

TRADES CONSORTIUM AND COLLECTIVE BIDDING

Report for Scottish Borders Construction Forum commissioned by Southern Uplands Partnership



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Executive Summary

This report was commissioned by The Southern Uplands Partnership (SUP) for the Scottish Borders Construction Forum (SBCF). It looks at whether and how construction sector SMEs and micro-businesses in the Scottish Borders should collaborate in order to win and manage contracts in the energy efficiency (primarily retrofit) market.

It draws on desk research, inputs from and interviews with key players, as well as the researchers' own previous collaborative experience.

The report addresses several specific questions and issues identified by SUP in the project brief:

Identify collaborative model options; examine the pros and cons of these, together with potential collaborative structures; Identify the barriers that exist and how these might be overcome; Legal and financial protections; The tendering and contract process, and instilling confidence on the part of clients in the performance and delivery of projects by the collaborating groups; The support which could be made available; What professional memberships, qualifications and accreditations would be required; Financial and insurance requirements; Focus on the specific public sector challenges and how the system might be improved; Addressing any unforeseen issues arising in the course of the project; and Identifying any working examples of existing, relevant collaborating groups or 3rd party organisations involved in managing the bid process.

Several of the above overlap and/or are not covered in the sequence listed. Key points from the report are identified below.

As well as the opportunities which collaborative working might bring to the local contractors and the wider local community, the report focuses on the barriers and challenges to collaborative tendering and managing contracts - what these are, where they emanate from and the extent to which they can be addressed in the context of three collaborating models: referred to as 'Basic', 'Facilitated' and 'Umbrella'.

Among the most significant barriers/challenges to collaboration, some relate to the group itself and some are external environmental factors, principally a) the public sector procuring agencies or customers and b) the geographical area of the market (the Scottish Borders).

It is clear that an initially positive attitude among collaborating parties is crucial to the longevity and success of a consortium, however the most significant 'internal' challenge is likely to be the resources and skills required to manage, coordinate and 'lead' a collaborating group in both the tendering and post-tender phases of operations.

This may be able to be addressed in the Facilitated or Umbrella collaboration models, though there are issues highlighted with both of these. For facilitated provision of the management and coordination resource, these are primarily to do with a) how it would be financed and b) limitations impacting the entity which could provide the resource if it is public sector. In the case of Umbrella organisation involvement, it is unclear how that entity would operate in a 'direct' tendering and contracting role regarding the operations of a collaborating group. Such an organisation could however play an important role in provision of 'indirect' support to the group, for example in facilitating skills and qualifications attainment, third party communication and access to finance.

When it comes to challenges or barriers presented by the procuring agencies/customers, there are two primary factors: a) the perceptions and attitudes of the individuals involved in these organisations and b) the legislation, process and procedures constituting the environment in which they operate.

For a), much can be done by the collaborating group themselves to instil confidence, however for b), 3rd party involvement would be required to, for example, create and disseminate appropriate guidance.

The other external barrier mentioned on the report is the dearth of construction sector companies in the Scottish Borders, both amongst SMEs/microbusinesses and large construction companies. No solution to this barrier is examined as part of the report remit, however it is a factor which bears on the conclusions (below).

The report examines possible legal structures for collaboration, paying particular attention to the 'consortium company limited by guarantee', however it is made clear that any formal legal structure is not a prerequisite for a collaborating group prior to the award of a contract by the customer. Nonetheless however, it is stressed that from an early stage the group should have a written 'collaboration agreement' setting out how the parties will work together.

Although not a challenge or barrier impacting specifically collaborative working in the construction sector, part of the report remit was to look at professional membership and accreditations requirements. It is mooted that this is an area which could see the involvement of an 'umbrella' organisation providing indirect support, including perhaps the involvement of, for example, further education bodies.

In the light of the barriers and challenges involved in the winning and management of contracts by collaborating groups of SMEs/microbusinesses in the Borders, one possible approach which in a sense goes beyond the remit of this study proposes the involvement of large construction companies based out with the Borders area. There is a tried and tested process for tendering and the supply of services using a 'lead contractor' model, which could still involve collaborative groups of local SMEs in the Borders as partners or subcontractors.

Another avenue which is considered in the report is to focus on collaborative innovations in the customer/Buyer sphere, instead (or as well as) concentrating on changes to the construction sector supplier base. If there was no involvement of public sector procurement agencies or customers, and if private retrofit homeowners and business were to procure services cooperatively in 'manageable' group sizes, several of the barriers facing SME/microbusinesses in the sector would lose significance.

Whether it is decided to pursue an 'independent' consortium approach, whereby groups compete for and run contracts using one of the collaboration models considered, or whether the involvement of the large construction companies is pursued, recommendations are provided for what actions could be taken to assist the groups in overcoming barriers to collaboration.

A 'pilot' project is suggested, which could involve selecting a cross-section of local construction sector SMEs/microbusinesses with an interest in the energy efficiency retrofit market, and providing support (using multiple agencies including perhaps Co-operative Development Scotland - CDS).

Introduction

This Trades Consortium and Collective Bidding report focuses on collaboration but is part of the wider Energy Efficiency Supply Chain (EESC) project. The EESC project is focused broadly at how the supply chain as a whole needs to be developed to deliver net-zero targets for the built environment, including builders, designers, suppliers, education and government as well as property owners. The specific context is the construction sector in the Scottish Borders, where the supply chain consists primarily of sole traders and other micro businesses. Such businesses have particular challenges in bidding for, winning and managing public contracts in the sector and it is suggested that some form of collaboration may be a way of dealing with the challenges faced. This may be in the form of:

- a consortium/cooperative of small traders;
- a facilitated consortium/cooperative of small traders; or
- an umbrella body (such as a social enterprise) that takes on the responsibility of bidding for contracts and administering all aspects of a project.

These three collaboration variants will be referred to in this report as, respectively the '**Basic**', the '**Facilitated**' and the '**Umbrella**'.

Bigger Picture

It is foreseen that the drive to net zero will create substantial economic opportunities in retrofitting alongside a wide range of new building projects. Every region will be in the same position so it will become harder to draw suppliers in from surrounding areas. Predominantly rural areas like the Scottish Borders face particular challenges to factors including the dispersed housing and infrastructure, the lack of large locally-based construction sector organisations and the distance from the major centres of population such as Glasgow and Edinburgh.

It is therefore important to find ways of encouraging and assisting the construction sector SMEs to bid for EESC-related work in the region.

