

Order Schedule 16 (Benchmarking)

1. DEFINITIONS

1.1 In this Schedule, the following expressions shall have the following meanings:

"Benchmark Review"	a review of the Goods or Services carried out in accordance with this Schedule to determine whether those Goods or Services represent Good Value;
"Benchmarked Goods or Services"	any Goods or Services included within the scope of a Benchmark Review pursuant to this Schedule;
"Comparable Rates"	the Charges for Comparable Goods or Services;
"Comparable Goods or Services"	deliverables that are identical or materially similar to the Benchmarked Goods or Services (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Goods or Services exist in the market, the Agency shall propose an approach for developing a comparable Goods or Services benchmark;
"Comparison Group"	a sample group of organisations providing Comparable Goods or Services which consists of organisations which are either of similar size to the Agency or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Agency or which, are best practice organisations;
"Equivalent Data"	data derived from an analysis of the Comparable Rates and/or the Comparable Goods or Services (as applicable) provided by the Comparison Group;
"Good Value"	that the Benchmarked Rates are within the Upper Quartile; and
"Upper Quartile"	in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Goods or Services, are within the top 25% in terms of best value for money for the recipients of Comparable Goods or Services.

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2. When you should use this Schedule

- 2.1 The Agency acknowledges that the Client wishes to ensure that the Goods or Services represent value for money to the taxpayer throughout the Contract Period.
- 2.2 This Schedule sets to ensure the Contracts represent value for money throughout and that the Client may terminate the Contract by issuing a Termination Notice to the Agency if the Agency refuses or fails to comply with its obligations as set out in Paragraphs 3 of this Schedule.
- 2.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

3. Benchmarking

3.1 How benchmarking works

- 3.1.1 The Client and the Agency recognise that, where specified in DPS Schedule 4 (DPS Management), the Client may give CCS the right to enforce the Client's rights under this Schedule.
- 3.1.2 The Client may, by written notice to the Agency, require a Benchmark Review of any or all of the Goods or Services.
- 3.1.3 The Client shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Contract Commencement Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.4 The purpose of a Benchmark Review will be to establish whether the Benchmarked Goods or Services are, individually and/or as a whole, Good Value.
- 3.1.5 The Goods or Services that are to be the Benchmarked Goods or Services will be identified by the Client in writing.
- 3.1.6 Upon its request for a Benchmark Review the Client shall nominate a benchmarker. The Agency must approve the nomination within ten (10) Working Days unless the Agency provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Client may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.7 The cost of a benchmarker shall be borne by the Client (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Goods or Services are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Agency and the relevant portion shall be reimbursed by the Client.

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3.2 Benchmarking Process

- 3.2.1 The benchmarker shall produce and send to the Client, for Approval, a draft plan for the Benchmark Review which must include:
- (a) a proposed cost and timetable for the Benchmark Review;
 - (b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
 - (c) a description of how the benchmarker will scope and identify the Comparison Group.
- 3.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
- 3.2.3 The Client must give notice in writing to the Agency within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Agency whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.
- 3.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.
- 3.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:
- (a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Agency's professional judgment using:
 - (i) market intelligence;
 - (ii) the benchmarker's own data and experience;
 - (iii) relevant published information; and
 - (iv) pursuant to Paragraph 3.2.7 below, information from other suppliers or purchasers on Comparable Rates;
 - (b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
 - (c) using the Equivalent Data, calculate the Upper Quartile;
 - (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 3.2.6 The Agency shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Agency agrees to use its

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reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.

3.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:

- (a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
- (b) exchange rates;
- (c) any other factors reasonably identified by the Agency, which, if not taken into consideration, could unfairly cause the Agency's pricing to appear non-competitive.

3.3 Benchmarking Report

3.3.1 For the purposes of this Schedule "**Benchmarking Report**" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;

3.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Client, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:

- (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Goods or Services as a whole are, Good Value;
- (b) if any of the Benchmarked Goods or Services are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Goods or Services as a whole Good Value; and
- (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Agency has calculated whether or not the Benchmarked Goods or Services are, individually or as a whole, Good Value.

3.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Client in accordance with Clause 24 (Changing the contract).