



**REPORT TO: PORTCHESTER CREMATORIUM JOINT COMMITTEE –
25 SEPTEMBER 2023**

REPORT BY: CLERK TO THE JOINT COMMITTEE

**PORTCHESTER CREMATORIUM JOINT COMMITTEE
CONTRACT STANDING ORDERS REVIEW**

Purpose

1. To submit for the Joint Committee's approval a review of the present contract standing orders together with recommendations for textual changes to reflect current best practice.

RECOMMENDED That the Portchester Crematorium Joint Committee Contract Procedure Rules (Standing Orders) revisions set out in Appendix A be approved and adopted.

Background

2. The officers serving the Joint Committee have taken the opportunity to revisit and review the standing orders which govern the arrangements for the Joint Committee to carry out procurement and implementation of contracts. The existing contract standing orders, which have been revised periodically over the years, were last amended in March 2010.
3. In undertaking this review account has been taken of current best practice and reflects particularly technological changes that have taken place in recent years.
4. The key changes that have been identified include –
 - (a) Amending procurement rules to provide for advertising and inviting tenders using the local authority business and tender portal (which is familiar to and well used by contractors) rather than newspaper advertising;
 - (b) Amending the arrangements for the return and processing of tenders sent electronically;
 - (c) Revising financial levels to reflect changes that have occurred over the years;
 - (d) A provision that should any matter arise in dealing with a proposed tender or contract that has not been covered by the rules, then the Responsible Officer after consulting Clerk and the Treasurer be authorised to have regard to the relevant local authority's contract procedure rules.

5. Set out in Appendix A is a table showing the existing contract standing orders and the proposed revisions that are recommended for approval. It is also recommended that for the future the revised document be known as 'The Portchester Crematorium Joint Committee Contract Procedure Rules', which reflects modern best practice.

John Haskell

Clerk to the Joint Committee

*Background List of Documents –
Section 100D of the Local Government Act 1972 –*

*Portsmouth City Council and Fareham Borough Council Procurement and Contract
Procedure Rules*

JH/me

September 2023

**Portchester Crematorium Joint Committee – Contract Procedure Rules
(Standing Orders) Review**

Existing Provision	Proposed Revision
<p>1. <u>Definitions</u></p> <p>The following terms used in these Standing Orders shall have the meanings (unless otherwise stated) given to them below:</p> <p>(a) "The Committee" shall mean the Portchester Crematorium Joint Committee.</p> <p>(b) "Contract" shall include any expenditure on goods services or works incurred for or on behalf of the Committee.</p> <p>(c) "Responsible Officer" shall mean the Officer to the Committee responsible for the particular area of expenditure concerned or any other Officer nominated by the Committee to act on his behalf.</p> <p>(d) "Chairman or Vice Chairman" shall mean the Chairman or Vice Chairman of the Committee.</p> <p>(e) "Clerk" shall mean the Clerk to the Committee.</p> <p>(f) "Supervising Officer" means any Committee Officer or other person authorised by the contract between the Committee and the contractor to nominate sub-contractors or suppliers.</p>	<p>Add new (g) –</p> <p>“Relevant local authority business portal” means the business portal and electronic tendering of whichever of the constituent authorities is selected by the Responsible Officer.</p>

<p>2. <u>General</u></p> <p>(i) Every contract by or on behalf of the Portchester Crematorium Joint Committee ("the Committee") shall be in writing and shall comply with these Standing Orders. The Committee may nevertheless by a simple majority at any time suspend the operation of any or all of these Standing Orders in relation to a particular contract.</p> <p>(ii) Where an emergency makes compliance with the standing orders impossible or would severely affect the Committee's performance or services, then the relevant Responsible Officer -</p> <p>(a) 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 any standing order;</p> <p>(b) must subsequently submit a report to the Committee describing the emergency and the extent of the non-compliance.</p> <p>(iii) Every contract must require that all goods and materials be at least in accordance with -</p> <p>(a) any appropriate British Standard Specification, or</p> <p>(b) any appropriate British Standard Code of Practice issued by the British Standards Institution or European equivalent.</p> <p>(iv) In a contract for any work or for the supply of goods or materials, the contractor shall be required to</p> <p>(a) indemnify the Committee against any claims for - personal injury, damage to property;</p>	
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(b) have suitable insurance cover to support the indemnity, in a sum determined from time to time by the Treasurer to the Joint Committee in respect of any one incident:

(c) produce satisfactory evidence that s/he is so insured.