The Trades Consortium and Collective Bidding exercise has to be seen as part of a wider strategy to address the issue. Other vital considerations include: skills training, the public procurement process and contracts pipeline, other stakeholders (identification and clarity as to their roles), demand management and contractor education as to how to bid and incentives to do so. The conclusions and recommendations of this report require to be complemented by appropriate action to address the above aspects.

Specific Topics to be addressed

This Trades Consortium and Collective Bidding report will address the following subjects identified in the brief provided by The Southern Uplands Partnership for this report.

- The options which exist for helping existing micro-businesses, sole traders and SMEs to jointly bid for local construction and energy efficiency contracts
- The pros and cons of these options
- Possible structures allowing collaborative bids to be developed and delivered if collaborative bids from individual traders' partnerships were not an option
- Legal and financial protection needed for the partners/Social Enterprise in any such arrangement (manageable and proportionate)
- Barriers that currently prevent such businesses from tendering for these contracts, and how these might be overcome or significantly reduced

- The process whereby contracts would be entered into, in such a way that the client could be confident that the required outputs would be delivered: what should be put in place to ensure that contractors deliver specified projects
- Could a facilitating body be a cooperative or social enterprise: or another type of structure.
- Finances, insurance and what structures could be put in place to keep costs to a minimum (such costs will need to be considered part of any tender price so must not create a new barrier to successful tendering)
- Any implications for professional memberships, health & safety and quality assurance schemes (MCS, OVEZ, Trustmark,SSIP) etc. and what needs to be in place for both the individual sole traders/small businesses or the wider social enterprise/charity?
- Any other/unforeseen issues that need to be taken into account
- Overcoming challenges with “public” contracts due to the amount of time small businesses have to wait to be paid and the excessive bureaucracy that is often encountered. How a future system can be made manageable
- Examples of working partnerships or third-party organisations managing the bid process.

Whilst the above specific topics are all wholly relevant to the role collaboration can place in encouraging successful tenders from the local SME supplier base, there is some overlap and interplay between them. For example, input may be relevant to 'overcoming barriers', 'structures.' And 'instilling customer confidence'. Therefore, to avoid duplication, the report will only set out such 'common' inputs in detail for the first topic where it is relevant.

Methodology

1. Objectives

The Trades Consortium and Collective Bidding project was essentially a research exercise which drew on the collaborative working experience of the researchers, combined with analysis of related research carried out by others, together with fresh inputs from various parties, all in the context of the construction sector in the Scottish Borders. As such, the project involved 2 main elements: desk research and interviews.

2. Desk research

The researchers have over 10 years of experience in setting up and working with collaborative groups in various sectors, mainly on behalf of Cooperative Development Scotland (CDS). In addition, the researchers have good contacts in public sector procurement through our work assisting clients with tenders and in delivering training in local authority regions and for national public programmes.

This experience was augmented by a review of available literature, for example the Welsh Government Joint Bidding Guide, referred to further below.

An initial outline of the report was thus able to be drafted, ready to be shaped and supplemented by other inputs such as from interviews.

3. Interviews

a) Video/telephone interviews with representatives of public sector agencies with knowledge of collaborative working or of the construction sector procurement environment in the Scottish Borders.

b) Telephone interviews with procurement managers to identify issues surrounding consortium bids

Procurement contacts already known to Intend Business Development were approached for initial impressions on the barriers to consortium bidding and what might be done to overcome this. A script was developed to cover some key themes: attitude to consortium bidding; criteria needed to get

through selection process; perceived risk of formal versus informal consortium; guidelines provided to Buyers for consortium tender evaluation; identify examples of successful/unsuccessful consortium bids and reasons; opportunities for CDS to collaborate with procurement teams to increase number of SME consortia.

c) Telephone interviews with SMEs

Telephone interviews were conducted with selected SME's i) currently part of an operating consortium; and ii) which have looked at and considered collaborative working.

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F. Interviewees

G. Collaborative Process – Blueprint for Roles & Tasks (separate Powerpoint file)

1. Options and Structures

1.1 Collaborative Tendering Options

The primary theme of this report is SME collaboration and jointly bidding for contracts. Before exploring each subject in detail, it is important to be clear about:

- what we mean by collaboration
- why SMEs should want to collaborate to bid for contracts
- what are the constraints and challenges
- how can the potential collaboration structures help with the constraints and challenges

What is collaboration?

In the tendering context, the following broad definition is suggested:

“Two or more parties working together to achieve a common goal which would be difficult to achieve individually.”

Forms of collaboration

The 3 structural options considered in this report - the Basic, Facilitated or Umbrella - all clearly have in common the key theme of collaboration, of parties bidding jointly for contracts.

Basic: group of companies working together but without any involvement of external third parties in the collaboration. Can be a “loose” unincorporated co-operative consortium then develop into an incorporated body at a later stage

Facilitated: group of companies working together and supported with various aspects of the tendering process by various external facilitators who provide skills and resources that the companies lack. Facilitators are not necessarily retrofit specialists.

Umbrella: third party support organisation is introduced or specially created to enable companies to bid effectively for retrofit and other work. An Umbrella organisation has all the resources in-house to do this.

The approach in this report is to focus firstly on the 'Basic', unfacilitated consortium cooperative, which is the basic 'building block' of collaborative working & tendering.

This will include the consortium structure, legal form(s), advantages/opportunities, threats & challenges, then look at how this can be augmented by adding to the consortium, respectively, a) facilitation and b) an umbrella body.

Benefits of Collaboration

Whichever the form it takes, there are many benefits from encouraging a collective approach to promote the involvement of small, local businesses in public sector contracts whether bidding directly as lead or joining the supply chain of main contractors. Capacity and resilience in the local supply chain is enhanced, and benefits accrue to local job markets, community wealth building and circular economies. These are all currently challenges faced by the Scottish Borders region, where according to a recent CITB Report (<https://www.citb.co.uk/media/tgsiuvlr/local-skills-scotland-report-2023.pdf>) there is a shortage of key trades.

There are also specific potential benefits for stakeholders, as detailed below.

A. For the supplier base, business community and wider economy

- Provides Scale. Being a member of a co-operative provides the benefits associated with larger organisation.
- Shared Costs. The cost of business services can be radically reduced.

- Stronger Competition. Members become more competitive with lower costs and greater reach than other similar non-member competitors.
- Improved Services. Being able to offer more skills and experience enables member businesses to offer services beyond their existing offerings.
- Jobs Growth. Companies benefiting from reduced costs and increased markets grow and recruit like any other business. One key element difference is that economic benefits tend to flow to, and stay in, the local economy.
- Adaptability. The model is extremely flexible, enabling members to adapt quickly to any economic and environmental changes.
- Lobbying. Acting as group presents a louder voice to influence, promote and represent the feelings of the co-operatives members businesses.

