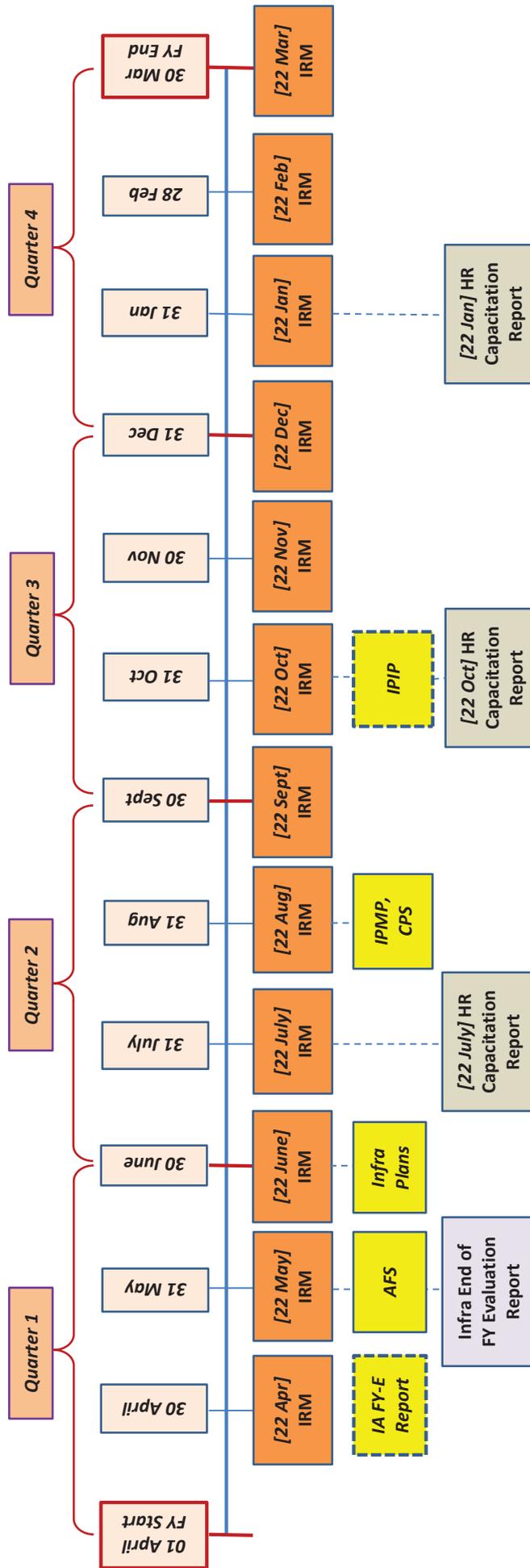
16A6.6 The Accounting Officer or Accounting Authority may, on behalf of the department, constitutional institution, or public entity, participate in any contract arranged by means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state and the relevant contractors.

8.5 Documents to be Signed by an Accounting Officer of a Service Provider

- (1) Certain documents to be submitted by SPs (PSPs or Contractors) to an IA have to be signed by an Accounting Officer of the SP (AO-SP).
- (2) The documents contemplated in paragraph (1) above include the following:
 - (a) Bid documents;
 - (b) Request to withdraw from a bid process after bid documents had been submitted to an IA;
 - (c) Confirmation of Bank Account into which an IA would deposit project payments; and
 - (d) Any changes in the Bank Account into which the project payments would be deposited by an IA.

8.6 Alignment of Reporting and Sector-specific Statutory Processes

- (1) The sector has established a number Reporting and Statutory Processes. It is appreciated that PEDs may have their own sub-processes. This section highlights the existing reporting and Statutory processes without negating Province-specific arrangements.
- (2) This is intended to conscientise of IAs to these processes so that they could in turn align theirs.
- (3) The processes that have a direct impact on IAs are highlighted in the Annual Year Planner shown below:



9. MINIMUM REQUIREMENTS FOR AN IMPLEMENTING AGENT

- (1) This section lists minimum standard requirements that should be expected from and possessed by an entity that considers itself as an IA or if it intends to provide IA Services.
- (2) As a minimum, an IA should possess the following:
 - (a) **Adequate Technical Resources:**
 - (i) An IA must have sufficient number of competent Project Managers to manage the projects, with no Project Manager managing more than about 20 projects at a time (depending upon the size and complexity of the projects);
 - (ii) There must be a Project Accountant assigned to a programme (group of related projects);
 - (iii) There must be adequate support functions such as Finance, Legal, SHE, with adequate qualified and competent personnel.
 - (b) **Requisite Technical Skills Level:**
 - (i) *The Head of the Unit* (e.g. Group Executive, Executive Manager or equivalent), responsible for all the Implementing Agency Services provided by an IA, must:
 - (01) Have a Degree or B-Tech qualification as a minimum in the built environment;
 - (02) Be a registered professional with one of the professional bodies in the built environment (either ECSA, SACQSP, or SACAP);
 - (03) Must be a Project Management Professional with either PgMP (PMI), MSP (OGC), PMP (PMI), PRINCE2 Practitioner (OGC), PMQ (APM) or similar; or Master's Degree in Project Management from an accredited institution; and
 - (04) Must have been practicing in the built environment for at least 15 years.
 - (ii) *A Programme Manager*, responsible for a group of projects for a specific CD, must:
 - (01) Have a Degree or B-Tech qualification, as a minimum, in the built environment;
 - (02) Be a registered professional with one of the professional bodies in the built environment (either ECSA, SACQSP, or SACAP);
 - (03) Must be a Project Management Professional with either PgMP (PMI), MSP (OGC), PMP (PMI), PRINCE2 Practitioner (OGC), PMQ (APM) or similar; or Master's Degree in Project Management from an accredited institution; and
 - (04) Must have been practicing in the built environment for at least 10 years.
 - (iii) *A Project Manager*, responsible for a specific number of projects within a programme, must:
 - (01) Have a Degree or B-Tech qualifications, as a minimum, in the built environment;
 - (02) As a minimum, registered as candidate professionals with one of the professional bodies in the built environment;
 - (03) Must be a Project Management Professional with either PMP (PMI), PRINCE2 Practitioner (OGC), PMQ (APM) or similar; or Master's Degree in Project Management from an accredited institution; and
 - (04) Must have been practicing in the built environment for at least 7 years.

- (iv) *The Lead Project Accountant* working on the CD's projects must:
 - (01) Have qualifications in Finance;
 - (02) Have a course in Project Accounting, or equivalent;
 - (03) At least have three (3) years working experience in the infrastructure project environment; and
 - (04) Registered with a professional body (e.g. SAICA).
- (v) *The Lead Safety, Health and Environmental (SHE) Professional*
- (vi) *The Lead Socio-economic (S-E) Professional*
- (c) **Governance Framework** - as a minimum, an IA must have in place the following governance structures:
 - (i) Procurement Management System that comprises:
 - (01) A Procurement Policy that is in line with the Constitution, PFMA, PPPFA, B-BBEEA, CIDB Prescripts, Applicable Treasury Regulations, Environmental legislation and aligned to the Standard for Infrastructure Procurement and Delivery Management (SIPDM);
 - (02) Complementary policies that include policies to regulate Conflict of Interest, Fraud & Corruption Prevention, Disciplinary Issues, and Code of Conduct & Ethics, SHE Policy; and
 - (03) Various procurement structures such as those contemplated in the Treasury Regulations of 2005 (Bid Specification Committee, Bid Adjudication Committee, Bid Evaluation Committee), with clear Terms of Reference of each of these structures and set approval limits, where applicable.
 - (ii) Financial Management Framework:
 - (01) That, as contemplated in the PFMA and Division of Revenue Act, should be aligned to the peculiarities and intricacies of implementing infrastructure projects;
 - (02) To have effective controls, with approval levels that observe segregation of duties;
 - (03) Effective control mechanisms contemplated in paragraph (02) above should ensure actual payments to SPs correlate with actual physical progress on site and measured against the cash-flow projections captured in the approved IPIP and recorded in the Management Systems.
 - (iii) Project Management Framework:
 - (01) Should respond to the requirements of the Infrastructure Delivery Management System (IDMS) with Project Management Policies, documented and customised Project Management Methodology; and
 - (02) Project Audit Function to approve the Control Gates similar to those contemplated in the IDMS.
 - (iv) Change Review Framework to approve changes to pre-approved project baselines (including Variation Orders) with clear guidelines and/or Terms of Reference of approval structures with set approval limits; and
 - (v) Internal Audit Function to conduct both financial and performance audits before the Auditor-General conducts its own audit. Its primary objective would be to advise the IA's management of the gaps that might be found on the implemented projects.

- (d) **Requisite ICT Systems** - as a minimum, an IA must have the following systems:
- (i) Supply Chain Management System;
 - (ii) Financial Management Systems (capable of integrating with exiting National Systems such as Infrastructure Reporting Model (IRM) of National Treasury and Basic Accounting System (BAS));
 - (iii) Project Management Systems;
 - (iv) Document Management & Control System; and
 - (v) Contracts Management System.
- (e) **Statutory Requirements** - An IA must, where applicable, adhere to the following statutory requirements and any other requirements that might be introduced by the relevant authorities:
- (i) Must be a registered juristic person / legal entity;
 - (ii) Registered entity in South Africa;
 - (iii) Must have a Valid Tax Clearance Certificate (TCC);
 - (iv) Must have a valid B-BBEE Certificate; and
 - (v) Must be registered in the Central Supplier Database (CSD) of National Treasury.

