# PART B CONTRACT STANDING ORDERS

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*Note: All costs stated in these contract procedure rules are exclusive of VAT, staff costs and fees.*

B1 CONTRACTS AND THE APPLICABILITY OF CONTRACT STANDING ORDERS

B1.1 A contract is where you OFFER a product or service to someone else who ACCEPTS it and agrees to give you something in return (known as the CONSIDERATION). It can be verbal or in writing. ‘In writing’ includes official documents called ‘contracts’ or ‘Terms and Conditions’, an exchange of emails or an exchange of letters.

B1.2 In legal terms, all procurements (purchases) of goods and services are contracts. The fact that a procurement may not be described in a formal written contract does not diminish its legal status as a contract or the obligation on you to obtain Best Value for the Authority.

B1.3 All contracts that you make on behalf of the Lake District National Park Authority or on behalf of any partnership to which the Authority belongs must be put in writing. This is to make it clear exactly what has been agreed. You must not permit a contractor to start work or accept delivery of any item until you have a contract that has been signed by all parties or you have confirmed that the Authority’s standard terms and conditions apply. In cases where you are asked to agree to the contractor’s standard terms and conditions you must seek the approval of the Authority’s Solicitor.

B1.4 You must adhere to these Contract Standing Orders:

* whenever you purchase goods or services for the Authority including the appointment of a Consultant,
* whenever you purchase goods or services on behalf of any partnership to which the Authority belongs,
* whenever you vary the terms of a contract,
* whenever you renew or extend a contract,
* whenever you enter into hire agreements or finance leases in respect of property other than land and buildings, or
* whenever you enter into a partnership or other arrangement with another organisation to pursue a joint commercial venture (including sponsorship and income generation schemes) whether or not the organisation is a private body, a public body or a charity.

B1.5 These Contract Standing Orders do not apply to:

* the acquisition, disposal or transfer of land/buildings which do not form part of a wider transaction under which the Authority also procures Supplies, Services or Works. Rules regarding the purchase of land and buildings and disposal of assets are set out in the Authority’s [Financial Regulations](https://lakedistrictgovuk.sharepoint.com/%3Aw%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7BE9160E81-FB95-4A4D-95CD-EECF29F9C2EB%7D&file=PART%20C%20Financial%20Regulations.docx&action=default&mobileredirect=true) and any relevant policies or strategies.
* Contracts of employment which make an individual a direct employee of the Authority.
* Grants which the Authority may receive or award.

B1.6 Where the Authority is the Lead Organisation for a partnership or the Accountable Body for the purposes of a grant, you must follow these Contract Standing Orders when making any purchases and also comply with any additional requirements of the partnership or the grant agreement.

B2 BASIC PRINCIPLES

B2.1 These Contract Standing Orders (CSOs) are required by section 135 of the Local Government Act 1972 and form part of the Authority’s Core Documents.

B2.2 They are intended to promote good procurement practice and public accountability and ensure that the Authority complies with all legislative requirements. If followed they protect the Authority from allegations of non-compliance with procurement rules and Officers from allegations of fraud.

B2.3 Where procurements are covered by these CSOs the Estimated Total Contract Valueof the purchase determines the procedures that must be complied with. You must fairly and reasonably estimate the Estimated Total Contract Value and clearly record it before deciding upon the appropriate procurement route. If Quotations or Tenders show that the Estimated Total Contract Value was too low and that a more rigorous procurement process would have been required if the actual value had been known, it will only be necessary to re-run the procurement exercise if the lowest price quoted/tendered is more than 20% above the original Estimated Total Contract Value.

B2.4 All procurements must:

* achieve *Best Value* for public money spent
* be consistent with the highest standards of integrity
* record any audit history
* ensure fairness in allocating public contracts
* comply with all legal requirements
* ensure the contracted company has the correct accreditation and delivers their service in line with our Values
* deliver a service in line with the necessary sustainable procurement requirements for that category of procurement.
* ensure that procurement is assessed for equality or diversity impacts and is in line with the Equality Act 2010 as amended from time to time.
* whilst some non-financial matters may be taken into consideration when making decisions, ensure that Non-Commercial Considerations do not influence any decision
* support the Authority’s corporate aims and policies

B2.5 Guidance is given in these CSOs to identify areas where legal, financial and other professional advice must be sought, but in some cases you may also need to take additional advice.

