

REGULATION 6 : CONTRACTS AND PROCUREMENT PROCEDURES

6.1 OVERVIEW

- 6.1.1 **Need for Procurement:** Only those goods and services shall be procured which are necessary for the provision of approved Crematorium Services. All procurement should be in accordance Standing Order - Contracts set for Portchester Crematorium Joint Committee.
- 6.1.2 **Budgetary Provision:** Procurement can only be entered into where there is sufficient budgetary provision for the total of the purchase. Any Capital expenditure must be as part of the Crematorium's approved Capital programme
- 6.1.3 **Contract Procedure Rules:** The Crematorium's Standing Order - Contracts contains provisions relating to any purchases. Managers responsible for placing orders or arranging contracts should familiarise themselves with the detail of these provisions.
- 6.1.4 **Consultant Compliance with Financial Regulations:** It shall be a condition of the engagement of the services of any consultant who is to be responsible to the Crematorium for the supervision of a contract on its behalf, that in relation to that contract they will comply with these Regulations and Standing Orders as though they were an officer of the Crematorium.
- 6.1.5 **Gifts and Hospitality:** All members and employees must follow the Crematorium's Anti-Fraud and Corruption Policy and relevant employer guidance on 'acceptance of gifts and hospitality'.
- 6.1.6 **Member and Employee Interests:** Any member or employee, who has an interest in a contract or supplier, must details in writing interest in relation to any procurement undertaken.
- 6.1.7 These rules include the following:
- Under no circumstances can a purchase or contract be awarded or managed by an employee or member who has other interests in the arrangement.
 - Under no circumstances can previous employees or members of the Crematorium be employed as consultants without alternative quotations being sought.
- 6.1.8 **Right of Access to Documentation:** Agreements with persons other than employees contracted to supervise and manage contracts on the Crematorium's behalf shall provide that all specified documents

relating to the contract will be delivered for inspection by the Crematorium, if required. On completion of the contract they shall transmit all such records to the Clerk to the Joint Committee.

- 6.1.9 **Confidentiality:** All tender documents are confidential and therefore should be kept securely and details only revealed in accordance with Standing Order - Contracts.

6.2 PURCHASING ADVICE

- 6.2.1 **Purchasing Advice:** Any Officer or consultant involved in procurement of a specialist nature should ensure that appropriate procurement advice is sought via the Clerk or Treasurer to the Joint Committee in order that the procurement of goods and services shall conform to any rules that are in force.

6.3 MARKET TESTING

- 6.3.1. **Price Comparisons:** It is essential that the Crematorium obtains optimum value for money from any purchases. This can only be obtained by testing the prices of several suppliers, by checking price lists, catalogues, trade journals, advertising and obtaining verbal and written quotes.

Where there are buying consortia (e.g. central buying agency) in use by the Constituent Authorities of the Joint Committee these should also be checked to achieve price comparisons.

- 6.3.2. **Thresholds - Standing Order Contracts :** Where the estimated value or amount of a proposed contract does not exceed £10,000 the responsible Officer may enter into such a contract with any person they consider competent for the purpose. Competitive prices and products should be sought wherever possible, and price checks undertaken. Verbal quotations must be confirmed in writing.

For large value purchases over **£10,000** procedures as stipulated in Standing Order - Contracts should be followed.

In some circumstances it may be appropriate for tendering procedures to be used under the **£10,000** limit. In these cases the tendering procedures stipulated in Standing Order - Contracts should still be followed.

- 6.3.3. **Artificial Splitting:** These limits must not be avoided by means of splitting the value of the goods, works or services to be received from one supplier. However, in certain circumstances it may be appropriate

to split an order between suppliers to obtain the optimum value for money for the Crematorium.

6.3.4. **Evidence of Quotes and Evaluation:** Documentary evidence must be maintained of price comparisons undertaken for at least 1 year after the purchase or end of the contract.

6.3.5. **Variations to Requirements for Price Comparisons:** The following exemptions from the price comparisons rule are allowed:

- a) Long Term Agreements: Purchases where we have entered into an agreement for more than one year are exempt, for example Insurance, Building Surveying Maintenance Works. However, long term agreements should not normally exceed **3 years** before their value is reassessed.
- b) On-going supply of parts and materials: Where a single supplier is used for a large quantity of small purchases throughout the year, documented price checking is only required on a 'basket of goods' basis, at least every year. Where the annual value of the use of the supplier exceeds **£50,000** for the year then Standing Order - Contracts rules should be followed.
- c) Life-Span of Quotations: Subsequent price checks are not needed for a similar purchase within **12 months**, unless the market is volatile for the type of purchase, the preferred supplier wishes to increase their charge, or the cost exceeds **£10,000**.
- d) Standing Order - Contracts Exemptions: Price comparisons are not required to be sought in the following circumstances:
 - Orders to be placed through an approved framework agreement to which the Crematorium or the Constituent Authorities of the Joint Committee are a party;
 - Orders placed through a central purchasing body within the meaning of the Public Contracts Regulations 2006;
 - Employment Contracts
 - Contracts for the disposal or acquisition of an interest in land
 - Grants to external organisations
 - The Contract Procedure Rules of another Constituent Authority are taking precedence for collaborative procurement.
- e) Waivers: A waiver may be agreed by the Treasurer to the Joint Committee in consultation with the Clerk to the Joint Committee. A record must be kept of the reasons for the waiver and the approval.
- f) Emergency purchases: Emergency purchases are where to obtain price comparisons will result in a delay sufficient to cause danger of potential damage to property or life, or the potential damage to the running of any of the Crematorium's functions or services.