10. COMPENSATION FRAMEWORK FOR IMPLEMENTING AGENTS

10.1 General Overview

- (1) Organisations providing IA Services are expected to have dedicated units that focus in providing these services or an organisation as a whole set up solely for this purpose. IAs have to provide all the necessary human capital resources including professionals in the respective fields, professionals in the support units that provide support services such as Finance, Procurement, Legal, SHE; relevant ICT systems and licences; undertake contractual risks; and other requirements as stated in Sections 8 and 9 of these *Guidelines*. Of fundamental importance is a need for these entities to be sustainable and to remain viable as business entities. Therefore they need to be compensated fairly by Client Departments, whilst ensuring that value for money is realised.
- (2) The principles underpinning realisation of “value for money” include the ability for a CD:
 - (a) To realise a full suite of professional IA Services and deliverables as contemplated in Sections 7, 8 and 9 above;
 - (b) To realise quality deliverables, not acting as a “post-box” regarding a need to scrutinise all the documents received from their SPs and submitted to a CD;
 - (c) To enjoy professional services and authentic progress reports;
 - (d) Not to be subjected to protracted procurement processes but still be ensured that all the due procurement processes applicable in the public sector were followed;
 - (e) To enjoy timeous implementation and completion of projects following best Programme and Project Management Principles; and
 - (f) Not to be exposed to undue audit findings.
- (3) Per the provisions of Section 6.2, in most instances poor services are experienced from IAs because of inadequate competent professionals assigned to the projects/programme and because of poor compensation framework. Poor compensation framework leads to junior members of staff, with limited professional experience, assigned to the programme and more senior professionals deployed on well-paying projects. This leads to poor management of projects, inordinate delays and, subsequently, failure to deliver on the projects. All these eventualities lead to more costs incurred by CDs.
- (4) Not all the entities that provide IA Services get budget allocation from the national fiscus. Some rely solely on the revenue generated from IA Services.
- (5) Following the realities stated in paragraphs (3) and (4) above, a fair compensation framework has to be adopted for long-term sustainability while at the same time impressing upon and demanding for more competent professionals to be deployed on the projects. This framework has to take into consideration a need for protecting the industry from going extinct, leaving the Public Sector only with poorly performing IAs, to the detriment of the CDs, the sector, and the country as a whole. At the same time, this framework has to guard against unfair profiteering and undue financial benefitting while no meaningful value is realised by CDs. The framework has to take into consideration the provisions of the National Treasury’s Guideline on Cost Models for the Establishment of Control Budgets.

10.2 The Compensation Framework for IAs

- (1) In structuring the management fees for IA Services, the full scope of services should be considered in the context of cradle-to-grave services. Effectively these are sub-divided into three distinct broad stages:

(a) **Broad Pre-project Front-end Preliminary Planning Stage:**

This stage is characterised by different levels of pre-project planning processes that include Condition Assessments; School Rationalisation Processes; confirmation and finalisation of project list; land transfer processes; and detailed project/programme management planning, documentation and approval processes.

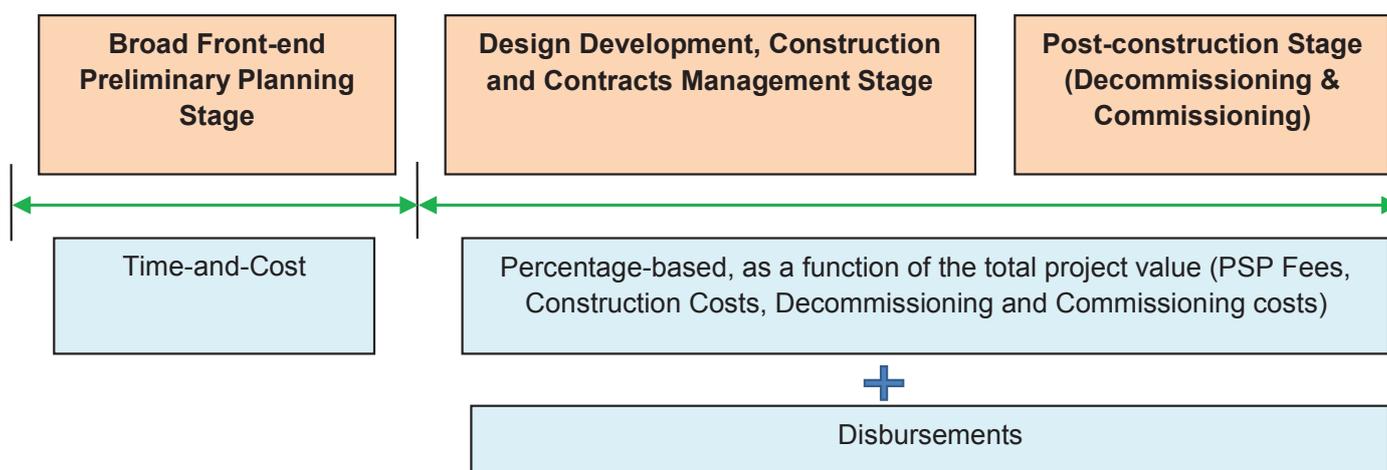
(b) **Design Development, Construction and Contracts Management Stage:**

This includes detailed site investigations; consultations with relevant authorities; applications for relevant permits (e.g. Construction Work Permits) and solicitation of relevant statutory approvals; detailed design development and documentation; Bid documentation and bidding evaluation processes; and construction.

(c) **Post-construction Stage:**

Decommissioning and Commissioning activities.

- (2) In pursuit of the principle of fairness and in recognition of a range of services that have to be provided by IAs, both Time-and-Cost and Percentage-based methods of compensation would be applicable at various stages of project execution as depicted below:



- (3) The Time-and-Cost Method of Compensation would be applicable during the first stages of the project lifecycle which include Pre-project Processes, Project Initiation Stage and Project Management Planning (sub-stage of the Planning Stage up to and including procurement of services of PSPs). This is the case because the project scope and its deliverables would still be in the process of being confirmed and with the total value of the project not determined and no Service Providers (SPs) to manage. The decision could be made at this stage not to proceed with the project for a range of reasons and IAs have to be compensated fairly for the work done up to that point. There needs to be clarity and confirmed agreement on the expected services and deliverables to be realised and the timelines within which such deliverables would be realised. The applicable Department of Public Works rates would be used.

- (4) Once the PSPs and Contractors have been procured, the Percentage-based Method of Compensation would be applicable until Project Close-out Stage. The rates that would be applicable should be per the National Treasury Instruction 04 of 2014/15, where the full scope of services, as set out in these *Guidelines*, are sought, otherwise prorated rates should be used for the required services as determined by a CD and agreed with an IA.
- (5) This Compensation Framework is deemed to be applicable only to IAs that do not get any budget allocation from the national fiscus for providing these services. Therefore, no management fees should be paid to IAs that get direct funding or budget allocation from the national fiscus for providing these services, such as the Department of Public Works.

11. TRANSFER AND DISBURSEMENT OF PROGRAMME FUNDS

11.1 General Problems Associated with Late Payments

- (1) Late payments to Service Providers (SPs) have been, and continue to be, a chronic problem that has hampered service delivery.
- (2) The problems associated with late payments include:
 - (a) Increased costs of implementing projects due to:
 - (i) Interest claims charged on late payments;
 - (ii) Costs of reworking following abandoned sites;
 - (iii) High risk premiums that get factored in by Contractors; and
 - (iv) Audit findings against a CD.
 - (b) Competent SPs choosing to do work with well-paying and prompt paying clients;
 - (c) Good and upcoming SPs driven out of business;
 - (d) Dilution of effectiveness in administering strict contract management processes, where, as a defaulter, the IA ends up being on the back foot; and
 - (e) Negative image and credibility of IAs, CDs' and Government as a whole.
- (3) Timely transfer of sufficient Programme Funds to IAs is one of the best solutions to the problem stated above that has worked well in the past therefore has to be considered to by CDs if success on the implementation of projects by IAs were to be realised. This requires in IAs to have effective financial management systems and strict financial controls.
- (4) It is acknowledged that concerns regarding this approach have been tabled by some CD following failure by some IAs to account fully for the transferred Tranche Funds. While this is considered in a serious light, as it has given rise to audit findings, it is necessary that a broad-brush approach not be adopted by CDs in dealing with this matter. Where IAs fail to put in place effective financial management systems and strict financial controls, as expatiated under Sections 11.2 and 11.3 below, then such entities are not fit to be considered as IAs and their services should therefore not be used.
- (5) Use of own monies by IAs to pay their SPs while Programme Funds are awaited from CDs has been frowned upon by the Auditor-General in the past, where this practice was construed as a government loan. IAs are therefore prohibited from using own monies to pay their SPs.
- (6) Notwithstanding the provisions of paragraph (5) above, IAs are not prohibited from identifying third party financial institutions that could assist their SPs with provision of bridging funds, and/or loans, at relatively low interest rates. Such arrangements should be concluded between the SPs and the financial institutions concerned. Upon being requested, an IA can, however, confirm with a financial institution the fact that a SP concerned has a contract with it (the IA).