B2.6 Procurement must be in accordance with any relevant Service Plan and follow the processes set out in these CSOs, the *Procurement Toolkit* and, if appropriate, any project management methodology or business planning requirements.

**B3 OFFICER RESPONSIBILITIES**

B3.1 Subject to any overriding legal obligation, you must comply with these CSOs when undertaking any procurement referred to in B1.4 above. In addition you must comply with other relevant parts of the Core Documents, such as the Financial Standing Orders, and with all applicable laws.

B3.2 You must ensure that any person or organisation acting on behalf of the Authority also complies with these CSOs.

B3.3 You must take all legal, procurement, financial, technical and other advice that you need to ensure you comply with the law and the Authority's rules and policies and that the procurement method and contract are fit for purpose. In particular you must:

* follow the processes set out in the Procurement Toolkit and [Annex 1](https://lakedistrictgovuk.sharepoint.com/%3Ax%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7B32041BFF-F34D-4376-8AF6-1959BC0E56A6%7D&file=PART%20B%20Contract%20Standing%20Orders%20Annex%201.xlsx&action=default&mobileredirect=true) of these CSOs
* keep the records required by these CSOs
* enter the details of any contract with a value in excess of £500 onto the Contracts Index
* arrange for original contracts and variations or extensions of contracts to be sent to Legal Services for safe keeping
* ensure that Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal/HR advice when any employee either of the Authority or of a service provider may be affected by any transfer arrangement.

B3.4 You must comply with measures put in place by the Authority to prevent, identify and remedy conflicts of interest which arise during the conduct of procurement. In particular, you must:

* comply with the Officers' Code of Conduct when conducting procurement
* comply with section 117 of the Local Government Act 1972 by declaring in writing any personal interest in a contract to the Section 151 Officer.
* not accept any gift or hospitality from any Potential Supplier for any contract being procured by the Authority and to do so is a disciplinary offence. You must inform the Authority Solicitor or Director of Visitor Services and Resources if offered a gift or hospitality during a tender process.

B3.5 Directors must ensure that their staff comply with these CSOs.

B4 RECORD KEEPING

B4.1 You must keep records connected to the procurement of any Relevant Contracts, including any contract for which an Exemption (see below) has been approved. See the table contained at [Annex 1](https://lakedistrictgovuk.sharepoint.com/%3Ax%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7B32041BFF-F34D-4376-8AF6-1959BC0E56A6%7D&file=PART%20B%20Contract%20Standing%20Orders%20Annex%201.xlsx&action=default&mobileredirect=true) of these CSOs.

B4.2 Where the Total Contract Valueis less than £3,000, you must keep the following records:

* confirmation of which terms and conditions apply to the contract
* purchase order stating as a minimum
	+ goods/services to be purchased
	+ delivery details and timescales
	+ costs and budget head

B4.3 Where the Total Contract Valueis between £3,000 and £30,000 inclusive, you must keep the following records:

* the Tender documents or three written quotes sent to and received from Potential Suppliers;
* records of the evaluation of the tender;
* records of all clarification and post tender discussion (including minutes of any meetings).

B4.4 Where the Total Contract Valueexceeds £30,000, you mustkeep the following:

* the Business case (including details of pre-tender market research, options appraisal and risk assessments);
* the Tender documents sent to and received from Potential Suppliers;
* records of the evaluation of the tender;
* records of all clarification and post tender discussion (including minutes of any meetings); and
* Record of consideration of the public sector equality duty, the [Social Value (Public Contracts) Act 2012](https://www.legislation.gov.uk/ukpga/2012/3/contents) and consultation.

B4.5 Records required by this rule must be kept in accordance with the Authority’s [Data Protection and Information Management Policy](https://lakedistrictgovuk.sharepoint.com/%3Aw%3A/r/sites/WaymarkerLegal/_layouts/15/Doc.aspx?sourcedoc=%7BB446B45D-6885-4FD4-93DB-DE6634C81D72%7D&file=Data%20Retention%20and%20Info%20Mgt%20Policy.doc&action=default&mobileredirect=true).