(v) Wherever it appears likely that during the course of a scheme the contract sum will be exceeded the Responsible Officer must submit to the Joint Committee at the earliest opportunity an estimate and full details of the probable excess.

Add new (vi) –

Where the Committee or Responsible Officer decides the route to market needs to be advertised the opportunities should be advertised on the relevant local authority Business Portal to seek expressions of interest from suitably qualified suppliers. An opportunity which is advertised where the purchase value is expected to be £25k or more must also be advertised on the government's Contract Finder site. Regard should also be given to advertisement of the opportunity within the trade journals and other publications as appropriate.

Add new (vii) –

If any matter should arise in respect of a proposed tender or contract not otherwise provided for within these rules the Responsible Officer may, after consulting the Clerk and the Treasurer, have regard to the relevant local authority's contract procedure rules.

<p>3. <u>Quotations and Tenders</u></p> <p>(i) Where the estimated value or amount of a proposed contract -</p> <p>(a) does not exceed £10,000, the Responsible Officer may enter into such a contract with any person that s/he considers competent for the purpose. Verbal quotations must be confirmed in writing.</p> <p>(b) exceeds £10,000 but does not exceed £100,000 the Responsible Officer must whenever practicable seek at least three quotations. In cases where it is impracticable to seek at least 3 quotations the Responsible Officer must record the reasons. All quotations must be in writing. Alternatively, the Responsible Officer may seek tenders.</p> <p>(c) exceeds £50,000, the Responsible Officer shall seek not less than three tenders. In cases where it is impracticable to seek three tenders the Responsible Officer concerned may proceed without doing so after consultation with the Treasurer to the Joint Committee, and must record the reasons.</p> <p>(ii) If more than one quotation or tender is received the following procedure will apply -</p> <p>(a) The Responsible Officer may accept the lowest (if payment is to be made by the Committee) or highest (if payment is to be made to the Committee). In either case this will take account of any negotiations with contractors or suppliers.</p>	<p>Insert new replacement paragraphs as follows -</p> <p>(a) Does not exceed £10,000, the Responsible Officer may enter into such contract with any person considered competent for the purpose and must ensure that an audit trail is maintained and recorded on file. Verbal quotations must be confirmed in writing.</p> <p>(b) Exceeds £10,000 but does not exceed £100,000 the Responsible Officer must wherever practicable seek at least three quotations. In cases where it is impracticable to seek at least 3 quotations the Responsible Officer concerned may proceed without doing so after consultation with the Treasurer to the Joint Committee and must ensure that an audit trail is maintained and that the reasons are recorded on file. All quotations must be in writing preferably using the Responsible Officer's Business Portal. Alternatively, the Responsible Officer may seek tenders.</p> <p>(c) Exceeds £100,000 the Responsible Officer shall seek not less than three tenders. In cases where it is impracticable to seek at least 3 tenders the Responsible Officer concerned may proceed without doing so after consultation with the Treasurer to the Joint Committee and must ensure that an audit trail is maintained and that the reasons are recorded on file. All tenders must be in writing using the Responsible Officer's Business Portal.</p>
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<p>(b) If in the Responsible Officer's opinion there are grounds for believing that another quotation or tender offers better value for money, taking into account all relevant considerations this may be accepted. In the case of a tender over £100,000, the Responsible Officer must consult with the Chairman and Vice Chairman and the Treasurer to the Joint Committee.</p> <p>(c) Where the quotation or tender has an estimated value not exceeding £100,000 the Responsible Officer may accept the tender provided that it does not exceed 10% of the estimate following consultation with the Treasurer. Where the estimated value exceeds £100,000 the tender may be accepted provided it does not exceed 10% or £20,000 (whichever is the lesser) following consultation with the Treasurer, Chairman or Vice-Chairman.</p> <p>(iii) Quotations in writing sought by a Responsible Officer or written confirmation of verbal quotations must be returned to that Responsible Officer.</p> <p>(iv) Tenders must be returned to the Committee in accordance with Standing Order 4.</p> <p>(v) The sums referred to in this Standing Order will be adjusted by the Treasurer to the Joint Committee annually in accordance with a suitable index of inflation. They may be rounded up to the nearest of £1,000 or such figure as s/he thinks appropriate.</p>	<p>Insert replacement paragraph (b) –</p> <p>If in the Responsible Officer's opinion there are grounds for believing that another quotation or tender offers better value for money, taking in to account all relevant considerations this may be accepted after consultation with a local authority procurement professional. In the case of a tender over £100,000 the Responsible Officer must also consult with the Chairman and Vice Chairman and the Treasurer to the Joint Committee.</p> <p>Insert new (ii) (d) –</p> <p>Contracts must be awarded to the supplier who can be proven to offer the best value over the whole term of the agreement and the necessary quality.</p> <p>Replace (iii) as follows –</p> <p>Quotations in writing sought by a Responsible Officer or written confirmation of verbal quotations must be returned to that Responsible Officer or via the Responsible Officer's Business Portal.</p> <p>Add new (vi) –</p> <p>In seeking tenders the Responsible Officer must ensure that an audit trail is maintained and recorded on file. Tenders must be sought and managed via the relevant local authority business portal.</p>