11.2 Transfer of Programme Funds to IAs

- (1) In order to ensure certainty on availability of Programme Funds and timeous payments to Service Providers (SPs) by an IA, transfer of Programme Funds or Tranche Payments should be made into an IA's dedicated Bank Account.
- (2) A Client Department's (CD's) Accounting Officers, would still remain fully accountable for the Tranche Payments made to IAs, therefore it is not a prerogative of IAs to use such funds as they wish and for unauthorised purposes.
- (3) Per the National Treasury's Instruction 04 of 2014/15, the process of transferring Programme Funds, as Tranche Payments, into IAs' dedicated Bank Accounts should not be construed as advance payments because these monies are contractually and technically not available to IAs to disburse until work has been carried out by SPs and certified by an IA. In other words, monies should be paid to the SPs only and only after services/goods have been delivered and accepted by an IA.
- (4) Tranche Payments are a means of securing monies and ensure predictability and not implying approved disbursement of those funds.
- (5) As a standard approach, Tranche Payments equivalent to three (3) months cash-flow projections should be made into the IAs' dedicated Bank Accounts when the remaining funds in such back accounts would cover one (1) month's cash requirements.
- (6) The process of transferring Programme Funds into an IA's dedicated Bank Account should be initiated by an IA by submitting an invoice to a CD, requesting for Tranche Funds. The request should provide details on how the Tranche Funds that were deposited previously were disbursed, with a printout from the IA's Financial Management System. As a minimum, the information to be provided as part of the request for further transfers should include the following:
 - (a) Amount requested for;
 - (b) Amount that was transferred previously;
 - (c) Name of the SPs that were paid from the Tranche Funds transferred previously;
 - (d) The name of project(s) against which each SP was paid (This takes into consideration the fact that an SP might be appointed for more than one project by the same IA);
 - (e) Dates on which the payments were made; and
 - (f) Back Reconciliations.
- (7) All the Programme Funds should be deposited into dedicated an IA's Bank Account. This refers to:
 - (a) Programme Funds to settle PSPs' and Contractors' payment claims;
 - (b) Management Fees for an IA;
 - (c) Deposits for Tender Documents; and
 - (d) Any refunds to an IA.
- (8) Where an IA is providing IA Services:
 - (a) To more than one CD, it must open a dedicated Bank Account for each CD; and
 - (b) To the same CD for different programmes, it must open separate dedicated Bank Accounts for each programme.
- (9) Proper referencing of the deposits should be strictly adhered to, to enable reconciliation between the transferred funds and the financial management system of a CD (e.g. BAS).
- (10) Monthly reconciliations should be prepared at the end of each month after all the previous month's payments to the SPs have been processed.

- (11) In most cases, payment problems are encountered during the financial year-end and during the first few months of a new financial year. This is caused by budget allocation processes that would still be in progress both at national and provincial levels. In order to deal with these problems timeous transfer of Programme Funds should be made to IAs during the first month of a new Financial Year or concessions be made for transferred tranche funds to be left in an IA's Bank Account, especially where there are commitments against ongoing projects.

11.3 Utilisation of Programme Funds by IAs

- (1) Programme Funds or Tranche Payments should be used for the intended purpose only.
- (2) Cross-payment among different programmes of the same CD and/or to SPs of different CDs, is prohibited.
- (3) The interest that has accrued from the deposits should be used on the projects and to settle bank charges and service fees. These should be reported explicitly in the monthly reconciliations.
- (4) Transeferred Programme Funds should not be transferred into any investment account, but should be left in the dedicated Bank Account and be taken out only when payments are made either to SPs or IAs.
- (5) Where certain projects have been cancelled, the deposited portion of Programme Funds for the cancelled projects could be used on other projects in the same programme but after a written concurrence of the CD's Accounting Officer has been solicited.
- (6) Any "savings" that have been realised on a project should be declared and could be used on other projects in the same programme but only after a written concurrence of the Accounting Officer of a CD has been solicited.

11.4 Submission of Payment Certificates and Payments to Service Providers

- (1) No payments should be made to any Service Provider (SP), without a Payment Certificate that reflects an auditable value of work supporting the claim concerned.
- (2) Payment Certificates should be received by an IA from the PSPs for Professional Fees and for Contractor's Interim Payment Certificates on the 25th of each month.
- (3) Endeavours should be made for such claims to be paid within fourteen (14) calendar days of receipt of approved Payment Certificates, or earlier where possible, especially where SMEs are involved. At most, they should be paid within twenty-one (21) calendar days.
- (4) As a means of "forcing" timeous payments to SPs, penalties should be levelled against PSPs or IAs that do not process submitted Interim Payment Certificates on time. Where the Payment Certificate was submitted either to a PSP or an IA, and not processed for more than four (4) weeks, leading to late payment penalties, the PSP or IA concerned should be caused to settle such penalties either from:
 - (a) Its coffers;
 - (b) Deducted from payable Fees; or
 - (c) Claimed from the PSP's or IA's Professional Indemnity Insurance.
- (5) An IA and PSP should submit, as an Annexure to the contracts, copies of Professional Indemnity (PI) Insurance and should also provide, as part of submitting their claims for PSP and IA Professional Fees, a confirmation that such PI Insurances are serviced.

- (6) In order to improve predictability, CDs should provide IAs with a Payment Approval Protocol or Standard Operating Procedure (SOP) as an Annexure to the Service Delivery Agreement to be signed with an IA. All the requirements of the CD from the IA should be listed. These include:
 - (a) Quality of Payment Certificates with respect to completeness, correctness and auditability of information contained therein;
 - (b) Documents, such as Socio-economic Reports (on job creation and on-site training) to be attached to Payment Certificates;
 - (c) Loading of necessary progress reports or similar documents on a CD's Programme Management System such as the Education Facilities Management Systems (EFMS).
- (7) It is the responsibility of a CD to ensure that operations of its internal Units that are part of the payment process, such as Supply Chain and Finance, are also aligned to the SOP.
- (8) Payment Certificates should reflect the Work Package(s) or deliverables against which payment claims are made. These should be in line with an approved Work Breakdown Structure (WBS) or Product Breakdown Structure (PBS). This is to ensure auditability of information confirming that value for money (as accorded in NT's Instruction Note No. 4 of 2015/16) was realised and to enable Value for Money Audits (VFMA's) to be conducted without hic-ups.
- (9) Following the provisions of paragraph (8) above, an Elemental Bill of Quantities (EBoQ) that is premised on the Work Packages identified on approved WBS, should be used. (More details on the WBS are provided in the *Design Guidelines for Education Facilities* developed by the DBE.)
- (10) While a number of approaches are pursued in developing a WBS, it is required that a WBS that reflects major deliverables, i.e. Implementing Agency Services, PSP Services, and Building Works should be used in the basic education sector.
- (11) Where possible, part payments towards partially complete Work Packages or deliverables are not encouraged. This should be managed as follows, in the case of:
 - (a) PSPs, the fee split for Consulting Fees should be per each Stage of the PSP Services, as reflected in Annexure A of the *Norms and Standards for Education Facilities*; and
 - (b) Contractors, amounts payable should be based on the identifiable stages of completion of various Work Packages, e.g. payment towards wall to be per each building after a certain wall height has been reached, e.g. window level, eaves level, etc.

11.5 Financial Year-end Project Accounting

- (1) Infrastructure projects are by their nature multi-year and therefore span over a number of financial years. The resultant financial treatment of associated financial flows has to be dealt with cautiously by Project Accountants, and align these to project management processes.
- (2) The need for a 25th of each month to be the date by which work on site must be certified and payment certificates prepared and submitted is, *inter alia*, to address the year-end accounting processes especially those relating to a need to account for Work-in-Progress (WIP).
- (3) IAs together with PSPs and Contractors, should project the value of work to be carried out between the last Interim Payment Certificate processed in a given Financial Year and the end of the Financial Year, i.e. 31 March of that calendar year. This should be based on the expenditure trend over the course of the FY and should not be over-stated/exaggerated. This would form part of the reported Accruals for the said Financial Year.
- (4) The projected Accruals per paragraph (3) above should be prepared by both the Contractor and the PSP, and be certified by the PSP. An IA should verify the reasonability of the projected Accruals

based on their past experience on the performance of the SPs.

- (5) CDs should make all the endeavours to ensure that all the outstanding monies due to the SPs are paid in full before the end of a Financial Year, especially where Infrastructure Budget has not been exhausted. An IA should, in turn, ensure that all the monies due to its SPs are paid in full before the end of the FY, i.e. where sufficient Tranche Funds were made available by a CD.
- (6) Where a CD has ran out of Infrastructure Budget, an IA should still continue sending invoices to the CD for the work done, thereby desisting from keeping invoices in their organisations. Such unpaid monies would be included as part of the Accruals over and above the projected value of work to be carried out over the last few days of the Financial Year-end, per paragraphs (3) and (4) above.
- (7) The payment claims towards such Accruals should be submitted within the first month of the following Financial Year, i.e. April of that calendar year by the PSP and IA to enable the CD to submit an Annual Financial Statement to the AG by 31 May of the same year.