B4.6 In addition to the above requirements, within 30 days of award of the contract, you must arrange for details of the award of any contract with a Total Value over £30,000 to be included in the Contracts Index. The details that must be included are:

* Start date and duration of the contract;
* Supplier;
* Title of the contract;
* Any contractual provision for extension; and
* Internal contact name and email address.

**B5 STEPS PRIOR TO PROCURMENT**

**Common Requirements**

B5.1  You must check whether there is a suitable existing contract, Framework Agreement or collaborative agreement before seeking to procure through another contract.  Where a suitable arrangement exists this must be used unless there is a compelling legal or financial reason not to.

B5.2 Subject to B5.1 you may use any appropriate procurement procedure which is permitted by these Contract Standing Orders.  You must use a procurement procedure which complies with the Regulations.

B5.3  You must consider the implications of the public sector equality duty under the Equality Act 2010; and (in respect of Services) of the Public Contracts (Social Value) Act 2012; and whether the proposed contract requires prior consultation under the "best value" requirements of the Local Government Act 1999 or for any other reason.Prior consultation should be with representatives of anyone who use or are likely to use services provided by the Authority, and representatives of persons appearing to the Authority to have an interest in any area within which the authority carries out functions. Prior consulation is required to secure continuous improvement in the way in which the Authority’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness**.**

B5.4  You must:

* consider the need for and the objectives of the expenditure and its priority
* ensure the procurement contributes to the delivery of the Service Plan
* ensure the procurement has been properly and realistically budgeted for
* ensure that it is clear what we want to buy, why we want it, when we want it, where we want it, at what cost and at what level of quality
* take into account the requirements of any relevant *Best Value* review
* assess the risks associated with the purchase and how to manage them
* consider what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging, strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaking or public service purchasing consortium
* decide the basis upon which the procurement is to be awarded
* if appropriate, ensure that the Authority’s project management methodology is used
* consult users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring
* draft the legal paperwork that is to apply to the proposed contract (standard T&Cs and template contracts are provided in the [Procurement Toolkit](https://lakedistrictgovuk.sharepoint.com/sites/WaymarkerFinance/SitePages/Procurement.aspx) and on Waymarker).
* confirm that there is authority or delegated approval for the expenditure and the purchase accords with the approved policy framework and the scheme of delegation as set out in the [Financial Regulations](https://lakedistrictgovuk.sharepoint.com/%3Aw%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7BE9160E81-FB95-4A4D-95CD-EECF29F9C2EB%7D&file=PART%20C%20Financial%20Regulations.docx&action=default&mobileredirect=true)
* confirm that the supplier has all the correct licenses, insurance and financial requirements at the earliest stage in the procurement process; failure to ask these questions in the qualification round makes it difficult to reject the company at later stages of the *Tender* process
* whether, and if so how, social, economic or environmental (including carbon reduction) issues could be addressed through the contract. Social, economic and environmental issues may be addressed through procurement where what is sought to be achieved is relevant and proportionate to the subject matter of the contract.

**Market Consultations**

B5.5  Before commencing a procurement exercise, you may consult with the market with a view to preparing the procurement exercise and informing contractors of the Authority's procurement plans and requirements.

B5.6  In carrying out market consultations, you may seek advice from independent experts, authorities or from market participants and use this in planning and conducting the procurement exercise provided that it does not have the effect of distorting competition, result in discrimination or breach the principle of transparency. The prior written approval of the Director of Visitor Services and Resources must be sought before seeking advice from anyone who may have a commercial interest in the contract to which the procurement exercise relates.

**Approved Lists**

B5.7  Approved Lists are lists of suppliers who meet the Authority's minimum technical and financial standards for the types of contract.

B5.8  The Chief Executive or Director of Visitor Services and Resources may approve the establishment of an Approved List of suppliers of Supplies, Services or Works, where the Authority requires to make recurrent, low value, transactions of a similar type which must be priced individually and cannot be aggregated into a single procurement exercise.