B. For the SME supplier

- the opportunity to get involved in larger contracts;
- the opportunity to widen the pool of resources and skills available – complementary or supplementary;
- lessen the necessity of employing its own staff, particularly if there is a local shortage of expertise
- sharing of costs, burden, hassle – for example with the PQQ process;
- being able to look and act bigger;
- ability to focus on your core strengths;
- opportunity for organisational learning;
- more eyes to spot opportunities;
- future proofing - gain awareness, skills, experience, qualifications in new heating technologies

The above advantages would potentially accrue equally with any of the three forms of collaboration.

Collaboration structure options – timing

If SMEs desire to collaborate to tender for contracts, a key early consideration is whether they want to form a new legal entity in which they are bound together prior to a specific tendering opportunity being identified, or depend on a relatively informal and contractual relationship to begin with.

The public procurement regulations make no restrictions on the forms of consortia that are eligible to bid for public contracts. In principle, public sector contracts are open to any form of “economic operator” – legal person, sole trader, private limited company, partnership, plc, charity – provided it/they pass the Selection Criteria set by the Buyer at the time of tendering.

The rules in this area are contained in the Public Contracts (Scotland) Regulations 2015

<https://www.legislation.gov.uk/ssi/2015/446/contents>

Regulation 28 forbids public bodies from insisting that a consortium must form a legal entity (e.g. a Special Purpose Vehicle) in order to bid for a contract.

Further, any conditions for the performance of a contract by a group of economic operators, which are different from those imposed upon individual participants, must be justified by objective reasons and must be proportionate (para 20.7).

However, a public sector procuring agency may, if it is judged necessary for the satisfactory performance of the contract, require a group of economic operators to assume a specific legal form for the purpose of the award of the contract (para 20.8). So the procuring authority will require a formal legal entity to exist when awarding a contract, but not necessarily prior to that stage. This

presents an opportunity for SMEs to a) create that formal legal entity before tendering, or b) only do so once the tender has been successful.

Whilst the Regulations allow for there to be no formal structure/entity prior to tender award, other factors may also have an influence on the timing of the formal relationship. The primary such factor is likely to be the 'credibility' of the bid without such formality. An informal bidding group can (and should) submit their Collaboration Agreement (see below), but this might not be enough to bridge the credibility gap.

Potential legal vehicles for formal collaboration

The main forms of formal collaboration in the context of tendering for business are the following:

- **Company Limited by shares** - the SMEs would all be shareholders, whether they are sole traders or themselves limited companies. Limited flexibility in terms of departing or new members.
- **JVC (Joint Venture Company)** – as above but a limited company incorporated to bid for and run a particular large project, like the Edinburgh trams project. Will have shareholders, directors, annual returns, statutory accounts, be subject to public scrutiny. Limited flexibility in terms of changes to the shareholders.
- **Partnership** – traditional partnership – but the partners would have joint & several liability, also lacks flexibility.
- **Limited liability partnership (LLP)** - a separate legal entity from its members (partners), who are only liable for the amount of money they invest, plus any personal guarantees. The partnership is incorporated at Companies House, and can only be used by profit-making businesses. Partners are required to provide a registered address for the business, and maintain a register of members. There's no restriction on the maximum number of partners allowed but there must be at least two members on incorporation, either individuals or limited companies. Members can be companies as well as individuals. LLPs are flexible in terms of management and how profits are shared. Accounts require to be filed at Companies House and are therefore available for public view. There will be administrative costs due to accounting and filing requirements comparable to an incorporated company.
- **Company Limited by Guarantee** - a legal entity similar to the company limited by shares but limited by guarantee. A new company is created with the members being the SME companies, sole traders or partnerships who wish to collaborate. The members are subject to a Members Agreement, which sets out the rules of membership, including the process for incoming or departing members (so more flexible than a company limited by shares). This is considered in more detail below.

Consortium Co-operative - Company Limited by Guarantee (CCLG)

A consortium co-operative is a form of democratic membership organisation with co-operative principles embedded in the constitution. The consortium co-operative company (limited by guarantee) is the legal structure recommended by Cooperative Development Scotland (CDS), part of Scottish Enterprise CDS <https://cdsblog.co.uk/co-operatives> .

The consortium co-operative can enable a number of independent businesses (of any size or type) to come together for a shared purpose - whether to sell together, buy together, market together, apply for funds together, tender together, share services or facilities. The consortium is run on a shared and equal basis by, and for the benefit of, the members.

CCLG Characteristics include:

Limited liability (each member guarantees a certain amount (usually £1) in the event of the company being wound up with outstanding debts).

Recognised legal structure

Durable framework for collaboration

Includes confidentiality provisions

But also:

Some expenses paid by members to CCLG (may be minimal) - annual return, preparation of accounts, company logo, website and domain

Administration tasks: company incorporation; select & appoint Directors, adoption Articles of Association, Members & Directors meetings, negotiation & execution of Members Agreement, Directors' duties, Directors potential personal liability

Likely to pay VAT - some Members may not wish to register

Relative unfamiliarity of clients with this approach

Has a contractually binding members agreement

Because of the above factors, some SMEs may be put off from forming or joining such a formal entity before there is a tender award and also an assured income stream. This is why the option of maintaining an informal grouping before the tender award phase may be useful.

1.2 Informal Collaborative Tendering

The Process

Phase 1 - Forming	Phase 2 - Preparing	Phase 3 - Implementing
Informal grouping Research & document target markets Identify possible partners and any skills shortfall Define tender opportunity search criteria Prepare policies, experience, references etc Confidentiality Agreement/NDA Letter of Intent/heads of terms	Identify tender opportunity Match tender opportunity to target markets Establish Interest / invite participation Identify appropriate team leader Execute collaboration agreement	Manage tender process: <ul style="list-style-type: none"> ▪ Prequalification stage/Single Procurement Document (SPD) ▪ Tender Contract & subcontract negotiation Contract/subcontract award

Common to informal or formal collaborating entities:

- Requires to be agreement of members' duties and responsibilities in respect of the tender, basis of apportionment of work, roles of tender lead and supporting members, customer interface arrangements, pricing approach etc
- Arrangements to split work are not legally binding until main contract awarded

Further considerations

Timescales - by the time a suitable tender is published it may be too late to set up a consortium, which would point towards the prior creation of the consortium formal legal entity.