The responsible Officer may (after consultation with the Chairman, the Clerk and the Treasurer to the Joint Committee wherever the nature of

the emergency allows such consultation) take such steps as s/he considers appropriate without compliance with Standing Order - Contracts. A report must subsequently be submitted to the Joint Committee describing the emergency and the extent of the non-compliance.

- 6.3.6. **Limited Suppliers:** Where there are limited suppliers of the required quality available for goods and services (e.g. use of specialists), less than the required number of price comparisons can be sought, on agreement with the Clerk or the Treasurer to the Joint Committee that a limited supply exists.
- 6.3.7. **Single Suppliers:** In the cases of only a single supplier being available, or to ensure continuity of a specialist supply, attempts should be made to demonstrate that use of the supplier is still offering the Crematorium value for money (e.g. comparison to previous years, other local authorities etc.)
- 6.3.8. **Consultants or Specialists:** Consultants or specialists must be requested to prepare a new quote or tender for any additional work requested.

Where this can not be seen as a variation to the original contract (in which case the variation rules below apply) then the quote or tender received must be market tested in the same way as any other purchase. However, as much importance can be given in the evaluation process to continuity as well as price.

6.3 EVALUATION OF QUOTES

- 6.4.1. **Handling Quotes:** Best practice in relation to the receipt of written quotes is to treat them as tenders such that they are invited at the same time and remain sealed until opened by 2 officers.
- 6.4.2. **Required Number of Quotes Not Achieved:** Every effort should be made to achieve the required number of quotes or tenders by widening the number of suppliers included at the start of the exercise.

However, if this fails to result in the required number of quotes a note should be made of what efforts were made, any reasons for failure (e.g. supplier disinterest) and any improvements that are possible for future procurement exercises.

- 6.4.3. **Lowest Quotes:** In the interests of achieving optimum value for money it is not always necessary to accept the lowest quotation. There must, however, be good reasons for not doing so and officers must document why a decision to do so was made. In particular the 'whole life' cost of procurement will be more important than the initial purchase cost.

- 6.4.4. **Quotes Received over Threshold:** Where an estimated cost has only required the Financial Regulation procedure to be followed, but the sums quoted are found to exceed the Standing Order - Contract limits (but not £100,000) then the purchase can proceed, providing enough budget provision is available, and on agreement with the Clerk and the Treasurer to the Joint Committee. A report should also still be made to the Joint Committee.

6.5 FORM OF CONTRACT

- 6.5.1. **Form of Contract:** Only forms of contract can be used which meet the approval of the Clerk to the Joint Committee.
- 6.5.2. **Authorisation of Orders and Contracts:** Orders, agreements and contracts can only be authorised by an Officer authorised to do so under the Scheme of Delegation to Officers.
- 6.5.3. **Signing Contracts:** Contracts must be signed and/or sealed in accordance with Standing Order - Contracts where required.

15.6 PAYMENTS ON CONTRACTS

- 6.6.1. **Contract Payment Register:** Where contracts provide for a total contract sum to be paid in instalments, the Treasurer to the Joint Committee and Surveyor to the Joint Committee or Consultants responsible for the supervision of a contract shall arrange for the keeping of a Register of Contract Payments showing the state of account between the Crematorium and the Contractor.

The register should detail the following:

- a) the contract title
 - b) the total tendered sum
 - c) the Committee minute reference (where applicable)
 - d) Contractor's name and address and payment address if different
 - e) the sum effect of any variation orders agreed
 - f) retention sum
 - g) each payment made including date paid, the certificate number, sum paid and VAT
 - h) cumulative total and VAT paid
 - i) any fees/liquidated damages applied, loss or expense claims and the like.
- 6.6.2. **Contract Payment Certificates:** Payments made in accordance with contract instalment conditions shall be made only on an official certificate approved by the Surveyor to the Joint Committee. These shall be issued by the officer(s) named in the contract or, in the case where outside professional services are contracted, shall be issued by the employer.

- 6.6.3. **Form of Variation Orders:** Each variation to the original contract shall be priced or estimated and authorised and a record kept on an official, serially numbered document.
- 6.6.4. **Issue of Variation Orders:** Every variation shall be authorised in writing at the time, or within a day of an instruction being issued, by the Surveyor to the Joint Committee, or by outside professional services engaged so to do.
- 6.6.5. **Threshold for Variations:** Any variation order likely to cause the contract sum to exceed the tender price by more than **10% or £20,000**, whichever is the lesser must be reported to the next meeting of the Joint Committee.
- 6.6.6. **Overspend on Contracts:** Where the settled amount of a contract exceeds the tender price by more than **10% or £20,000** whichever is the lesser (unless less than £5,000) the matter should be reported to the Joint Committee at the earliest possible time, with a reconciliation to the tender sum.
- 6.6.7. **Contractor's Claims:** Financial claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the Surveyor and Clerk to the Joint Committee with responsibility for Legal Administration for consideration of the Crematorium's legal liability and to the Treasurer to the Joint Committee to assess the extent of any financial liability.

The Surveyor and Treasurer to the Joint Committee must also be notified immediately of all claims for extensions of time and loss and expense, to ensure they may prepare a financial appraisal before a settlement is reached, and make any necessary adjustments to the accounts.

- 6.6.8. **Contract Examination:** At any stage of a contract, either before, during or after, the Treasurer to the Joint Committee or their representative shall, to the extent they consider necessary, examine contracts and be entitled to make all such enquiries and receive such information and explanation as they may require in order to confirm the accuracy of the records.