B5.9  Any request for approval of an Approved List must specify:

* The business case for establishing an Approved List;
* The proposed duration of the Approved List;
* The maximum spend using the Approved List; and
* The method of procurement of and from the Approved List.

B5.10 In line with 'Identifying Potential Contracts' rule B5.4 above, all Approved Lists must be openly advertised to potential suppliers and must remain open for their duration to permit new suppliers to join.

B5.11 An approved list may not be used to procure Supplies, Works or Services with an aggregated value in excess of the EU Threshold.

**Framework Agreements**

B5.12 Framework Agreements are agreements with one or more suppliers for the provision of Supplies, Services or Works on agreed terms for a specified period, for estimated quantities against which orders may be placed if and when required.  Once established "Call Offs" from the Framework Agreement may be conducted by mini competition or by direct call off, according to the terms of the Framework Agreement.

B5.13 Where a framework is established with a Total Value exceeding the EU Threshold the Regulations must be followed to establish the Framework Agreement and the maximum term of the Framework Agreement may not exceed  four years, except in exceptional circumstances, following consultation with the Director of Visitor Services and Resources and the Authority Solicitor, with full reasoning for the recommendation provided in the report seeking authorisation to start a procurement exercise.

**Collaborative Procurement Arrangements**

B5.14 The Authority may enter into collaborative procurement arrangements with other local authorities, government departments, public bodies or public service purchasing consortia and may use framework agreements or lists of pre-qualified contractors established by such bodies.

B5.15 If you propose to use such arrangements you must ensure that they have been established in a way which complies with the law. In particular where the Regulations apply the collaborative agreement must comply with them, the Authority must be among the bodies named in the Contract Notices on the UK's e-notification service, Find a Tender**,** as having access to the arrangements and there must be scope in the arrangement to permit its lawful use for the purposes proposed.

**Partnership Arrangements including Accountable Body and Joint Commissioning**

B5.16 Where the Authority enters into a Partnership Arrangement with another organisation or other organisations, agrees to act as Accountable Body, or enters into a shared service arrangement, the governance arrangements must include procurement and contract arrangements if any procurement will be undertaken.

B5.17 Where the Authority is the Lead Body or the Accountable Body for any arrangements, these CSOs should be included in the arrangements and followed as a minimum.

B5.18  Before the Authority agrees to enter into a contract on behalf of another organisation, you must obtain written agreement from that organisation that it will provide sufficient funding and take any other action necessary for the Authority to meet its obligations under the contract on behalf of that organisation.

B5.19  Where the Authority is not the Lead Body or the Accountable Body, the other organisation's tendering rules should be followed provided that they comply with the law.

**Rolling Contracts**

B5.22 Where it is proposed to procure a Relevant Contract on terms which will provide for renewal on a "rolling" basis, you must make a reasonable estimate of the term of the contract in order to estimate the Total Value.

B5.23 If during the term of the contract it appears that the Estimated Total Value may be exceeded by anticipated further renewals of the contract, you must refer the matter to the Director of Communication’s and Resources, who must review the position in consultation with the Authority Solicitor.

Exemptions from these Contract Rules

B5.24 Any Exemption from these CSOs must be approved before any alternative procedure not wholly in accordance with these CSOs is followed. The request for Exemption must state from which of the requirements of the CSOs the Exemption is requested and give reasons for the request. No exemption can be used where the Estimated Total Contract Value exceeds the EU Threshold.

B5.25 The Resources Committee has power to waive any requirements within these CSOs for specific projects.

B5.26 In exceptional circumstances, either the Director of Visitor Services and Resources or the Director of Sustainable Development have power to waive any requirements within these CSOs, provided that, where the contract is likely to exceed £30,000, either the Authority Solicitor or the Director of Visitor Services and Resourcesis consulted and is in agreement. Where the exemption is sought by the Director of Visitor Services and Resources, the Authority Solicitor must be consulted. Where the exemption is sought by the Authority Solicitor, the Director of Visitor Services and Resourcesmust be consulted.