11.6 Financial Year-end Reporting

- (1) It is mandatory that all IAs provide Financial Year-end (FY-E) Programme Reports to their CDs so that such information could be used by the CD when compiling its Annual Report and in accounting for its annual performance.
- (2) An IA FY-E Programme Report should be submitted to the CD within one (1) month of the FY-E, i.e. April.
- (3) Proper accounting and financial reporting procedures have to be adhered to for FY-E reporting, taking into account the peculiarities and intricacies associated with infrastructure projects.
- (4) The IA FY-E Programme Report should cover both the Financial Information and Performance Information, as follows:
 - (a) **Financial Information** to include, but not limited to:
 - (i) Commitments as at the beginning of the FY;
 - (ii) Commitments as at end of the FY;
 - (iii) Total value of Performance Guarantee Payments;
 - (iv) Total expenditure by FY-E;
 - (v) Bank Reconciliations;
 - (vi) Previous FY Accruals (Accruals from Previous FY that were paid during the FY, including Released Retentions);
 - (vii) Current FY Accruals (Including Retentions from current FY and not paid yet);
 - (viii) Value of Terminated Contracts during the FY; and
 - (ix) Value of Replacement Contracts during the FY and associated cost increases.
 - (b) **Performance Information** that should include, but not limited to:
 - (i) *Budget and Expenditure Information:*
 - (01) Projected Budget Expenditure as at the beginning of the FY, based on the allocated number of projects;
 - (02) Value of work that was projected at the beginning of the FY but not carried out because of cancelled or postponed projects;

- (03) Value of work that was not projected at the beginning of the FY but carried out because of new projects;
- (04) Total value of Variation Orders (VOs);
- (05) Total value of Late Payment Interest Claims (paid);
- (06) Total value of Accruals from the previous FY;
- (07) Total actual Value of Work created during the course of the FY (including value of VOs where carried out); and
- (08) Actual Total Expenditure by the FY-E.

(ii) *Information on Projects:*

- (01) Total number of active projects as at the beginning of the FY. This is the opening balance that should be equal to the closing balance of the previous FY. A list of all these projects should be attached, including their total value (IA Fees, PSP Fees, Disbursements, and Construction Costs), duration, projected completion date, Percentage to Practical Completion;
- (02) Total number of new projects awarded during the FY, with detailed information per paragraph (01);
- (03) Total number of projects cancelled during the FY, with detailed information per paragraph (01);
- (04) Total number of replacement projects awarded during the FY, with detailed information per paragraph (01).
- (05) Total number of projects that reached Practical Completion (PC) Stage during the course of the FY. This should include information on projected PCs at beginning of the FY, actual PCs realised as at end of FY, and projections for next FY.
- (06) Total number of projects that reached Final Completion (FC) Stage during the course of the FY. This should include information on projected FCs at beginning of the FY, actual FCs realised as at end of the FY, and projections for the next FY.

[Please Note: *Projects shall only and only be regarded as having reached FC when a copy of Final Accounts is attached to it, whereupon they could be capitalised and transferred into the CD's Asset Register.*]

- (07) Total number of projects transferred to the CD's Asset Register.

(iii) *Socio-economic Information:*

- (01) Value of Work awarded to SMEs (New awards during the FY, expressed both in rand value and percentage terms per project);
- (02) Total number of jobs created (Total number of people that worked on site, i.e. head-count during the course of the FY, based on the work-packages to be delivered, but without double counting for job-rotation or similar); and
- (03) Number of Interns (new + existing) that worked on the projects during the course of the FY.

- (5) An IA FY-E Programme Report should be signed by the Accounting Officer (i.e. CEO or equivalent) and the Chief Financial Officer (CFO) of an IA.

11.7 Financial and Project Management Terms for Reporting Purposes

- (1) Certain financial and project management terms have been used in the sector but interpreted differently. This has given rise to difficulties on the accuracy or relevance of what is reported on.
- (2) **Annexure A** provides a glossary of various financial and project management terms that invariable are subject to misinterpretation. This glossary will enable common reporting in the sector.

12. MANAGEMENT OF AUDIT INFORMATION

12.1 General Principles

- (1) Per the provisions of Sections 7.1(3)(f) and 8.1(3)(d)(xi), an IA should be capable of being audited by the AG when it carries out its annual audit on a CD.
- (2) Per the provisions of Section 9(2)(d)(iv), an IA is required to have a Document Management & Control System (DMCS) in place, that comprises electronic and/or physical filing system. The DMCS should be linked to the CD's Standard Infrastructure Procurement Delivery Management System (SIPDM) with respect to the required documentation.
- (3) All the Contract Information should be filed orderly, in the DMCS, and should be accessible at all material times.
- (4) Information belonging to projects that have reached the Final Completion Stage should be archived, but should to be accessible and retrievable with relative ease.
- (5) IAs should make any information available when required by the AG, where:
 - (a) The AG should be given access to the Electronic Filing System to peruse an information they require and make printouts if required;
 - (b) If the AG requires physical documents to be perused off site, copies of such documents should be made and not be issued with originals, to prevent these originals from being lost, misplaced, or having pages in the files re-arranged; and
 - (c) If the AG requires original documents, they should be given access to those documents but to peruse them on site. (The cost of having originals lost has proven to be too costly and problematic, where misplaced originals give rise to new audit findings in the subsequent years.)

12.2 Audit Information

- (1) Audit is primarily evidence-based, indication that all the requisite due processes were followed, as evidenced by paper trail in the form of programme and project documentation.
- (2) **Annexures B and C** provide a checklist of the set of documentation that any IA should, as a standard minimum requirement, have in place, and filed in the DMCS. This is not necessarily an exhaustive list of information that might be required as the AG may decide on a different set of information, therefore this Annexure will be updated on a continuous basis.

13. MANAGING NON-PERFORMING OR FAILED SERVICE PROVIDERS

13.1 Dealing with SP that Performed Poorly in the Past

- (1) Poorly performing Service Providers compromise the much needed service delivery. This has a ripple effect on the delays with implementation of projects, increased cost of projects, negative reputational image of an IA and CD.
- (2) All the endeavours should be made by both an IA and CD to ensure that SPs that performed poorly in the past are not awarded contracts. This follows an old adage that “prevention is better than cure”.
- (3) The starting point in addressing the requirement in paragraph (2) above is at the tendering stage where the following should be considered:
 - (a) Provisions of Section 16A9 of NT Regulations (2004) should be adhered to regarding acceptance of bids from SPs that performed poorly on any project in the past.
 - (b) Include Quality/Functionality Criteria as one of the areas to be assessed during the bidding process;
 - (c) As part of Responsiveness Assessment, ascertain if any bidder was not included on the NT’s Blacklist and reject its bid if it was, following the provisions of Section 16A9.2 of NT Regulations.
 - (d) Where they do not appear on the Blacklist, reference checks should be conducted with their current and/or former Clients;
 - (e) Conduct Qualitative Risk Assessment on both the first and the second preferred bidders. Such Risk Assessment should include an assessment on the extent to which the preferred bidders might be overloaded with work by conducting a search on the NT Database of awarded contracts and conducting an interview with the said preferred bidder if there is a potential of being overloaded;
 - (f) In case of contractors, thorough assessment of the tendered rates should be carried out by a PSP;
 - (g) When infrastructure bids are evaluated, Bid Committees should include professionals in the built environment to bring about the necessary expertise in assessing meaningfully and objectively nuances and intricacies found in the built environment.

National Treasury Regulations of March 2005

16A9 Avoiding Abuse of Supply Chain Management System

16A9.2 The Accounting Officer or Accounting Authority –

- (a) may disregard the bid of any bidder if that bidder, or any of its directors –
 - (i) have abused the institution’s supply chain management system;
 - (ii) have committed fraud or any other improper conduct in relation to such system;
 - (iii) have failed to perform on any previous contract; and
- (b) must inform the relevant treasury of any action taken in terms of paragraph (a)..

13.2 Failure by an Implementing Agent on the Current Projects

- (1) Some IAs have performed poorly in the past requiring that their contracts be terminated or some of projects allocated to them taken away from them and ceded to other IAs. The contract to be entered into between an IA and a CD, i.e. the Service Delivery Agreement, should be explicit on the terms of engagement with Termination Clauses, in the event of failure to perform, clearly stipulated.
- (2) If an IA encounters difficulties with execution of projects allocated to it, it should not cede part or whole of the contract to any other entity but should return those projects to the CD who would decide on the next IA to be allocated such projects.
- (3) In the event of an IA failing to meet its contractual obligations, its services should be terminated promptly, having the due contractual procedures been followed.
- (4) Upon termination of a contract with an IA:
 - (i) The IA concerned should return all the project documentation to the CD, both hard copies and electronic copies;
 - (ii) The contracts that the terminated IA had with the SPs should be ceded formally to the CD. All the necessary documentation confirming how those SPs were procured should also be made available to the CD, as part of the cession process.
- (5) After the contracts have been ceded to the CD, the CD should in turn, cede such contracts to another(other) IA(s).
- (6) The CD or next IA(s) would not be obliged to take over contracts with non-performing SPs or where due procurement processes were not followed when their services were solicited.
- (7) It is at the discretion of a CD whether to award any further projects to the failed IA, as would be informed by its risk management assessment and subject to the provisions of Sub-section 13.1.

13.3 Failure by PSPs or Contractors on the Current Projects

- (1) Invariably, a lot of time is taken to appoint replacement SPs, in the event of failure to perform by the initial SPs. This leads to time delays with respect to the expected deliveries, potential loss of allocated special grant funds, unnecessary expenses associated with standing time, increased cost of materials due to escalation as the costs increase following the annual inflationary increases. By and large, these delays are costly and have to be avoided.
- (2) In order to abate the problem raised in paragraph (1) above, at the time of concluding the due procurement process, the IA should identify and approve the first and second preferred Service Providers for potential appointment. In the event of the first preferred SP not being able to proceed with the contract, the second preferred SP should be considered for appointment. This is considered fair and not prejudicing any new entrants because they would not have been part of the procurement process when it was initiated and is also considered as being fair to those who would have tendered. This is intended to reduce the retendering process and avoid fruitless and wasteful expenditure associated with extra security costs and reworking, while observing all the principles of procurement. This would be done in the context of Treasury Regulation 16A6.4.
- (3) The applicable rates at the time the second preferred SP is engaged would be based on their initial tendered and negotiated rates, but taking into consideration applicable escalation per the standard Contract Price Adjustment Provisions, as the case would be had they been awarded the contract. An IA should negotiate the tendered prices down, but without compromising the SP.
- (4) PSPs should not take more than 14 days to produce Termination BoQ, following sound cost management processes that should have been followed and documented up to the point of termination.
- (5) An IA should agree with the second preferred Service Provider on a reasonable period to mobilise on site. This period should not exceed twenty-one (21) days. During this period, all the necessary statutory requirements would have to be adhered to and confirmed (Environmental Method Statement, CIDB Grading, Tax Clearance Status (TCS), Guarantees, Balancing of Rates on the Completion EBoQ, Construction Schedule, etc.) leading to the finalisation and conclusion of a contract with the replacement SP.

