

Notice of Motion: Taxation

Briefing Paper by the Head of Business Strategy and Support

1. Summary

The County Council at its meeting held on 18th February 2016, considered a Notice of Motion on the matter of tax avoidance by big business, from Councillor Wright, as follows:

'This Council notes that:

- *Tax avoidance by big business is rife and the Public Accounts Committee last year criticised HMRC for not doing more to tackle the problem*
- *Austerity measures mean that £174m funding has been cut from this council over the past five years, this year £34m will be lost - and many more millions are set to be lost in the coming years, prompting damaging service cuts*
- *The Devon portion of avoided corporation tax could total around £380m*
- *The practice of tax avoidance among corporate giants also has a negative effect on small and medium-sized companies who pay more tax proportionately*
- *That tax evasion and avoidance by multinational companies is costing developing countries up to \$300 billion a year, according to the IMF – more than these countries receive in aid*

This Council further notes:

In early 2015 new regulations required public bodies, including councils, to ask procurement qualification questions of all companies for tenders over £173,000 for service contracts and £4m for works contracts.

*However, there are stricter standards available. This Council believes that bidders for council contracts should be asked to account for their past tax record, using **the most rigorous** possible government guidance (as in Procurement Policy Note 03/14)*

*This Council therefore calls for procurement procedures to be amended to require **all companies** bidding for council contracts to **self-certify** that they are **fully tax-compliant** in line with central government practice, using the standards in PPN 03/14, applying to contracts of the size specified above.*

This Council asks the Cabinet to publicise this policy and to report on its implementation annually for the next three years.

NB. For more information about paying fairer tax, see <http://www.fairtaxmark.net/for-business/>

In accordance with Standing Order 6(6) the Notice of Motion was referred, without discussion, to the Cabinet for consideration.

This paper provides information to assist Members in responding to the Notice of Motion.

2. Background

The Cabinet Office publish Procurement Policy Notes which provide directives to contracting authorities about commitments made by Government as to the conduct of procurement exercises. Procurement Policy Note PPN (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278135/PPN_0314_Measures_to_Promote_Tax_Compliance_Feb.pdf) was published on 6th February 2014 and at that time provided guidance on 'Measures to Promote Tax Compliance'.

The Public Contracts Regulations 2015 (available at http://www.legislation.gov.uk/uksi/2015/102/pdfs/uksi_20150102_en.pdf) were subsequently adopted into UK law, on 26th February 2015. The Regulations apply to contracts above the relevant financial spend threshold (thresholds at which Contracts Regulations apply: Goods & Services £164,176; Works £4,104,394). The Regulations set out specific criteria required for the procurement process. Regulation 57 (Mandatory Exclusions) and 58 (Selection criteria) set out relevant criteria to be considered.

To support implementation, the UK Government then introduced a national standard Pre Qualification Questionnaire, which all contracting authorities are required to use. Any non conformity must be justified to the Cabinet Office via a 'reportable deviation'. The intent is to make it easier for suppliers to do business with government departments, under a common approach.

3. DCC Practice

The Council has integrated the Cabinet Office's pre qualification questionnaire into its procedures. 'Measures to promote tax compliance' form part of the Council's supplier selection criteria. The Cabinet Office incorporated the principles of PPN (Appendix A) when developing its national standard Pre Qualification Questionnaire, thus its requirements are included.

Having implemented this, the Council's approach is directly in line with the Cabinet Office directive for measures to avoid tax evasion (available at <https://www.gov.uk/government/publications/public-contracts-regulations-2015-requirements-on-pre-qualification-questionnaires>) The Council does require suppliers to self certify that they have not breached a range of offences which include, amongst others, their legal obligations to pay tax and social obligations.

Remedies

If a supplier is found to be in contravention, this entitles the Council to receive a summary of the circumstances, and if appropriate reject their bid, suspend the service supply or terminate the contract. In every case, the supplier must demonstrate it has taken remedial action to the satisfaction of the Council.

Reporting

Devon Procurement Services can report on instances of supplier non compliance, annually or as required. The policy adopted complies with the Cabinet Office directive, and will be published via the Council's website.

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