B5.27 The Director of Visitor Services and Resources may grant an exemption in the following circumstances:

* where an exemption is necessary because of an urgent need or an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Authority services; or
* where goods or services costing less than £75,000 have been subject to a competitive Tendering process within the past 12 months no additional competitive process is required; or
* where goods or services costing under £75,000 are obtained through public auction provided that the companies must have all the correct criteria to deliver the goods or services at the quality levels required as set out in the brief; or
* there is only one contractor in the market relevant to the Supplies, Services or Works who is suitable to provide the Supplies, Services or Works required or can provide the expertise required within required timescales.
* There is a demonstrable value for money benefit to the proposed exemption.

B5.28 All exemptions, and clear reasons for them, must be recorded using the form in the Procurement Toolkit. You must sign the Exemption Form and have the form countersigned by the Director of Visitor Services and Resources*.*

B5.29 The Director of Visitor Services and Resourcesmust monitor the use of all exemptions and report all exemptions to the Resources Committee.

B5.30 The use of e-procurement technology does not negate the requirement to comply with all elements of these CSOs.

B6 Procurement of Goods and Services

Common Requirements

B6.1 In conducting any procurement exercise, you must treat all Contractors equally and without discrimination, and must act in a transparent and proportionate manner.

B6.2 Electronic procurement using the e-tendering portal must be used for all tenders and quotations unless authorisation to use an alternative method has been given by the Director of Visitor Services and Resources.

B6.3 You must consult the Finance Team on the appropriate procurement procedures if you are unclear of the process to be followed or the procurement exceeds the EU threshold.

Identifying Potential Suppliers

B6.4 You mustidentify and approach more than one Potential Supplier. Potential Suppliers can be identified using:

* Internet search engines (including local trade and business Directories)
* The Procurement Toolkit supplier listings
* The Chest
* [www.ebay.co.uk](http://www.ebay.co.uk)

Where a Relevant Contract is being procured the minimum procurement process and rules for inviting Potential Suppliers are set out in [Annex 1](https://lakedistrictgovuk.sharepoint.com/%3Ax%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7B32041BFF-F34D-4376-8AF6-1959BC0E56A6%7D&file=PART%20B%20Contract%20Standing%20Orders%20Annex%201.xlsx&action=default&mobileredirect=true).

B6.5 Where a contract with a value above £25,000 is advertised the Responsible Officer must also publish information on Contract Finder, in accordance with the procedure in Part 2 Chapter 8 of the Public Contracts Regulations 2015.

**Selection and Award Criteria for Tenders**

B6.6 You must use appropriate criteria to select Potential Suppliers (where a two stage tender process is used) and award the contract. Where the Regulations apply, these must comply with the Regulations.

B6.7 You must ascertain the standards necessary to properly define the subject matter of the contract, having regard to any relevant British, European or international standards.

B6.8 You must define the award criteria that are appropriate to the procurement in order to secure value for money. The criteria must be one of the following:

* Lowest Price;
* Highest Price: where payment is to be received by the Authority); or
* MEAT (Most Economically Advantageous Tender): where considerations other than price also apply. This is the only award criteria aside from price permissible under the Regulations.

Invitations to Tender

B6.9 An invitation to tender must state that the Authority reserves the right to reject a tender that is not received by the date and time stipulated in the invitation to tender. A tender which contravenes the requirements as to date and time for submission must not be considered without the prior approval of the Director of Visitor Services and Resources and Authority Solicitor and must not be considered in any circumstances if it is received after the other tenders have been opened.

B6.10 All invitations to tender must include the following:

* A specification to describe the Authority's requirements in clear sufficient detail to enable the submission of competitive offers.
* The contract terms and conditions unless emphatic market practice is that supplier's terms are used, in which case the requirement is that they are supplied as part of the tender.
* A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the Potential Supplier to any other party (except where the disclosure is made in confidence for a necessary purpose).
* A requirement for Potential Suppliers to complete fully and sign all tender documents including a form or tender and certificates relating to canvassing and non-collusion.
* Notification that tenders are submitted to the Authority on the basis that they are compiled at the Potential Supplier's expense.
* A description of the award procedure and unless defined in a prior advertisement a definition of the Award Criteria. Where the criterion of MEAT is used, it must be further defined by reference to sub-criteria which may only refer to considerations relevant to the award of the contract. Award criteria must be defined in objective terms and wherever possible in descending order of importance.
* Unless the tender is sought in accordance with an electronic procurement process approved by the Director of Visitor Services and Resources, a statement that tenders submitted by fax or other electronic means will not be considered.
* A notice stating that the Authority is not bound to accept any tender.
* A notice stating that the Authority is not obliged to enter into a contract as a result of a tender.