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<p>4. <u>Public Invitation to Tender</u></p> <p>(i) Where a Responsible Officer seeks tenders, public notice must be given -</p> <ul style="list-style-type: none"> (a) in at least one local newspaper, or (b) in at least one appropriate trade journal, and (c) any additional publication as required by law, including the Official Journal of the European Community <p>(ii) Every invitation to tender must -</p> <ul style="list-style-type: none"> (a) Explain the nature and purpose of the contract. (b) Invite tenders to undertake the contract. (c) State where tender documents may be obtained. (d) State either the last date and time when tenders will be received, or the last date when applications for tender documents will be accepted. (e) State the person and address to which any tender should be sent. <p>(iii) All tender documents shall state that:-</p> <ul style="list-style-type: none"> (a) No tender will be considered unless received in a plain sealed envelope which must bear the word "Tender" followed by the subject to which it relates. (b) tenders will be retained in the Responsible Officer's custody and opened at one time, after the closing date and time for their receipt. (c) A tender envelope must not bear any name or mark indicating the sender. (d) The Committee reserves the right to accept a tender other than the lowest, or to accept no tender at all. (e) No tenders received after the fixed date and time shall be considered. 	<p>Replace (i) with the following –</p> <p>Where the Responsible Officer seeks tenders these should be advertised on the relevant local authority's business portal and any additional publication as required by law including the requirements of the EU procurement regulations.</p> <p>Replace (iii) (a) – (e) with the following –</p> <ul style="list-style-type: none"> (a) All invitations to tender must specify requirements for their submission. Such requirements should include a time by which tenders must be received by the Joint Committee. Any decisions to change the tender deadline must be agreed by a local authority procurement professional and recorded on file. (b) All tenders should be managed through the Responsible Officer's local authority business portal and electronic tendering. Support should be sought from the local authority procurement professional to assist suppliers requesting help with electronic tendering. (c) All procurement submissions that have used the tender route should be electronically unsealed by a member of the local authority procurement team after the tender deadline date. (d) No tenders received after the fixed date and time shall be considered.
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<p>5. <u>Selective Tenders Public Notice</u></p> <p>(i) This Standing Order applies where the Committee or Responsible Officer to the extent of delegated authority has decided to obtain tenders for contracts over £100,000 and has decided that invitation to tender for a contract is to be limited to persons who reply to a public notice.</p> <p>(ii) Public notice must be given -</p> <p>(a) in at least one local newspaper, and</p> <p>(b) in one or more newspapers or journals circulating among persons undertaking such contracts, and</p> <p>(c) in any additional publication as required by law, including the requirements of the European Procurement Regulations.</p> <p>The notice must set out particulars of the proposed contract and invite persons interested to apply, within a specified period, being not less than 10 days.</p> <p>(iii) After the end of the public notice invitation period the Responsible Officer in consultation with the Treasurer to the Joint Committee may select not less than 4 persons who applied for permission to tender. This may be either generally or in relation to a particular contract or category of contracts. Invitations to tender for the contract must be sent to those persons selected. If fewer than 4 persons applied (and are considered suitable) they must all be sent invitations to tender.</p>	<p>In (i) replace the word ‘persons’ with ‘applicants’</p> <p>Replace paragraph (ii) as follows –</p> <p>Public Notice should be advertised on the relevant local authority’s business portal and any additional publication as required by law including the requirements of the EU procurement regulations. The notice must set out particulars of the proposed contract and invite applicants interested to apply, within a specified period, being not less than 10 days.</p> <p>Replace paragraph (iii) as follows –</p> <p>After the end of the public notice invitation period the Responsible Officer in consultation with an appropriate local authority procurement professional and the Treasurer to the Joint Committee may select not less than 4 applicants who applied for permission to tender. Regard shall be had to any Supplier Selection Questionnaire completed by applicants. This may be either generally or in relation to a particular contract or category of contracts. Invitations to tender for the contract must be sent to those applicants selected. If fewer than 4 applicants applied (and are considered suitable) they must all be sent invitations to tender.</p>
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<p>6. <u>Procedure on Receipt of Tenders</u></p> <p>(a) Tenders shall remain in the custody of the Responsible Officer until the time appointed for their opening.</p> <p>(b) All tenders shall be opened at one time in the presence of the Responsible Officer or his representative.</p> <p>(c) Any tenders not complying with Standing Order 4 (above) shall be disqualified.</p>	<p>Replace 6 (a) – (c) with the following –</p> <p>(a) All tenders should be managed through the Responsible Officer’s local authority business portal and electronic tendering.</p> <p>(b) All procurement submissions that have used the tender route should be electronically unsealed by a member of the local authority procurement team after the tender deadline date.</p> <p>(c) No tenders received after the fixed date and time shall be considered.</p>
	<p>Insert new –</p> <p>6A <u>Tender Evaluation and Selection</u></p> <p>(a) An evaluation matrix should be prepared (including the appropriate weightings against Cost/Service/Quality elements) as part of the initial tender documentation.</p> <p>(b) A completed evaluation/scoring matrix must be produced to support the selection decision in a level of detail that will allow meaningful feedback to bidders.</p>
<p>7. <u>Nominated Sub-Contractors and Suppliers</u></p> <p>(i) Where a contract provides for the nomination by the Supervising Officer of a subcontractor or supplier for undertaking work or supplying goods or materials then the provisions of Standing Order 3 will apply.</p> <p>(ii) An invitation to tender must comply with the requirements of Standing Order 4(ii) and the tender documents with the requirements of Standing Order 4(iii), except that Tenders must be addressed to the Supervising Officer, and will remain in his/her custody until the time appointed for their opening.</p> <p>(iii) Tenders must be opened at one time in the presence of two officers designated by the Supervising Officer.</p>	