Pre-tender award 'Informal' Collaboration

So even if a group of SMEs do not wish to form or join any formal legal entity at the pre-contract stage, nonetheless some degree of documented 'formality' will still be required. Other than a Confidentiality Agreement, the key document will be the Collaboration Agreement.

There is a lot to think about, a lot to agree in the informal discussions which would take place, which will carry forward to contractual arrangements if the bid is successful. That is why SMEs thinking about collaborating to win a tender should have a Collaboration Agreement. It should be seen as an essential tool to capture all the vital details of decisions and agreements emanating from the discussions. The Collaboration Agreement is a written record of how the parties are going to work together to achieve that goal which would have been beyond them individually.

The informal collaboration transforms into a formal legal entity on contract award. Prior to then, the Collaboration Agreement will govern the relationship and capture all the agreed issues at the pre-award stage.

A Collaboration Agreement can begin as a fairly simple document and evolve over time as objectives become identified and more sharply defined and relationships & objectives develop. Further details of Collaboration Agreements are set out in Annex A.

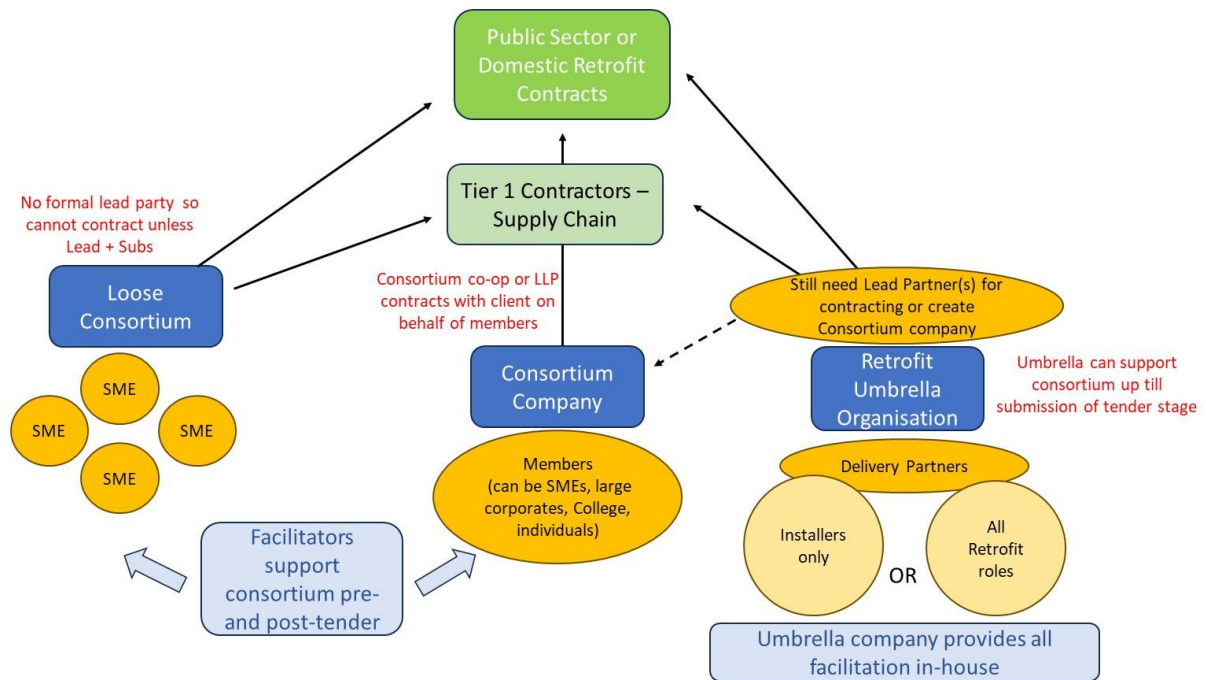
Informal Collaboration - Model Variants

Facilitated Consortium

A facilitated consortium could adopt an initial informal collaborative relationship pending a contract award. The facilitator could perform the role of the team leader, leaving the SME contractors free to focus on their tender inputs whilst managing their existing business. The facilitator could assist - as a neutral party - with the compilation of the Collaboration Agreement. A facilitator acting a team leader in the pre-contract award phase could also have a role in the consortium post-contract award, under appropriate contractual arrangements.

Umbrella Consortium

An umbrella body could also adopt this approach. It could gather a loose association of contractors, choose a selection for the tender opportunity, and only form the formally-constituted consortium when the contract is awarded. It would be acting in an essentially supportive and facilitating role and would not be part of the actual bid submitted. Please see section 4, p25.



1.3 Threats to the relationship - additional 'challenges'

Having put together an effective team to bid for a tender, discussed all the issues and all signed up to a comprehensive Collaboration Agreement, the SME contractors must be aware of the following threat scenarios which could derail the relationship. It can be argued however that it would be better to experience and deal with these challenges at the informal stage, prior to creating a formal legal relationship.

Threats:

- A team member starts promoting their own company instead of the group
- Imbalance of effort: some members not pulling their weight; one party doing all the running
- One or more members have over-estimated their capacity and can't perform/deliver
- There is a lack of openness & trust
- A clash of cultures - eg. between high-quality culture and one focussing on cheap prices
- instructions from other organisations/individuals

- Scepticism
- Personality conflict
- Inexperience of project/contract management, particularly by leader
- Egos - resistance to taking instructions from other organisations/individuals
- Resource shortages
- Leadership deficit
- Team ethos not established (group not working as a team)
- Poor planning
- Poor communications within the team

Also, on contract award other pressures may develop from the success whereby the team leader or team members may seek to exploit their position of strength, for example: -

- The team leader and/or other team members may consider a team member's prices to be too high and either put pressure on to reduce them, or want to bring in a replacement
- Concessions may be sought by the team leader in other aspects to limit their exposure to the customer
- Unacceptable terms may be imposed which are designed to cause particular team members to exit in order that the work may be done by others.

In a collaborative and essentially voluntary relationship, it is impossible to wholly prevent such problems arising, or in a worst-case scenario, one of more of the team members exiting the group. Upon contract award therefore, it will be important to put in place legally binding subcontracts between the consortium itself and its individual members participating in the project.

This applies equally to the Facilitated and Umbrella Consortium variants.

1.4 Consortium transition from bidding relationship to project delivery

Upon award of a contract by the customer to the consortium legal entity (CLE), the CLE will need to enter into formal subcontracts with the members which were identified in the tender as having a role or function in delivering the project services. This will be subject to any customer changes. There may also be other contracts required with contractors, consultants and suppliers who are not part of the consortium.