Contract Documents

B6.11 All Relevant Contracts must be in writing.

B6.12 All Relevant Contracts must as a minimum specify in writing:

* The Works, Supplies or Services to be supplied.
* The price and when it will be paid, including any arrangements for additional expenditure, disbursements etc.
* The time or times within which the contract is to be performed.
* The provisions for the Authority to terminate the contract.
* A clause prohibiting the Supplier from transferring or assigning, directly or indirectly, any portion of their contract without the written permission of the Authority, or sub-letting any portion of their contract other than that which is customary in the trade or profession concerned.
* A clause empowering the Authority to terminate the contract and requiring the Supplier to provide an indemnity to the Authority to cover all losses suffered by the Authority resulting from fraud or an offence under the Bribery Act 2010 (or any statutory modification or replacement of this Act) in relation to a contract, committed by a Supplier or one of their employees or agents.
* A clause providing for payment of undisputed invoices within 30 days by the Authority, Contractors and Sub-Contractors which complies with Regulation 113 of the Regulations
* For Contracts procured using the Regulations any specific terms required to be included in the Contract under the Regulations.

B6.13 You must use an appropriate form of contract or terms and conditions approved by the Authority Solicitor. These can be found on [Waymarker.](https://lakedistrictgovuk.sharepoint.com/sites/WaymarkerLegal/SitePages/Contracts-and-Licences.aspx)

B6.14 You must instruct the Authority Solicitor prior to the start of a tender exercise to produce an appropriate form of contract where:

* The Estimated Total Value exceeds £75,000; or
* The arrangement is for leasing arrangements; or
* You are proposing to use a Contractor's own terms; or
* The contract is unusual or complex in any other way.

B6.15 You must also consult the Authority Solicitor on the terms of any Collaborative agreement or external framework agreement in which the Authority is proposing to participate with a view to procuring Supplies, Works or Services.

Bonds and Parent Company Guarantees

B6.16 You must determine whether any additional security such as a bond or parent company guarantee may be required from the contractor who is awarded the contract. If additional security may be required, this must be highlighted in the tender documents, using an appropriate form of words approved by Legal Services.

Shortlisting

B6.17 Any shortlisting must have regard to the financial and technical standards relevant to the contract. For contracts above the EU Threshold the Regulations must be followed.

B6.18 Where Approved Lists are used you must shortlist in accordance with the shortlisting criteria approved for procurement from the Approved List.

Submission, Receipt, and Opening of Tenders

B6.19 Potential Suppliers must be given an adequate period in which to prepare and submit a proper quotation or tender consistent with the complexity of the contract requirement and the law. Where the Regulations lay down minimum timescales these must be complied with.

B6.20 You are responsible throughout the procurement process for safeguarding its security, confidentiality and integrity.

B6.21 You are authorised to open tenders that have been received on the Chest or by other authorised electronic method.

B6.22 Where you are carrying out a procurement using a physical tender document, you must not disclose the names of Potential Suppliers to any staff involved in the receipt, custody or opening of tenders.

B6.23 You are responsible for the safe keeping of tenders where they are submitted in hard copy until the appointed time of opening. Each tender must be:

* Suitably recorded so as to subsequently verify the date and precise time it was received.
* Adequately protected immediately on receipt to guard against amendment of its contents.
* Recorded immediately on receipt in a Tender Receipt Log.

B6.24 You must ensure that all tenders are opened at the same time when the period for submission has ended. Tenders must be opened in the presence of one officer independent of the Responsible Officer.

