

Cabinet

Date of Meeting: 18 October 2016

Report of: Peter Bates, Chief Operating Officer

Subject/Title: Tax Compliance and Procurement Procedures – (Council Notice of Motion)

Portfolio Holder: Councillor Paul Findlow

1. Report Summary

- 1.1. The Council received a Notice of Motion at Council on 28 July regarding tax compliance and the Council's procurement procedures, noting the impact of tax evasion and avoidance, the steps taken by the UK Government's to tackle this via the introduction of Procurement Policy Note in 2014, requiring Central Government Departments to assess tax compliance within contracts valued at £5m or above. There is no mandatory requirement for local government authorities to implement this arrangement, but they can decide to include this within their own policy frameworks. The Notice of Motion requested that the Council considers implementing this practice locally, allowing the Chief Operating Officer to determine the threshold value that would be appropriate locally.

2. Recommendation

- 2.1. That the Council's procurement procedures be amended with effect from 1 January 2017 to require all companies bidding for contracts of £5m or greater to self certify that they are fully tax compliant in line with the UK Government's Procurement Policy Note (03/14).

3. Other Options Considered

- 3.1. The Council's procurement team have considered the impact of the introduction of this discretionary requirement on its larger procurements of £5m or greater. The Council's procurement documentation has been updated in line with the Government's Crown Commercial Service (CCS) latest procurement practice applying all elements of the standard CCS documentation. The tax compliance requirement was specifically excluded because the documentation only required that it be applied to central government departments. The impact of not including the requirement has been considered, particularly in relation to the burden on small and medium sized enterprises. Applying an appropriate threshold will mitigate the impact on smaller sized enterprises.

4. Reasons for Recommendation

- 4.1. The Council has sought to apply the best practice outlined by the UK Government, which in particular is detailed by its Crown Commercial Service department (CCS). The Council's procedures follow those laid out by the CCS and where possible any updates to good practice are considered and implemented. Ensuring tax compliance is an important attribute that the Council considers as good practice. This recommendation will allow the Council to apply the good practice outlined by the UK Government.

5. Background/Chronology

- 5.1. At the Council meeting in July 2016 a Notice of Motion regarding tax compliance and procurement procedures was outlined, which has been detailed below:

- 5.2. "This Council notes that:

corporate tax evasion and avoidance are having a damaging impact on the world's poorest countries, to such a level that it is costing them far more than they receive in aid

- this is costing the UK as much as £30bn a year
- this practice also has a negative effect on small and medium-sized companies who pay more tax proportionately.

This Council further notes that the UK Government has taken steps to tackle the issue of tax avoidance and evasion by issuing Procurement Policy Note 03/14 (PPN 03/14). This applies to all central government contracts worth more than £5m.

This Council also notes the existence of voluntary schemes promoting tax compliance such as the Fair Tax Mark, which can serve as an independent means of verification. This council notes the 2015 Public Contract Regulations which state (in section 4) that local government can choose to adopt Procurement Policy Note 03/14.

This Council believes that bidders for council contracts should be asked to account for their past tax record, using the higher standards in PPN 03/14.

This Council therefore calls for procurement procedures to be amended to require all companies bidding for service and works contracts worth more than figures to be agreed with the Chief Operating Officer 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."

- 5.3. In 2015 the Council's Procurement documentation was updated in line with the UK 2015 Public Contract Regulations, applying all elements except for the discretionary tax requirement. This change would implement the discretionary element in line with the Notice of Motion.

6. Wards Affected and Local Ward Members

- 6.1. All wards of the Council affected.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. The Council's procurement procedures will be amended, specially the Pre Qualification Questionnaire (PQQ), which aligns with the Council's Contract Procedure Rules, which will not require amendent to allow for the suggested changes.

7.2. Legal Implications

- 7.2.1. The Council's Contract Procedure Rules have been approved by Council in December 2014 and updated following Government guidance, via the 2015 Public Contract Regulations in 2015. Amending the procedures can be approved by officers within the Professional Services, the service area for Procurement.

7.3. Financial Implications

- 7.3.1. There are no direct financial implications from this recommendation.

7.4. Equality Implications

- 7.4.1. There are no equality and diversity implications from this recommendation.

7.5. Rural Community Implications

- 7.5.1. There are no specific rural community implications from this recommendation.

7.6. Human Resources Implications

- 7.6.1. There are no Human Resources implications from this recommendation.

7.7. Public Health Implications

7.7.1. There are no Public Health implications from this recommendation.

8. Risk Management

8.1. The level of risk has been assessed, including the potential additional process impact on bidders self certifying. Through setting the threshold at £5m or above, this will provide effective mitigation significantly reducing the risk impact.

9. Access to Information/Bibliography

9.1. UK Government – Crown Commercial Services – Procurement Policy Note (03/14).

10. Contact Information

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