

## PROCUREMENT & CONTRACT MANAGEMENT FACTSHEET

### Tendering as a Consortium

#### Introduction

We welcome bids from organisations who would like to work together in the form of a consortium. Consortia are groups of organisations who may come together for a specific project or purpose and may be either formal – for example, legal partnerships as defined in the [Partnerships Act 1890](#) - or informal or loose associations, for example, a number of organisations who work together supported just by a memorandum of understanding.

#### Why set up a Consortium?

Sometimes the scope of a business opportunity is such that, working in isolation, a single provider would find it difficult to offer all of the services required. Alternatively, there may be another provider with specific expertise in one area which would compliment your own service offering, making a bid more attractive.

#### Are there any rules surrounding Consortia?

How you decide to structure your consortium will depend on a number of factors, including how formal or informal you wish the arrangements to be. You should take your own legal advice on what is best for your particular circumstances.

Examples of formal ways of establishing a consortium include the creation of legal partnerships. These are set up to comply with the requirements of the Partnerships Act 1890 and may take the form of an 'Ordinary Partnership', 'Limited Partnership' or a 'Limited Liability Partnership' – LLP. Another example of a formal arrangement is the creation of a company in which the consortium members have an interest. Establishing a formal legal partnership or a company is a complex matter and you should seek the advice of your Solicitor if you intend going into this sort of trading arrangement. Further details on Partnerships can be found on the [Business Link](#) website.

Less formal arrangements may also be established for example, for a specific purpose i.e. to bid for a contract or for a longer term relationship where the members of the consortium remain free to trade independently of the consortium. In either case it is sensible for the individual members of the consortium to have a simple agreement or memorandum of understanding which explains how the relationship will work, including payments and liabilities and what the individual benefits and responsibilities are for each member and whether they intend their arrangements to be legally binding.

#### Is there a difference between Consortia and sub-contracting?

*This note is a general overview and is not intended to provide advice to any specific organisation, nor is it a substitute for legal advice. You should seek legal advice on any matter affecting your legal position.*

A consortium is a group of organisations who choose to work together for a common specific purpose.

In a sub-contract relationship, an organisation who is awarded a contract may agree with another organisation for them to undertake part of the work. In this kind of relationship, the sub-contractor will be 'appointed' and paid for their work by the main contractor.

Depending on how you set up your consortium, some members may act as sub-contractors when contracting with us.

#### Contracting with us, what are the rules?

We can only contract with a legal entity. This could be a sole trader, a legal partnership, a limited company etc.

If you wish to submit a bid as a consortium, and your consortium members have not set up together as a partnership or company so that you can use this as the legal entity which enters into contracts, we will expect to see one member of the consortium acting as the lead member in submitting the tender. We would like to understand who the members of the consortium are and the part of the service that each member will provide. If your bid is successful, we will enter into a contract with the lead bidder to deliver the service. We will also pay the lead bidder for the provision of the service which is why it is essential for the members of the consortium to agree how each member will be reimbursed for the work they have done. The other members of the consortium will be sub-contractors if they are providing services which form part of the contract.