2. Barriers to Collaboration

There are many challenges to successful collaborative tendering by SMEs. These are as listed below. Some of these are more significant than others and so constitute 'barriers', and are repeatedly identified as such by SME consortia members and by specialist collaboration advisors.

Recommendations for measures to address the challenges/barriers are provided following the summary below. Whether these barriers can potentially be alleviated at least partly by the adoption of the Facilitated or the Umbrella 'augmented' collaboration models is also addressed below.

2.1 Summary of barriers and challenges to tendering collaboratively

A. Pertaining to the SME supplier

- Difficulty in identifying and approaching potential consortium partners
- Anxiety about giving away information to competitors
- High level of commitment - time, resources
- Reluctance to take on the overheads and risks of being lead partner in a consortium, even at bidding stage
- Unfamiliarity with joint systems for project & quality management, administration and communications
- Difficulty in negotiating with potential partners
- Possibility of disputes
- Management of communications with the customer and the group

- Unfamiliarity/concern over the customer's financial and other assessment criteria as applied to a consortium bid
- Buyer attitude/receptiveness
- Ensuring quality assurance, consistency
- Unfamiliarity with structures, documentation, tools for collaborative working

B. Pertaining to Procuring Agencies and Processes

- Financial Assessment
- Structure and Governance
- Competition Law
- Legal Form
- Confidence

C. Specific territory factors

- Insufficient pool of skilled employee/contractor resource in the Borders
- Lack of large construction sector companies to 'fill in the gaps' and resource necessary admin, QA, provide specialist skills etc

2.2 Overcoming barriers

A. SME supplier

Issues finding partners

There is no easy way of finding potential partners. Partners need to be genuinely willing to put in the commitment, share information and have a collaborative attitude. Trust is essential, without being naïve. The goal is to find people/companies with a similar ethos. Support organisations such as those listed below have knowledge of local business networks and could play a part by, for example, organising facilitated networking events and collaboration information sessions.



Potential models for collaboration should be better known, so that SMEs know what to do when approaching or being approached by a potential consortium member. This will depend on the requisite training and familiarisation attaining the necessary reach into the target SME community. Again, organisations such as the above could have a role here, as well as trade associations and skills bodies.

Anxiety about giving away information to competitors

This will clearly be a particular concern when the collaborating group contains more than one member of the same trade or profession. However, sharing financial or other confidential information with others is an understandable business concern generally. Initially, there should be a confidentiality agreement/Non-Disclosure Agreement (NDA) in place to provide legal protection. This would in due course be replaced by a formal members agreement or contract. Familiarity with

NDA amongst the pool of potentially collaborating SMEs should be instilled through education at an early stage.

High level of commitment - time, resources

The tender process is time consuming even as a single bidder – a consortium bid is even more complex and liable to take up significant time and resources. It may also potentially involve some direct costs. It can be difficult to convince some SME contractors that it is worth the effort for a future, non-guaranteed return on such investment, never mind the practical difficulty of carrying on their day-to-day business at the same time. This is one of the barriers where the Facilitated or Umbrella collaboration variants could help. Please see Section 4 below.

Reluctance to take on the overheads and risks of being lead partner in a consortium, even at bidding stage

There are additional demands on a group member's time and resources if that member is the 'lead', who will coordinate the group and deal with the customer & other third parties. Aside from the significant resource required to coordinate a tender, the additional time and effort involved in the coordination and administration, communications (internal and external), dealing with finances etc is substantial and would almost certainly require remuneration and even a dedicated resource. The aspect of how the consortium will pay for the central services would be highlighted in the early stages of the consortium, where there is no income with which to provide the funds. In the facilitated variant, it would be expected that the duties would be taken on entirely by the facilitator, and in the umbrella variant, by that organisation's in-house resources. The question of funding for a facilitator would still be an issue however.

Unfamiliarity with joint systems for project & quality management, health & safety, administration and communications

Such requirements in a large EESC project will be new territory for most SME suppliers. Whilst a facilitator could conceivably assist with identification, communication and management, this is a barrier where the umbrella variant would be expected to be particularly useful in tackling the SME concerns and providing access to its own contract management/compliance systems for use by consortium members.

Difficulty in negotiating with potential partners

It is very important that there is legal clarity between the consortium members on terms and timing of payments, costs, revenues and warranties, and that these are built into the consortium's bid design and project plan. There are also a number of important commercial matters which must be agreed in advance of them becoming issues for the consortium including for example:

Payment

- What does the agreement with the buying organisation propose?
- Who is the agreement with, and which party will receive money from the buyer?
- Will all parties be paid at the same time, or do some parties expect or require payment before the consortium entity has itself been paid?
- Managing cash in an equitable and transparent manner is critical to trust and for some members to meet their legal commitments on salaries and tax. The proposed internal payment schedules should be covered as part of the consortium's teams' internal bid preparation and cost estimates.

Costs

- How will costs be apportioned equitably at different stages of the consortium's lifecycle?
- For example, pre-contract do all of the consortium members expect to bear their own costs unless explicitly agreed otherwise in advance?
- How will unforeseen costs which arise be dealt with?

In the facilitated variant, negotiations with and between the consortium members can be one of the duties of a facilitator. Similarly, in the umbrella variant, such matters would be dealt with centrally.

Possibility of disputes

The likelihood of disputes arising is reduced by the parties discussing all aspects of the project and the relationship well in advance - and setting out the details in writing in the Collaboration Agreement. Dealing with disputes could be within the remit of a facilitator in the facilitated variant, however the necessary skills and/or acceptance of such a role cannot necessarily be assumed. It would be expected that an umbrella organisation would have the expertise and resources to deal with disputes.

Management of communications with the customer and the group

Effective communication a) internally within the group and b) externally with the customer and other external agencies is vital for the success of the group. However not only is this time consuming, it may be the case that none of the SME members of the group have the necessary skills or aptitude for 'communications'. Whilst the Collaboration Agreement can identify where the communications responsibility lies, and set out rules such as one point of contact for the customer, this does not overcome the skills/aptitude issue if it exists. Responsibility for communications would usually be one of the principal functions of the facilitator in the case of the facilitated variant. In fact, the assumption of this role by such a person/organisation could be a major relief to the consortium members. Similarly, it would be expected that an umbrella organisation would take on this responsibility (albeit not directly with customers), and probably already has established mechanisms and processes in place.

Unfamiliarity/concern over the customer financial and other assessment criteria as applied to a consortium bid

Either from prior experience or from 'what they've heard', SMEs may perceive there to be Issues (effectively 'barriers') by requirements such as: - having to have a trading history; having 2-3 years of accounts; and the '20% rule' which may drive a need for minimum turnover to qualify.