<p>(iv) The provisions of this Standing Order will not apply:-</p> <p>(a) to goods or materials to be purchased or supplied under a trade name or description; or</p> <p>(b) where the Supervising Officer considers that it would not be in the interests of the Committee, and in accordance with the practice prevailing in the profession, to invite tenders before nominating a sub-contractor or supplier.</p>	
<p>8. <u>Liquidated Damages and Security for Performance</u> Every contract which exceeds £50,000 must include provision for liquidated damages to be paid by the contractor in the event of the contract not being performed by him/her. The Responsible Officer may dispense with this requirement with the agreement of the Treasurer to the Joint Committee.</p>	
<p>9. <u>Monitoring of Contracts</u> The Responsible Officer shall monitor the expenditure, standards, quality and performance of any contract for which s/he is responsible, and submit to the Joint Committee a report in respect of any matter that may require attention, or as otherwise directed by the Committee.</p>	
<p>(The Clerk currently has delegated authority to prepare and execute documents in pursuance of Committee or delegated decisions, and to nominate an Officer to act during any absence of the Clerk)</p>	<p>Insert New 10 - <u>Signing of Contracts</u></p> <p>(a) The Clerk is authorised to sign contracts on behalf of the Joint Committee. (b) The Clerk may delegate responsibility for signing contracts to other officers subject to such conditions as are considered appropriate.</p>
	<p>Insert New 11 – <u>Contract Records</u></p> <p>(a) All original and signed copies of a contract must be held in a secure location for the term of the contract (including any agreed extension periods) plus the statutory limitation period. (b) The Responsible Officer for a contract will be responsible for keeping and ensuring safety of the contract documentation.</p>