13.4 Consequence Management

13.4.1 Consequences against Failure to Perform by a Contractor

- (1) When a contractor has performed poorly or failed dismally to perform, penalties are instituted against them where there are justifiable reasons to do so.
- (2) IAs should always solicit Performance Guarantees from their SPs and ensure that they are maintained during the course of a project. Confirmation for such should be included as part of attachments to the Contractor's Interim Payment Certificate.
- (3) The readily available instruments for instituting penalties should continue being used.
- (4) An IA should list Contractors that failed to perform on the National Treasury's List of Blacklisted Companies. Confirmation of such Blacklisting should be included by an IA as part of a request for approval of a replacement Contractor by a CD.

13.4.2 Consequences against Failure to Perform by a PSP

- (1) Currently, there are no penalties instituted against PSPs when they fail to perform. The only available recourse is the termination of their contracts.
- (2) Termination Clause should be included in all the IA/PSP Contracts and adhered to. Where there is a need to terminate such contracts, due processes should be followed and the process should be carried out swiftly.
- (3) Payments due to PSPs should be managed closely as a means of encouraging better performance:
 - (a) A percentage of total PSP fees payable per stage of the PSP Services, per Annexure A of the *Norms and Standards for Education Facilities*, should be adhered to;
 - (b) No part payment against unfinished PSP deliverables, should be considered; and
 - (c) Fees associated with Stage 5 should be strictly linked to the contractor claims and expressed as a percentage of those claims.
- (4) A PSP is regarded as a representative of the Client (which is an IA in this case). Therefore, trustworthiness and authenticity of reporting to its Client is key. Where there is misrepresentation of information, which includes processing of Contractor claims where no deliverables were realised on site, should lead to immediate termination of their contract and listing such entities on the National Treasury's Blacklisted Companies.
- (5) IAs should list on the National Treasury's List of Blacklisted Companies the PSPs that failed to perform on other areas other than the one contemplated in paragraph (4) above. The confirmation of such Blacklisting should be included by an IA as part of its request for approval of a replacement PSP that would be submitted to a CD-AO.
- (6) Where there is poor management of a contract by the PSP, resulting into:
 - (a) Time extension been awarded to a Contractor, following a failure by the PSP to carry out its duties, no PSP fees should be payable on the portion of the Contract Adjustment; and
 - (b) Where there are Variation Orders, arising following an omission by the PSP, no PSP Fees should be payable against that portion of Construction Work.
- (7) Where there are undue delays occasioned by the PSP, especially for Stages 1 to 4 and Stage 6 of PSP Services, deduction of a certain percentage of the PSP Fees should be considered.
- (8) The PSPs should be required to submit Professional Indemnity (PI) Insurances at the time of concluding a contract with an IA. The value of the PI insurance should, as a minimum, be twice the value of the PSP Fees payable to them. It should further be dealt with as follows:
 - (a) Where financial penalties are instituted against a PSP, they should be deducted from the payable PSP Fees and from the PI Insurance where they run short.
 - (b) The PI Insurance should also be deemed or treated as a form of a Performance Guarantee for PSPs.
 - (c) Following (b) above, in event of a complete failure by a PSP leading to its contract being terminated, the remaining PI Funds should be forfeited to the Programme under which the project(s) the PSP managed.
 - (d) As a means of ensuring that PI Insurances are serviced, when the PSPs submit their PSP Fees Payment Certificates, they should submit a proof that the PI Insurance is serviced and has not lapsed.

- (e) Where, following (d) above, it has been established that the PI Insurance is no longer serviced, portion of their payable PSP Fees should be deducted to pay for the outstanding service fees so that the PI Insurance remains valid for the duration of their project.

13.4.3 Consequences against Failure to Perform by an IA

- (1) Currently, there are no penalties instituted against IAs when they fail to perform. The only available recourse is the termination of their contracts and reduction of the number of projects awarded to them, ceding them to better performing IAs.
- (2) Service Delivery Agreements (SDAs) should be entered into between IAs and CDs, regardless of whether an IA is another Government Department, SOE or NGO. This should be done in the context of Section 238 of the Constitution.
- (3) Termination Clauses should be included in all the IA/CD SDAs and should be adhered to. Where there is a need to terminate such contracts, the termination process should be carried out swiftly, having followed all the due processes.
- (4) Where a SP claims for Late Payment Interests, while Programme Funds were transferred timeously by a CD to an IA, such Interest Claims should be settled by the IA concerned.
- (5) Where an IA needed to defend itself in a Court of Law on Late Payment charges arising from late transfer of Programme Funds by a CD to an IA, the IA should claim all the legal costs from the CD. However, if such delays were occasioned by an IA's internal processes, such claims should be settled by the IA concerned from its own funds.
- (6) An IA acts on behalf of a CD, as its agent. Therefore trustworthiness, reliability and authenticity of reporting to its CD is key. Where there is gross misrepresentation of information, which includes processing of SPs' claims, where no deliverables were realised on site, such should lead to immediate termination of their contract due to unreliability and untrustworthiness. At the same time, this should not lead to under-reporting or under-claiming against value realised on site because this would compromise the SPs. The provisions of Sections 11.4(8) and 11.4(11) should be adhered to regarding what should be regarded as claimable.
- (7) Where poor Contracts Management processes were followed by an IA, leading to Time Extension been granted to a Contractor and/or VO, where such arose from a failure by a PSP to carry out its professional duties, no IA Management Fees should be payable to that portion of Project Costs following the Contract Price Adjustment.
- (8) Where there are undue delays occasioned by an IA, especially for pre-project processes, deduction of a certain percentage of the IA Management Fees should be considered.
- (9) The provisions of Section 13.4.2 regarding PI Insurance for PSPs should also be applicable to IAs.
- (10) Where an audit finding has been levelled against a CD, arising from the activities of an IA, the same audit findings should:
 - (a) Be levelled against the IA concerned; and
 - (b) Be reflected in its Annual Report.
- (11) CDs should list IAs that failed to perform on the National Treasury's List of Blacklisted Companies.

14. TRANSITIONAL ARRANGEMENTS

- (1) These *IA Guidelines* provide a framework of what an IA should possess as a minimum. It is patent that at the time of publishing these *Guidelines* a number of CDs would have already engaged services of IAs or were in the process of soliciting them. This section highlights the provisions for dealing with transitional arrangements.
- (2) Existing IAs:
 - (a) A CD should use these *IA Guidelines* to assess the extent to which an existing IA meets the minimum standard requirements of an IA and the extent to which an IA fulfils its scope of services;
 - (b) Where there are identified gaps, an IA should be given a reasonable period to address the identified gaps;
 - (c) The IA Compensation Framework should be considered for new projects;
 - (d) Where there are justifiable reasons, as would be determined by a CD, the IA Compensation Framework could be considered on existing projects, but without back-dating. Such adjustments should be documented and signed by a CD.
- (3) Process of soliciting IA Services already commenced:
 - (a) Because of the long-term nature of the contractual engagement with IAs, it is recommended that any process of soliciting IAs takes the provisions of these *IA Guidelines* into consideration.
 - (b) Following the provisions of paragraph 3(a) above, where the process of soliciting IAs had already commenced at the time of issuing these *IA Guidelines*, the extent to which the provisions of these Guidelines could be incorporated should be assessed and the solicitation process be reviewed.

15. SHORT TITLE

The short title for this document is: ***Guidelines on Minimum Requirements for Implementing Agents – the IA Guidelines.***

16. REVIEW OF THE IA GUIDELINES

The ***IA Guidelines*** shall be reviewed as and when required.