In regard to the level of turnover of the consortium, whether

- account would be taken of the combined turnover of the consortium with all its members, or
- each member would be assessed individually against the minimum turnover criteria.

Please refer to the Financial Assessment barrier below.

Buyer attitude/receptiveness

Will buyers treat a collaborative bid equally with a sole tenderer? Suppliers feel that buyers are still very risk averse and see consortium bids as higher risk. Buyers acknowledge this but point to specific areas where suppliers could help reduce risk (incorporation, joint insurance, clear lead partners and single point of communications for contracts). Buyers can be initially sceptical about the willingness of competitor SMEs to collaborate.

To allay these concerns, the consortium has to act like a single big company. A big company would have clear structure and reporting lines and clear legal & contractual responsibility. There would be no doubt about who is going to be doing what on contract award, no doubt about who is going to do what in the course of putting the tender together, who will lead negotiations with the customer etc – so organisation and structure will be key.

In a facilitated consortium, the facilitator role can be crucial in making sure the consortium and the tender are presented so as to satisfy these criteria.

Ensuring Quality Assurance, Consistency

A tender opportunity may require formal quality management and/or a project management system such as ISO 9001:2015 or an internally audited equivalent.

It may be a challenge for the members to ensure that all parties in the consortium are following the required systems and that all activity, documentation and output is being managed in the appropriate way, sufficient to satisfy an external auditor. Habits are hard to break and sometimes

people fall back to their own organisation's procedures, putting the consortium entity's Quality Management System (QMS) at risk on non-conformity.

This can be a difficult and certainly a time-consuming task for an SME team member, or the consortium as a whole, to undertake. It could be 'delegated' to a facilitator, in the pre-contract and (if the facilitator has a continuing role) also post- contract award phases.

In the umbrella model, it would be expected that the organisation would have established processes and procedures in place, so the initial setting up and subsequent 'policing' responsibilities would be taken out of the hands of the SME team members.

Unfamiliarity with structures, documentation, tools for collaborative working

Most SME potential collaborating partners are unfamiliar with 'how to get started' and what structures and documentation would be needed to set up a consortium in order to bid for a contract. In such circumstances they are much less likely to even consider the idea.

If enough SME contractors were made aware of the existence of standard tools and sources of assistance for collaborative bidding, this could make them far more receptive to messages encouraging a collaborative approach for all the potential benefits identified earlier in this report.

At the end of the day it is a matter of education and familiarisation. Similar to the 'finding partners' barrier, business support organisations like Scottish Enterprise, Business Gateway and Chambers of Commerce could play a part by, for example, organising facilitated networking events and information sessions. The use of Confidentiality Agreements and Collaboration Agreements, potential assistance from organisations such as Co-operative Development Scotland, Southern Uplands Partnership, potentially the availability of facilitator assistance - these could all be considered and ways found to publicise them within the contractor SME community.

B. Procuring Agencies and Processes

By definition, barriers to collaboration pertaining to or emanating from clients or procuring agencies will be more difficult for the SME consortia or those advising them to influence. The public contracts procurement process is highly regulated in Scotland, as in other parts of the UK. Guidance for procuring agencies on how to deal with collaborative bids is fairly limited.

Looking at specific aspects:

Financial Assessment

From the perspective of the procuring agency, the financial assessment of consortium supplier tenders can be very complicated as compared with a single entity tenderer. In the present EESC context, individual suppliers within the consortium are likely to be offering different services or a different commitment to the consortium.

In such circumstances, the risk adverse characteristics of the procuring agency - which after all has a duty to ensure taxpayer value, safety and compliance with regulations - may mediate against a flexible approach to the financial assessment of a consortium tender.

A common approach to financial assessment will focus on three traditional financial measures: turnover; profit; and the balance sheet. The question arises as to whether the procuring agency

- a) looks at these in relation to each separate business in the consortium, or
- b) bases the assessment on the financial standing of the whole consortium (rather than separate businesses).

Not being able to evidence sufficient financial standing may be seen as a barrier by individual SME bidders. The aggregated approach is reasonably straightforward when a consortium is

made of up similar organisations coming together to extend their capacity however the consortium legal entity itself will have little or no trading history to evidence.

In the Energy Efficiency Supply Chain (EESC) context, it is highly likely that some consortium members will be performing different roles in the overall delivery, indeed the PAS2035 standard includes explicit roles for retrofit projects. Some members may be more “critical” to success than others, such that if they were to fail it would cause the whole project to fail. In such cases therefore, separate analysis of finance and capability might be considered to be more appropriate, with especial attention paid to the “weakest link”.

How to overcome or at least mitigate against these financial assessment barriers?

Guidance should be provided to procuring authorities and also to SMEs contemplating a consortium approach. Evidence gathered for this study has confirmed that no detailed guidelines exist for financial assessment of a consortium bid in the public sector for construction-related (or other) contracts.

A prime contractor approach (see section 8, p36) could alleviate this potential barrier, allowing the Buyer to assess and “pass” an established lead partner for the majority of selection criteria and also recognise that the consortium members also contribute to those criteria (financials, certifications, Safety Systems in Procurement (SSIP), quality management, environmental management), so providing two layers of reassurance for any risk concerns.

Structure and Governance

The procuring agency will wish to be confident in the sustainability of a consortium following a contract award, through the life of the project. Unlike an established large company with a conventional structure and a proven record track record of completing comparable projects, the consortium in its initial tendering activities is likely to be a newly gathered together group of SMEs, which even with a facilitating party, may find it difficult to demonstrate the required strength in structure and governance.

Concerns in the assessment of a consortium tender can be overcome where the consortium has a very clear structure, descriptions of roles within the project, dispute resolution procedures, business continuity arrangements and other governance agreements in place. However, many consortiums, especially those set up to bid for a specific contract or those including smaller firms, will be reluctant to put in this work and the related cost up front.

Competition Law

Procuring agencies will be aware of how competition law may be relevant when assessing tenders. Therefore, in forming a consortium, SMEs and their advisers also need to consider the requirements of competition law. In the UK this is covered by the Competition Act 1998, which prohibits any activity that prevents, inhibits or distorts competition. Contravention of this legislation could have serious implications for consortia participants. This is particularly important for members of governing bodies such as Trustees, if an umbrella-type organisation is involved.

