

Press release

NFB urges clients not to inflict further punishment as OFT fines contractors

The National Federation of Builders (NFB) has called on clients not to inflict further punishment on the construction companies fined today following the publication of the OFT's decision in its investigation into cover pricing.

The NFB has highlighted guidance issued by the Office of Government Commerce (OGC) which seeks to ensure those companies fined are not further penalised by public sector clients refusing to do business with them.

Julia Evans, chief executive of the NFB, said:

“It is acknowledged that at one time cover pricing was a common practice in the construction industry. It does therefore seem unfair that a small, random sample of companies has been selected by the OFT to be punished as an example to the wider industry. As the construction economy continues to deteriorate, the fines will hit the businesses involved particularly hard. They should not now face additional financial hardship by losing access to public sector work.

“The OFT itself has said that this was not their intention. In fact, the withdrawal of so many companies from the tendering pool could actually make some local markets less competitive, a move which would disadvantage clients as well as contractors.

“It should also be remembered that the breaches highlighted by this investigation are historic and do not reflect current practices. Cover pricing was fast dying out even before the OFT investigation, as more enlightened clients built up relationships with contractors and looked for best value rather than procuring by lowest price alone.

“There is no doubt that the industry does take the issue of cover pricing seriously and has already gone to great lengths to stamp out these practices. For example, it is a condition of membership of the NFB that companies abide by the code of competition compliance launched on 20 August 2009. In addition, individual companies have clear procedures in place to ensure breaches do not occur.

“Encouraged by the Office of Fair Trading, we have been working hard to make sure that all our members are aware of their obligations under competition law.

Notes to editors

1. The NFB represents some 1,500 builders and contractors across England and Wales. In addition to providing specialist advice and business services, the federation, with a

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network of seven regional offices, lobbies local, national and European government on a range of issues to sustain positive trading conditions for members. The NFB also works closely with the CBI Construction Council to ensure that contractors' interests are properly reflected in the wider business agenda.

2. The construction industry has an annual turnover of over £100 bn and represents some 9% of GDP. Over 170,000 companies work in the industry and employ around 3 million people.
3. The OFT investigation has focussed on the practice of cover pricing, which was undertaken to avoid winning work without upsetting a client and so stay on future tender lists. The simple act of submitting a high bid to avoid winning work is not an infringement of competition law. However, if this artificially high tender is discussed with another contractor also bidding for the work – for example, to confirm it is high enough not to win – it would breach the law, even if the eventual price paid to the winning contractor was not affected.
4. The code of competition compliance is available on the NFB's website at <http://www.builders.org.uk>
5. The OGC guidance is available at <http://www.ofg.gov.uk/constructionadvice>