ANNEXURES

Annexure A: Glossary of Financial and Project Management Terms

TERM	DEFINITION
Accruals	<i>Refers to the total amount of money that has been invoiced for the work done and certified but not yet settled by a Client Department by the end of a Financial Year (FY), therefore needing to be settled in the following FY. Where sufficient Programme Funds were transferred to an IA, there is no rationale for payments due to Service Providers not be processed, to eliminate accruals. It is therefore incumbent upon IAs to ensure that such payment claims are settled promptly.</i>
Actual Payments	<i>Refers to the total accumulative amount of money that has been invoiced, certified and paid to Service Providers against the work done. Such work would be certified either by Principal Agents in case of Construction Works; IA's Project Manager in case of PSP Fees; and Client Department's Account Manager in case of IA Management Fees.</i>
Beneficial Occupation	<i>Refers to a process where the end-users take physical occupation of a finished building/facility to pursue its intended purpose. This takes place after either Sectional Completion or Practical Completion Certificates have been issued by the Principal Agent. This process takes place during the 90-day Defects Liability Period. Any wear and tear, vandalism, and accidents following Beneficial Occupation would be at the Client Department's costs. No Beneficial Occupation should take place before Certificates of Compliance have been issued by the Contractor.</i>
Cash-flow Projections	<i>Refers to the projected value of payments to be made to SPs against the work done. This includes payments towards Accruals not yet settled and payments against work to be carried out on site by all the Service Providers over a given period, which is usually a month or a quarter. This is the sum of Construction Costs, PSP Fees and IA Management Fees. The total sum of all such monthly projections over a period of a FY provides the projected Annual Budget for that project. Because Retentions are deducted from the Construction Payment Certificates, these are excluded from the calculations unless they are/were due to be paid.</i>
Certified Work	<i>Refers to work that has been carried out by a Service Provider, assessed and confirmed by a duly authorised person as meeting the specifications, being of quality with value for money realised and therefore approving that payments towards such work could be made.</i>
Commitments	<i>Refers to the total amount of money equivalent to the total value of work to be created on a project over a given FY or part of a FY from the date of assessment. This includes Construction Costs, PSP Fees and IA Management Fees.</i>
Committed Projects	<i>Refers to projects that already have Service Providers (Professional Service Providers and/or Contractors) procured and contracts signed with them, thereby confirming their appointment to implement such projects. Work might not have commenced at the time of assessing the status of these projects.</i>
Contracted Projects	<i>Same as Committed Projects.</i>
Contract Sum	<i>Refers to the accepted tender amount for the construction works and is inclusive of Contingencies and VAT, and is not subject to any adjustments.</i>

TERM	DEFINITION
Contract Value	<i>A monetary value of the construction works, initially equal to the Contract Sum, but later subject to adjustments in terms of the contract. Such adjustments include Variation Orders, CPAP Adjustments, Re-measurables and penalties.</i>
Contract Validity Period	<i>Refers to the period from the date of Tender Award to the date of expiry of the Latent Defects Liability Period. Essentially, this defines the period over which the Contractor still has an obligation on the project.</i>
Construction Period	<i>Refers to the period from the Site Hand-over Date to the date of Practical Completion. Because the Contract with the Contractor continues until the Final Completion Date, some construction related payments would still be processed after the Construction Period. These include released Retentions, Penalties in favour of the Contractor, VOs that might not have been approved before.</i>
Construction Contract Duration	<i>Refers to the period from the Contract Award Date to the Final Completion Date.</i>
Completion Certificates:	<i>Refers to various certificates issued by the Principal Agent to a Contractor when certain milestones have been reached. These are further elaborated below:</i>
<ul style="list-style-type: none"> ○ Sectional Completion Certificate 	<p><i>Refers to partial completion of Construction Work Packages.</i></p> <p><i>While Sectional Completion is normally pursued, especially where there is an urgency to occupy completed sections of a facility, such as certain buildings, this work should be reported carefully so that it is not misleading and be construed as Practical Completion of the overall project. Under no circumstances should Sectional Completion be reported as Practical Completion.</i></p> <p><i>Sectional Completion should be avoided where each section cannot be defined as a homogenous unit and where there is no reasonable continuity of work for the contractor.</i></p>
<ul style="list-style-type: none"> ○ Practical Completion Certificate 	<p><i>Refers to a Certificate that is issued by the Principal Agent to a Contractor when all the Work Packages have been delivered per the specifications, meeting the expected quality standards in terms of the construction materials used and workmanship. Any defects and/or outstanding work has to be attended to by the Contractor prior to a PC Certificate been issued. After a PC Certificate has been issued, the end-users could take Beneficial Occupation of the facility as would be directed in writing by the Principal Agent. At this stage, the Client Department assumes legal responsibility for the works.</i></p> <p><i>This stage does not signify the end of construction activities as the Contractor still needs to attend to any defects that might arise during the 90-day Defects Liability Period and therefore still remains on site largely. Final Accounts and Final Payment Certificates would not have been issued yet.</i></p>
<ul style="list-style-type: none"> ○ Final Completion Certificate 	<i>Refers to a Certificate that is issued by the Principal Agent to a Contractor after the 90-day Defects Liability Period, where he/she certifies that the works are free of any patent defects. By this stage, all the defects that arose during the 90-day period, bar the excluded items, should be rectified by the contractor at his/her costs. Following the process of issuing a FC Certificate, the contractor's obligations are deemed to have been fulfilled and could therefore demobilise and leave site. The Contractor's Public Liability in relation to the works ceases. The contractor's guarantees, warranties or indemnities are deemed to be ceded to the Client Department. The Final Payment Certificate could now be issued.</i>
Defects Liability:	<i>Refers to any aspect of materials and/or workmanship forming part of the works or deliverables that do not conform to the specifications. These are further expatiated below:</i>

TERM	DEFINITION
<ul style="list-style-type: none"> ○ Patent Defects 	<p><i>Refers to visible defects that are noticeable over the Construction Period. The accumulated list of such defects that are assessed before a Practical Completion Certificate is issued are normally referred to as the “Snag List”. All the Patent Defects are expected to be rectified by a Contractor at his/her own cost before a Practical Completion Certificate is issued.</i></p>
<ul style="list-style-type: none"> ○ Defects Liability Period 	<p><i>Refers to a 90-days period after the date of issue of a Practical Completion Certificate. During this period the contractor is liable for any defects that might surface. Any damages associated to maintenance issues such as wear and tear, accidents, acts of God, and vandalism could be rectified by the Contractor but at the Client’s Costs.</i></p>
<ul style="list-style-type: none"> ○ Latent Defects Liability Period 	<p><i>Refers to the 5-year period after the date of Final Completion. Any defects that surface during this period after the Final Completion Certificate has been issued and the Contractor has left the site should be rectified by the Contractor at his/her own costs. This excludes maintenance issues. Some of the specialist work would be covered by the Guarantees/ Warrantees issued by the specialist sub-contractors for such works. The Contractor is required to pay for rectifying any latent defects that materialise. Based on the nature of the defects, assessment would be made on whether this was due to design error or fault with contraction material and/or workmanship. In the event of the former, the PSPs are liable for rectifying the defects.</i></p>
<p>Final Account</p>	<p><i>Refers to a document that is prepared by the Principal Agent that reflects the final contract value of the works at Final Completion or at termination. This document is prepared by the Principal Agent and agreed with the Contractor. The Final Accounts reflects all the adjustments made to the Contract Sum to arrive at the Contract Value. It also reflects what is still owed to the Contractors, which would include Retention Monies to be released.</i></p>
<p>Final Payment Certificate</p>	<p><i>Refers to a certificate issued by the Principal Agent after the Final Completion Certificate has been issued and after the Final Account has been agreed and approved. This reflects the amount that may still be payable to the Contractor as would be determined in the Final Account.</i></p>
<p>Guarantees in Construction:</p>	<p><i>Refers to a security that is issued by an accredited Financial Institution under the name of a specific entity, e.g. a Contractor, which is intended to protect an entity it transacts with against defaulting or failure to perform. Guarantees are used as a security for the payment of compensation and to secure the performance of the obligations of the Client Department and/or Contractor in the construction contract. These are further expatiated below:</i></p>
<ul style="list-style-type: none"> ○ Tender Guarantees 	<p><i>Refers to a form of security or bond to compensate the Client Department for costs incurred in the event of a successful Bidder retracting its bid or does not proceed with the contract at the time of award. Its primary purpose is to create an incentive for responsible bidding and contributes towards eliminating abnormally low bids. Where this is considered, it should not be used as a perverse incentive by creating a “barrier to entry”.</i></p>
<ul style="list-style-type: none"> ○ Performance Guarantee 	<p><i>Refers to a form of security that protects the Client Department against the risk of the Contractor failing to perform or comply with the conditions of the contract. Normally, the guarantee amount is equal to 10% of the Contract Sum.</i></p>

TERM	DEFINITION
<ul style="list-style-type: none"> ○ Advanced Payment Guarantee 	<p><i>Refers to a form of security issued by an accredited Financial Institution to a Contractor in lieu of advance payment that has been made towards purchasing specified bulk construction materials. Such materials may not necessarily be delivered on site in totality but some stored in the Material Supplier’s Yard until they are required on site. It is considered prudent and wise to keep such materials in the Material Supplier’s Yard as a means of mitigating against the risks associated with safety, security, storage and potential damage. The notion of advance payment is considered ideal for securing availability of such materials and for benefiting on bulk purchase discounts. The value of the guaranteed amount decreases in as the percentage of work certified increases where such work would be associated with the materials purchased from the advance payments.</i></p>
<ul style="list-style-type: none"> ○ Retention Guarantee 	<p><i>Refers to a form of security that is intended to protect a Client Department from a failure by the Contractor to rectify defects.</i></p>
<p>Insurances:</p>	
<ul style="list-style-type: none"> ○ Professional Indemnity Insurance 	<p><i>Refers to an insurance carried by Professional Service Providers which is aimed at providing protection against financial loss resulting from a legal liability to a third party.</i></p>
<ul style="list-style-type: none"> ○ Worker’s Compensation Insurance 	<p><i>Refers to insurance cover for damage to property or death or bodily injury to employees of a Contractor arising out of and in the course of their employment in connection with the contract.</i></p>
<ul style="list-style-type: none"> ○ Public Liability Insurance 	<p><i>Refers to a cover towards the cost of a claim made by a client or member of public that has suffered injury or property damage as a result of construction activities.</i></p>
<ul style="list-style-type: none"> ○ SASRIA Special Risk 	<p><i>Refers to insurance in respect of riot and associated risk of damage to the works, construction plant and construction materials.</i></p>
<p>Outstanding Payment</p>	<p><i>Refers to the total amount of money that has been invoiced towards work carried out on site and certified but not settled yet during the Financial Year and does not affect Year-end Financial Reporting unless it is an accrual.</i></p>
<p>Project Capitalisation</p>	<p><i>Refers to the process of recording certain costs associated with a project as a fixed/ immovable asset on the balance sheet. These costs would be equivalent to the Contract Value as reflected in the Final Accounts. This process enables to a project to be transferred into the Client Department’s Asset Register. The Final Completion Certificate and the Final Accounts reflect the realisation of a complete facility that has no known defects and the “true” value of the asset.</i></p>
<p>Retentions</p>	<p><i>Refers to a percentage (often 5%) of the amount certified as due to the contractor on an interim payment certificate, that is deducted from the amount due and retained by the client. It is a form of a financial security to ensure that Contractors adequately fulfil their contractual obligations. It is also used against patent defects in case of a Contractor failing to correct such defects.</i></p>
<p>Re-measurement / Re-measurables</p>	<p><i>Refers to the quantities of items that could not be ascertained at the time the designs were concluded. Typically, this is associated with excavation works where the underlying soil conditions could not be ascertained to any degree of absoluteness thereby requiring that they be re-measured for payments only after all the excavations have been made. However, the rates for potential different soil conditions would have been predetermined during the bidding process.</i></p>