Chapter II of the Act prohibits conduct which amounts to an abuse of a dominant position. Problems may arise if a consortium has the potential to gain a dominant position in a market and thus behave in a monopolistic manner or as an oligopoly, seeking to control the market. If an EESC consortium established in the Borders, for example, only sought business in the Borders and was the only viable resource in the market in that geographical area, would that potentially infringe the dominant position aspect of competition law?

If this is indeed a possible barrier in the specific context of EESC in the Borders region, thought should be given as to how this barrier can be overcome. The consortium may need to consider a more “open” arrangement whereby new members could join its supply chain at regular intervals. The Subcontractor module on the national Scottish tenders portal Public Contracts Scotland www.publiccontractsscotland.gov.uk would allow a consortium to advertise speculative subcontract opportunities throughout the year. Establishing more than one viable consortium, with true competition might be another solution. Alternatively, the consortium could collaborate with organisation(s) from outwith the Borders.

Legal Form

The Scottish Procurement Regulations state that contracting authorities may (but not “must”) require consortiums to assume a specific legal form once they have been awarded the contract, to the extent that this is necessary for the satisfactory performance of the contract. The type of legal form is not restricted so a social enterprise model/company limited by guarantee structure could be adopted.

Creating this legal entity is not necessary at the bidding stage which can help reduce barriers to participation by SMEs (no legal costs up front). Having won a contract, the motivation to create a legal consortium entity will be much stronger.

However, it is still essential to demonstrate in the consortium bid submission how the partners will share contractual responsibility for delivering the goods, services or works and what the governance structure will be.

Confidence

Based on feedback from Buyers for this study, the procuring agency is likely to lack significant experience of consortia tenders and will be especially cautious about a new consortium with no track record. Particular confidence issues arise in respect of:

- the performance of the prospective successful consortium bidder
- clarity of lines of communication and roles within the consortium
- security of supply of the goods or services being procured – sufficient capacity
- structure and governance (including long term viability, as discussed above)
- the reputation of the tendering organisation

In summary, it is likely that customers will tend to be *risk averse*. They may think it is much less risky for them to go with larger single companies. They would have more confidence in, less risk of them failing and consequently the client/procuring agency suffering damage to its reputation.

How to overcome this potential barrier?

The consortium must present their bid in a coherent manner as if it is a larger corporate entity with respect to project/contract management systems, communications, risk management and all areas of standards/quality. Looking and acting like a big company needs to start pre-contract, whether in an informal or formal consortium entity, to demonstrate evidence of robust and appropriate structure and governance. Training in collaborative tender preparation will help the consortium to translate “solo” bid material to a joint bid format. Having a large company involvement/lead would also help to provide suitable bid content and formats.

1. Collaboration-friendly’ customer tender documentation and processes including collaboration discussions with Buyers at market engagement stage

2. Guidance on risk assessment for consortium bids. The Welsh Joint Bidding Guide provides such guidance and could perhaps be replicated for Scotland/Scottish Regions.
3. Suppliers encouraged to incorporate the consortium and set up joint insurance and policies and management systems to an agreed standard
4. Suppliers required to provide lead contact point for a consortium and clear share of liability on contract deliverables

C. Specific Territory factors

Insufficient pool of skilled employee/contractor resource in the Borders

The CITB local skills survey (<https://www.citb.co.uk/media/tgsiuvlr/local-skills-scotland-report-2023.pdf>) suggests that there is already excess demand in South East Scotland compared to local resources, with resources thought to be being deployed from outwith the area. Whereas in Lanarkshire & South West, there is more supply than demand.

For example, the CITB survey area shows a shortfall of 1,050 plumbers in the SE area- but neighbouring areas have an excess.

The gaps depicted in the CIB survey show labour shortfalls across all of the occupational groups in each of the three local areas, indicating a general shortage of construction workers, rather than a particular occupational need. The local area with the biggest gap is the South East (Edinburgh, Lothians, and Borders) where supply of 36,700 is well short of the demand figure of 57,750.

Compounding this is the lack of large construction sector companies in the Borders to 'fill in the gaps' and resource not only contractors from other areas, but also the necessary administration, quality assurance and specialist skills for delivering contracts which may be beyond the capabilities of an SME consortium.

This may also be a factor pointing towards an umbrella body with the required resources and facilities, either as a consortium member or standing outside it. Please refer to section 4, p25

Another solution to achieve the objectives would be for the scope of collaboration to extend to large construction companies not based in the Borders, as is discussed elsewhere in this report.

3. Instilling Customer Confidence

3.1 The process commences early

Customer confidence in an SME consortium bidder starts with the pre-contract award relationship. It will be important for the consortium to show that it is organised, with one point of contact who will undertake tasks such as submitting questions regarding the tender, and responding to any clarification or information requests from the customer, Then when the tender is submitted, customer confidence will be easier to instil if the tender shows a clear, thought out organisation structure. Even if the consortium has elected to maintain an informal structure prior to contract award, the group should submit their Collaboration Agreement with the bid, showing how the informal structure will transition seamlessly into concrete contractual form as between the consortium entity and the group members upon contract award.

The customer will wish to see clear evidence of factors such as:

- Clear communications with a single point of contact
- Uncomplicated responsibility chain for contract performance
- Economy - there will not be additional customer time/resources required because it is a consortium as opposed to a single bidder

The consortium should also consider:

- Providing the consortium's Continuity Plan (or a link to this), showing how the customer's project will be protected
- Including explicit assurance of joint & several liability agreement for all partners/members of a consortium
- Including the formal project management plan (even in draft)
- Highlighting the timely performance & supply of deliverables
- Demonstrating agreements in place, including on deliverables timing and payment

3.2 Management & Governance

Public sector customers are basically highly risk averse. It is much less risky for them to go with larger companies they would have more confidence in. There is perceived to be less risk of them failing and then the customer suffering reputation damage.

The Customer will also be looking to the management of the contract which flows from the tender – they will not want to have any extra administration caused by giving the job to a grouping of different small companies. They will want to have one point of contact and a clear line of responsibility if things go wrong.

The consortium has to effectively, act like a single big company. A big company would have clear structure and reporting lines and clear legal & contractual responsibility. There would be no doubt about who is going to be doing what on contract award, no doubt about who is going to do what in the course of putting the tender together, who will lead negotiations with the customer etc – at the end of the day it is about mimicking the characteristics of a big company.

4. Facilitating Bodies and Umbrella Bodies

In this section we consider in more detail the role of a facilitating body (or bodies) or an umbrella organisation as part of a consortium and whether this should be a cooperative or social enterprise or another type of structure.