B6.25 Tenders and quotations received after the specified closing date should be held unopened until the award has taken place. Once an award has taken place you must inform the Potential Supplier that their tender or quotation was disqualified for being received after the closing date or time.

Evaluation

B6.26 Apart from the debriefing required or permitted by these CSOs the confidentiality of tenders and quotations and the identity of Potential Suppliers must be preserved at all times.

B6.27 Tenders must be evaluated strictly in accordance with the Award Criteria. During this process you must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies in tenders are examined and resolved satisfactorily.

B6.28 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the Potential Supplier. A Potential Supplier who has made an arithmetical error must be permitted to correct the error if they choose to. A Potential Supplier who has made an error of omission must not be permitted to amend their tender and must be asked to confirm their tender or withdraw it.

Clarification of Tenders

B6.29 These CSOs permit you to provide clarification in writing of an invitation to tender to potential or actual Potential Suppliers.

B6.30 Where a Potential Supplier raises a question about an invitation to tender any response should be provided to all Potential Suppliers provided that the anonymity of the Potential Supplier who raised the query is protected.

Post Tender Discussions

B6.31 Discussion with Potential Suppliers after the submission of tenders with a view to obtaining adjustments in price, delivery or content must only take place in exceptional circumstances and with the approval of the Director of Visitor Services and Resources or the Authority Solicitor. Discussion must be conducted by a team of at least two officers.

B6.32 Post tender discussion of a contract procured under the Regulations may only be undertaken on the grounds permitted in the Regulations.

B6.33 Where any post tender discussion would result in a material modification to a Relevant Contract (including to the specification) the contract must not be awarded but must be re-tendered.

Authorisation to Award a Contract

B6.34 The Officers authorised to award Contracts are set out at [Annex 1](https://lakedistrictgovuk.sharepoint.com/%3Ax%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7B32041BFF-F34D-4376-8AF6-1959BC0E56A6%7D&file=PART%20B%20Contract%20Standing%20Orders%20Annex%201.xlsx&action=default&mobileredirect=true).

Contracts for Legal Advice and/or Services

B6.35 Contracts for the instruction of counsel or the procurement of external legal advisers may only be awarded by the Authority Solicitor.

Providing Services to Other Organisations

B6.36 The Director of Visitor Services and Resourcesmust be consulted where contracts to work for or to supply services to organisations other than the Authority are contemplated, and the contract remuneration exceeds £5,000 in value.

**Notification of Award**

B6.36 The successful Potential Supplier must be notified that contract award is subject to call in and award must not be confirmed until the call in period has expired, or if the decision is called in the procedures following call in have been completed. Call in is where an unsuccessful bidder may challenge the decision to award a contract. It is a period of either 10 or 15 days depending on the value of the contract form the date at which all parties are notified of the outcome of the tender.

B6.37 Where the award of a contract or Framework Agreement is subject to the Regulations the procedures for notification of Potential Suppliers and a standstill period must be followed in respect of the award of a contract.

B6.38 If an award decision is challenged in any way you must not proceed with the award the contract and must refer immediately to Authority Solicitor.

B7 CONTRACTS AND CONTRACT MANAGEMENT

**Contract Formalities**

B7.1 Contracts must be completed in accordance with [Annex 1](https://lakedistrictgovuk.sharepoint.com/%3Ax%3A/r/sites/WayMarkerOurOrganisation/_layouts/15/Doc.aspx?sourcedoc=%7B32041BFF-F34D-4376-8AF6-1959BC0E56A6%7D&file=PART%20B%20Contract%20Standing%20Orders%20Annex%201.xlsx&action=default&mobileredirect=true):

B7.2 Any arrangement which is strategically or politically important or requires the Authority to have the benefit of a twelve year limitation period for taking legal action on the contract must be completed under seal regardless of value.

**Contract Management**

B7.3 Directors and Heads of Service are responsible for ensuring that all contracts relating to functions for which they are responsible are managed in accordance with a risk and contract management framework appropriate to the risk, value and impact of the contract. Directors and Heads of Service are responsible for ensuring that these arrangements are kept up to date for the life of the contract.

B7.4 For every contract managed in their directorate Directors are responsible for appointing an Officer, at an appropriate level for the risk, value and impact of the contract, to manage the contract.