TERM	DEFINITION
Total Project Value	<p><i>Refers to the total amount required to complete a project and this includes the construction costs (before Retentions were deducted), PSP Fees and IA Management Fees.</i></p> <p><i>Includes all the Disbursements, VOs, Paid Contingencies, CPAP Adjustments, VAT and Excludes penalties.</i></p>
Value of Work Created	<p><i>Refers to the total monetary value of work carried out on site. It includes work that has been invoiced and paid for and work that has not been invoiced and therefore not paid for.</i></p>
Variation Orders (VOs)	<p><i>Refers to the changes that have been effected on the scope of the project with both financial implications and no financial implications. These could results from items to be added (additions) on or omitted (omissions) from the initial scope of work.</i></p>
Work-in-Progress (WIP)	<p><i>Refers to the projected value of work to be created over the remaining few days of a financial year from the date of issue of the last invoice towards work carried out in that financial year. This work would not have been carried out at the time of reporting it and not invoiced yet and would therefore become part of the Accruals reported and to be settled in the following FY.</i></p>

ANNEXURE B

Annexure B: Check-list for IA Programme Audit Information

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A	
Organisational and Statutory Requirements	Policies	<ul style="list-style-type: none"> • Procurement Policy : <ul style="list-style-type: none"> ○ Available ○ Aligned with relevant legislation; • Delegation of Authority Document; • Fraud & Corruption Prevention Policy; • Conflict of Interest Policy; • Code of Conduct & Ethics Policy; • SHE Policy; 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Human Resources		<ul style="list-style-type: none"> • Executive Manager/Programme Director: <ul style="list-style-type: none"> ○ Qualifications in the Built Environment (BE); ○ Registered Professional in BE; ○ Project/Programme Mngnt Professional; ○ 15 years of experience in BE; • Programme Manager: <ul style="list-style-type: none"> ○ Qualifications in the Built Environment (BE); ○ Registered Professional in BE; ○ Project/Programme Mngnt Professional; ○ 10 years of experience in BE; • Project Managers: <ul style="list-style-type: none"> ○ Qualifications in the Built Environment (BE); ○ Registered Candidate Professionals in BE; ○ Project/Programme Mngnt Professional; ○ 7 years of experience in BE; ○ About 1:15 ratio of projects; • Lead Project Accountant: <ul style="list-style-type: none"> ○ Qualifications in Finance; ○ Course in Project Finance; ○ Registered with a professional body; ○ 3 years in infrastructure project environment; 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Support Units		<ul style="list-style-type: none"> • Finance Section with: <ul style="list-style-type: none"> ○ Financial Management Unit; ○ Supply Chain Management Unit; • Internal Audit Section; • Legal Section with: <ul style="list-style-type: none"> ○ Contracts Management Unit; • Safety, Health & Environment Section; 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Systems		<ul style="list-style-type: none"> • Financial Management System; • Project Management System: <ul style="list-style-type: none"> ○ Project/Programme Management Policy; ○ Project/Programme Mngnt ICT System; ○ Stage Gate Approval System; ○ Change Review Approval System; • Contracts Management System; • Document Management & Control System; 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
Contract Initiation with an IA	Registration on the Central Supplier Database (CSD)	<ul style="list-style-type: none"> Registered on CSD; Registration Reflecting active and/or valid: <ul style="list-style-type: none"> Registration as a Business in SA; Tax Compliance Status (TCS); B-BBBEE Status; 			
	Letter of Appointment by the CD	<ul style="list-style-type: none"> Available; Signed and Dated; Clear about the Scope of Services; 			
	Letter of Acceptance by the IA	<ul style="list-style-type: none"> Available; Signed and Dated; 			
	Contract between IA and CD	<ul style="list-style-type: none"> This Contract is: <ul style="list-style-type: none"> Available; Complete, with all Annexures; Valid, i.e. not expired; Initialed each page by both main Signatories and Witnesses; Signed, witnessed and dated by both parties; Contract reflects: <ul style="list-style-type: none"> Contracting Parties; Contract Duration; Scope of Services; Project List; Method of Compensation; Termination Clauses; 			
Contract Execution by IA	Annual, once-off Documents	<ul style="list-style-type: none"> IPMP or B2 received from CD: <ul style="list-style-type: none"> Available; Signed by CD; IPIP developed by IA: <ul style="list-style-type: none"> Copy available; Signed by IA and sent to CD; Budget Projections by IA; IA FY-E Programme Report, complete and authentic: <ul style="list-style-type: none"> Financial Information; Performance Information; 			
	Monthly, ongoing deliverables	<ul style="list-style-type: none"> Copies of Correspondence (letters and emails); Copies of All Submissions; Copies of Monthly Progress Reports; Copies of all IA Invoices for Mngnt Fees; 			
Close-out by IA (at end of Contract)	Close-out Documents	<ul style="list-style-type: none"> Copy of IA Close-out Report: <ul style="list-style-type: none"> Available; Signed and sent to the CD; IA Close-out Report reflecting: <ul style="list-style-type: none"> Overall Portfolio of Projects (including cancelled and shelved projects); Total Actual Expenditure; List of Projects still as WIP, and with stages of completion; List of Projects at PC, with completion dates; List of Projects at FC, with completion dates; 			

ANNEXURE C

Annexure C: Check-list for IA Project Audit Information

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
Solicitation of PSP Services	Request for Proposal Document or Terms of Reference	<ul style="list-style-type: none"> • Complete Copy available; • Bid Title and Bid Number; • Date of Briefing Meeting; • Venue of Briefing Meeting; • Bid Closure – Date and Time; • Physical Address of Tender Box; • Contact Person and Contact Details; • Bid Validity Period; • Scope of Work for PSPs; • Required group of professionals; • Contract Duration; • Information to be provided by Bidders; • Terms and Conditions; • Tendered Amount; • Assessment of Bids; • Conditions of Disqualification; • Returnables: <ul style="list-style-type: none"> ○ Certificate of Authority of Signatory; ○ Schedule of Addenda; ○ Financial Proposal Form; ○ SBD 1 Form – Invitation to Bid; ○ SBD 4 Forms – Declaration of Interest; ○ SBD 6.1 Forms – Preference Points; ○ SBD 6.2 Forms – Local Content ○ SBD 8 Forms – Past SCM Practices; ○ SBD 9 Forms – Independence of Bid; 			
	Appointment of SCM Committees (BSC, BAC, BEC)	<ul style="list-style-type: none"> • Copies of Letters of Appointment available: <ul style="list-style-type: none"> ○ BSC; ○ BAC; ○ BEC; • Signed by Accounting Officer and dated: <ul style="list-style-type: none"> ○ BSC; ○ BAC; ○ BEC; 			
	Advert	<ul style="list-style-type: none"> • Available and complete; • Advertised on: <ul style="list-style-type: none"> ○ Tender Bulletin; ○ i-Tenders; ○ Print medium, where necessary; 			
	Briefing Meeting	<ul style="list-style-type: none"> • Attendance Register; • Presentation; • Minutes of Briefing Meeting; • Proof of Minutes sent to Prospective Bidders; 			
	Clarity Questions	<ul style="list-style-type: none"> • Complete Set of Clarity Questions asked by Prospective Bidders; • Complete Set of Responses sent to Prospective Bidders; • Confirmation of who the Responses were sent; 			

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
	Addenda	<ul style="list-style-type: none"> Copies of all Addenda issued; Received acknowledgement of Receipt of Addenda by all Prospective Bidders; 			
	Bid Evaluation Process	<ul style="list-style-type: none"> Attendance Register; Declaration of Interest Register; Bid Evaluation Report reflecting: <ul style="list-style-type: none"> Procurement Process Followed; List of All Bidders; Disqualified Bidders for Late Submission; List of Non-responsive Bidders; Bidders appearing on NT's Blacklist; Bidders not thru the Eligibility/Functionality Assessment; Empowerment Scores; Price Scores; Ranking of Bidders per Total Scores; Commercial Risk Assessment; Reasons for not recommending highest Scorer; 1st and 2nd Preferred Bidders; Recommended Tendered Prices; Minutes of Bid Evaluation Committee: <ul style="list-style-type: none"> Available; Signed; Reflecting: <ul style="list-style-type: none"> Recommended Bidders; Tendered amounts for Recommended Bidders; 			
	Bid Adjudication Process, and approval per the delegation of Authority Document	<ul style="list-style-type: none"> BEC Submission; Attendance Register; Declaration of Interest Register; Minutes of BAC Meeting: <ul style="list-style-type: none"> Available; Signed; Minutes reflecting: <ul style="list-style-type: none"> Names of 1st and 2nd Preferred Bidders; Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not recommending BEC Bidders, where this occurs; 			
	Approval by Accounting Officer of IA, per the Delegation of Authority Document	<ul style="list-style-type: none"> Procurement Submission to IA Accounting Officer (AO); Approval by IA AO, stating: <ul style="list-style-type: none"> 1st and 2nd Preferred Bidders; Approved Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not recommending BAC Bidders, where this occurs; 			
	Procurement Concurrence by the Accounting Officer of CD	<ul style="list-style-type: none"> Procurement Submission to Client Department (CD) AO; Approval by CD AO, stating: <ul style="list-style-type: none"> 1st and 2nd Preferred Bidders; Approved Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not approving IA Bidders; 			

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
	Correspondence to Unsuccessful Bidders	<ul style="list-style-type: none"> Letters to Unsuccessful Bidders, reflecting: <ul style="list-style-type: none"> Name of Bid and Bid Number; Confirmation of unsuccessful Bid; Right to challenge with fourteen (14) days; Dissatisfaction Letter from Bidders; Responses to Letters of Dissatisfaction; 			
	Correspondence to Successful Bidder	<ul style="list-style-type: none"> Name of Bid and Bid Number; Confirmation of successful Bid; Conditions to be met before executing the contract; Documentation indicating that Conditions Precedent were met; Letter of Appointment from IA to PSP; Letter of Acceptance from PSP to IA; 			
	Service Delivery Agreement/Contract between IA and PSP	<ul style="list-style-type: none"> SDA is: <ul style="list-style-type: none"> Available; Valid, i.e. not expired; Initialled each page by both main Signatories and Witnesses; Signed, witnessed and dated by both parties; The SDA reflects: <ul style="list-style-type: none"> Contracting Parties; Contract Duration; Scope of Services; Project List; Method of Compensation; Termination Clauses included; 			
Planning, Design and Tender Documentation	Deliverables	<ul style="list-style-type: none"> Stage 1 - Inception: <ul style="list-style-type: none"> Project Implementation Plan Site Assessment Report; Transfer of Landownership Transfer; Approval for relocation of Services; Rezoning and Environmental Approvals; Stakeholder Consultation Report; Stage 2 - Concept & Viability: <ul style="list-style-type: none"> Project Brief; Sketch Layout Plans; Preliminary Cost Estimates; Preliminary Schedule of Major Deliverables; Site Development Plans; Value Engineering Report; Stage 3 - Design Development: <ul style="list-style-type: none"> Design Development Drawings; Technical Specifications; Detailed Cost Estimates; Design Report; Stage 4 - Documentation & Procurement: <ul style="list-style-type: none"> Working Drawings; Elemental Bill of Quantities; Tender Document; Stage Gate Approvals: <ul style="list-style-type: none"> Gate 1 Gate 2 Gate 3 			

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
		<ul style="list-style-type: none"> o Gate 4 o Gate 5 			
Procurement of a Contractor	Tender Document	<ul style="list-style-type: none"> • Complete blank Tender Document is available; • Tender Document reflects: <ul style="list-style-type: none"> o Tender Title and Tender Number; o Date of Site Briefing Meeting; o Venue of Briefing Meeting; o Tender Closure – Date and Time; o Physical Address of Tender Box; o Contact Person and Contact Details; o Tender Validity Period; o Contract Duration; o Information to be provided by Tenderers; o Signed Form of Offer; o Assessment of Bids; o Conditions for Disqualification; • Tender Document reflects Returnables: <ul style="list-style-type: none"> o Certificate of Authority of Signatory; o Schedule of Addenda; o Priced BoQ; o SBD 1 Form – Invitation to Bid; o SBD 4 Forms – Declaration of Interest; o SBD 6.1 Forms – Preference Points; o SBD 6.2 Forms – Local Content o SBD 8 Forms – Past SCM Practices; o SBD 9 Forms – Independence of Bid; 			
	Appointment of SCM Committees (BSC, BAC, BEC)	<ul style="list-style-type: none"> • Copies of Letters of Appointment available: <ul style="list-style-type: none"> o BSC; o BAC; o BEC; • Signed by Accounting Officer and dated: <ul style="list-style-type: none"> o BSC; o BAC; o BEC; 			
	Advert	<ul style="list-style-type: none"> • Available and complete; • Advertised on: <ul style="list-style-type: none"> o Tender Bulletin; o i-Tenders; o Print medium, where necessary; 			
	Site Briefing Meeting	<ul style="list-style-type: none"> • Attendance Register; • Presentation; • Minutes of Briefing Meeting; • Proof of Minutes sent to Prospective Bidders; 			
	Clarity Questions	<ul style="list-style-type: none"> • Complete Set of Clarity Questions asked by Prospective Bidders; • Complete Set of Responses sent to Prospective Bidders; • Confirmation of who the Responses were sent; 			
	Addenda	<ul style="list-style-type: none"> • Copies of all Addenda issued; • Received acknowledgement of Receipt of Addenda by all Prospective Bidders; 			

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
	Bid Evaluation Process	<ul style="list-style-type: none"> Attendance Register; Declaration of Interest Register; Tender Evaluation Report reflecting: <ul style="list-style-type: none"> Procurement Process Followed; List of All Bidders; Disqualified Bidders for Late Submission; List of Non-responsive Bidders; Empowerment Scores; Price Scores; Ranking of Bidders per Total Scores; Commercial Risk Assessment; Reasons for not recommending highest Scorer; 1st and 2nd Preferred Bidders; Recommended Tendered Prices; Minutes of Bid Evaluation Committee reflecting: <ul style="list-style-type: none"> Recommended Bidders; Tendered amounts for Recommended Bidders; 			
	Bid Adjudication Process, and approval per the delegation of Authority Document	<ul style="list-style-type: none"> BEC Submission; Attendance Register; Declaration of Interest Register; Signed Minutes of BAC Meeting reflecting: <ul style="list-style-type: none"> Names of 1st and 2nd Preferred Bidders; Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not recommending BEC Bidders; 			
	Approval by Accounting Officer of IA, per the Delegation of Authority Document	<ul style="list-style-type: none"> Procurement Submission to IA Accounting Officer (AO); Approval by IA AO, stating: <ul style="list-style-type: none"> 1st and 2nd Preferred Bidders; Approved Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not recommending BAC Bidders; 			
	Procurement Concurrence by the Accounting Officer of CD	<ul style="list-style-type: none"> Procurement Submission to Client Department (CD) AO; Approval by CD AO, stating: <ul style="list-style-type: none"> 1st and 2nd Preferred Bidders; Approved Tendered amounts for 1st and 2nd Preferred Bidders; Reasons for not approving IA Bidders; 			
	Correspondence to Unsuccessful Bidders	<ul style="list-style-type: none"> Letters to Unsuccessful Bidders, reflecting: <ul style="list-style-type: none"> Name of Bid and Bid Number; Confirmation of unsuccessful Bid; Right to challenge with fourteen (14) days; Dissatisfaction Letter from Bidders; Responses to Letters of Dissatisfaction; 			
	Correspondence to Successful Bidder	<ul style="list-style-type: none"> Correspondence available and reflecting: <ul style="list-style-type: none"> Name of Tender and Tender Number; Confirmation of successful Tender; Documentation to be submitted before executing the contract; Site Hand-over Date; All required Documentation indicating that 			

STAGE OF PROGRAMME DEVELOPMENT	TYPE OF DOCUMENT REQUIRED	AREA ASSESSED	Yes	No	N/A
		<ul style="list-style-type: none"> Conditions Precedent were met; Copy of Form of Acceptance sent to Contractor; Letter of Appointment from IA to Contractor; Letter of Acceptance from Contractor to IA; 			
	Contract between IA and PSP (JBCC, NEC, etc.)	<ul style="list-style-type: none"> Available; Initialled each page by both main Signatories and Witnesses; Signed, witnessed and dated by both parties; Reflecting, <i>inter alia</i>: <ul style="list-style-type: none"> Contracting Parties; Contract Duration; Scope of Work; Contract Value; Penalties; Termination Clauses; 			
Construction Activities and PSP Stage 5	Once-off Documents	<ul style="list-style-type: none"> Balanced BoQ; Work Plans; Copy of Site Hand-over Certificate; 			
	Rolling Documents over duration of contracts, therefore might be produced monthly;	<ul style="list-style-type: none"> Minutes of Technical Meetings; Minutes of Site Meetings; Summary of Compaction and Concrete Test Cube Results, with interpretations; Payment Certificates for PSP Fees; PSP Progress Report; Interim Payment Certificates for Contractor; Socio-economic (S-E) Report available; Copies of all Site Instructions; All correspondence on Contractual Matters; 			
	Completion Certificates	<ul style="list-style-type: none"> Practical Completion (PC) Certificate; Works Completion Certificate; Final Completion (FC) Certificate, (within 3 months of PC); 			
STAGE 6: Close-out of specific Project	Close-out Documents	<ul style="list-style-type: none"> As-built Drawings; Maintenance Plans/Manuals; Guarantees/Warrantees; Final Accounts; PSP's Close-out Report; 			

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