B7.5 Directors are responsible for identifying Significant Contracts in their Directorate and ensuring that they are maintained in a corporate register of significant contracts. Significant Contracts are defined as those few, but important contracts critical to the Authority’s business objectives, financial stability and/or reputation, such as:

* contracts critical to the Authority's delivery of statutory duties;
* contracts that pose significant risk (reputation and/or financial) and/or would have a significant impact in the event of relationship breakdown or supplier failure;
* contracts that, in the context of the Directorate budget and its ordinary contracts, are of significant value.

**Modification of Contracts during their term**

B7.6 The Director of Visitor Services and Resources in consultation with the Authority Solicitor is authorised to approve modifications to contracts during their term. For the avoidance of doubt, a modification includes an extension to the term or any other variation to the contract that has been provided for in the terms and conditions.

B7.7 Where the contract has been procured under the Regulations a contract may only be modified if the modification may be made under the Regulations and is made in compliance with the Regulations.

B7.8 All modifications of contract must:

* Be recorded in writing and a record retained in line in accordance with the Authority’s Data Retention and Information Management Policy;
* Be signed or sealed in accordance with the terms of the contract.

# B8 GLOSSARY OF TERMS

**Approved List** A list drawn up in accordance with B5 above.

**Award Criteria** The criteria by which the successful *Quotation* or *Tender* is to be selected.

**Best Value** The duty, which Part I of the [Local Government Act 1999](https://www.legislation.gov.uk/ukpga/1999/27/contents) places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Authority. *Best Value* is often, but not always, the lowest possible price. It combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

**Bond** An insurance policy: if the contractor does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Authority against a level of cost arising from the contractor’s failure.

**Consultant** Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Authority has no ready access to employees with the skills, experience or capacity to undertake the work.

**(Estimated) Total Contract Value** The whole of the value or estimated value (in money or equivalent value) for a single purchase or calculated as follows:

(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period

(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months

(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48

(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result

(e) for Nominated Suppliers and Sub-contractors, the Total Contract Value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.

**EU Threshold** The Relevant Contract values at which the EU public procurement directives apply.

**Framework Agreement** An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

**In writing** shall be deemed to include e-mail, recognised internet portals, and fax transmissions as well as hard copies.

**Invitation to Tender** Invitation to Tender documents in the form required by these contract procedure rules.

**Nominated Suppliers and Sub-contractors** Those persons specified in a main contract for the discharge of any part of that contract.

**Non-Commercial Considerations**

* The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (‘workforce matters’).
* Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.
* Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.
* The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (‘industrial disputes’).
* The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.
* Any political, industrial or sectarian affiliations or interests of contractors or their *Director*s, partners or employees.
* Financial support or lack of financial support by contractors for any institution to or from which the Authority gives or withholds support.
* Use or non-use by contractors of technical or professional services provided by the Authority under the [Building Act 1984](https://www.legislation.gov.uk/ukpga/1984/55/contents).
* Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-commercial Considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the TUPE may apply.

**Parent Company Guarantee** A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the parent company to do so instead.

**Potential Supplier** Any person who asks or is, or could reasonably be, invited to submit a Quotation or Tender.

**Procurement Toolkit** An online resource containing guidance, information and a number of standard documents and forms, which supports the implementation of these contract standing orders. The guide is available on the Authority’s intranet.

**Quotation** A Quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).

**The Regulations** The [Public Contracts Regulations 2015](https://www.legislation.gov.uk/uksi/2015/102/contents) as modified from time to time including by decisions of the Courts.

**Relevant Contract** Contracts to which these contract procedure rules apply (see B1.4).

**Shortlisting** The process of selecting Potential Supplierswho are to be invited to quote or bid or to proceed to final evaluation.

**Tender** A Potential Supplier’sproposal submitted in response to an Invitation to Tender.

**TUPE** [**Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)**](https://www.legislation.gov.uk/uksi/2006/246/contents/made)Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Authority is transferred from one organisation (e.g. private contractor, local Authority in-house team) to another (e.g. following a contracting out or competitive *Tender*ing process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.