The concept of a “facilitating body” is central to this study, recognising that any initiative to encourage Borders SMEs to collaborate to secure contracts for upcoming retrofit work is likely to require input from other parties in order to gain traction.

This study has assumed three models of collaboration:

1. a “Basic” unfacilitated consortium cooperative with SME trades Members, most likely organised as a Company Limited by Guarantee.
2. a “Facilitated” consortium cooperative of SME small traders where the facilitating body or bodies assist with setting up the collaboration and the preparation of the first joint tender/bid

3. a consortium headed up by an “Umbrella” body that has a range of inhouse resources to assist with capacity building retrofit capability in the Borders region and can act as an agent, linking the consortium to facilitators and Buyers.

Analysis of the barriers to collaboration in Section 2 highlights that SMEs seeking to create a consortium for joint tendering face multiple challenges including:

- lack of resources to commit to a collaboration exercise
- unfamiliarity with, and mistrust of, the public procurement process
- no model for working as a team of partners (as opposed to a lead+subcontractor model)

The “Basic” consortium cooperative model does provide a sound legal basis for collaborative bidding (with set-up support provided by Co-operative Development Scotland a possibility). However, it does not fully address the challenges of limited SME resources or tackling the complexity of the public procurement process. The Facilitated and/or the Umbrella models are potentially a means to do this and to ensure a more sustainable consortium operation.

In this section we look in more detail at what type of roles and structures would be suitable for a Facilitator role and for an Umbrella body for a retrofit consortium, and how these variants could assist with the barriers described in Section 2. These are also summarised in Annex 6 Collaborative Process Blueprint.

4.1 Facilitator

- A facilitator could be an individual or an organisation.
- If an organisation it could be public sector, private sector or third sector/social enterprise
- It could be a full member of the consortium or an associate member (no voting rights)
- Or it could sit outside the consortium altogether in which case some form of legal relationship may be required with the consortium with respect to the facilitator services provided
- The facilitator may require payment for its services.
- Factors affecting the formal nature of the relationship between the Facilitator and the consortium might include any constitutional limitations on the part of the Facilitator.

Specific facilitator roles will apply at different stages:

CONSORTIUM SET-UP BID PREPARATION	CONTRACT AWARD	POST AWARD CONTACT DELIVERY
Coordinate/Lead development of team or consortium company Group member search and match to roles Ensure prompt & effective communication with/between group members Draft Collaboration Agreement Interactions with client and other external agencies Assist members to apply for SSIP, PAS	Support negotiations with client Support for preparation of legal documents for consortium to meet client requirements to contract with a legal consortium entity. Documents: <ul style="list-style-type: none"> • <i>Consortium cooperative members agreement & articles of association</i> • <i>Subcontracts including joint & several liability agreements for all partners and subcontract agreements for any third parties</i> 	Support to Consortium Board Project management role Quality management Mediation/resolution of disputes Managing accreditations, standards, qualifications across the group - skills Support recruitment & training for consortium Manage community benefits/community wealth building commitments from contract(s)

<p>Bid management, collate member inputs and prepare/write the tender</p> <p>Group member negotiations (work share, financial share)</p> <p>Administration of evidence needed for bid (insurances, certifications, accreditations, team company accounts, Single Procurement Documents SPDs)</p> <p>Advise on financial/commercial model for tender</p>	<ul style="list-style-type: none"> • <i>Subcontracts/consultancy agreements if not a consortium company</i> 	<p>Finding new tender opportunities</p>
<p>Facilitators who could support these elements:</p> <p>FINDING PARTNERS Business Gateway Borders Southern Upland Partnership Scottish Borders Council Economic Development SOSE Trade Associations</p> <p>PROVIDE FUNDING/ RESOURCES TO SUPPORT CONSORTIUM CREATION & BIDS Cooperative Development Scotland Business Gateway Borders/ Scottish Borders Council - access UK Shared Prosperity Fund + other funds A Borders Retrofit Agency (funding basis for this to be ascertained)</p> <p>PAID CONSULTANTS/ SPECIALISTS - Bid managers/writers, Certification preparation consultants (ISO, PAS, SSIP)</p>	<p>Assume Facilitators can support at this contracting stage but cannot be the lead body signing the contract</p> <p>Business Gateway - business support services (help for contracting)</p> <p>Co-operative Development Scotland</p> <p>Legal advisors</p>	<p>Facilitators who could support contract delivery and community wealth building activities:</p> <p>Individual consultant(s)</p> <p>SME(s) - for profit</p> <p>Social enterprise</p> <p>Colleges</p> <p>Skills development bodies</p> <p>Public sector business support bodies</p> <p>Community Interest Company</p> <p>Charity</p>

With this range of facilitator inputs, it is likely that more than one party would be required in a facilitator role. A major consideration will be if the facilitator(s) will be paid, and if so where the funding will come from.

Identifying the cost of facilitation for a team / consortium company and how this will be paid is an important factor in assessing feasibility for a joint retrofit bid.

Whereas research for this report has disclosed some examples of facilitator funding and/or support being provided by public sector funding bodies, none of the consortia were engaged in bidding for public sector contracts. It could be expected that significant barriers would exist for such funding or support to be provided by a publicly-funded organisation (or indeed a membership-funded organisation) to a SME consortium which was engaged in competitive tendering, where the competition (whether other consortia or sole tenderers) were not funded and/or supported.

Funding - Free Support

Identifying free of charge support will be an early priority:

- Business growth funding (Council, Business Gateway) – Expert help, UK Shared Prosperity Fund, other funds
- Consortium set up (Cooperative Development Scotland – currently 1.5 days consultancy/legal documents provided free of charge)
- Skills development funds and free training for team/consortium members – Energy Savings Trust, Zero Waste Scotland, Skills Development Scotland, Supplier Development Programme
- Free of charge assistance, advice and resources from intermediaries (third sector or government funded) with relevant roles – eg. Energy Saving Trust, Zero Waste Scotland, Healthy Working Lives Scotland, Circular Economy

Community Benefits Portals

The team/consortium should access free facilitator support from the community benefits commitments made by contractors who have won public sector tenders. Community Benefits are applied to most public sector contracts (mandatory for any contracts valued £4M+ but often included as a scored element in smaller contracts). This means that the successful bidders will be pledging various community wealth building activities that could be tapped into by a local Borders retrofit consortium:

- Training for the team
- Advice on various business topics, certifications, compliance
- Sponsorship
- Free materials
- Bid writing support

There are two portals where a constituted not for profit consortium company or social enterprise could apply for support:

The Edinburgh & South East Scotland City Region Deal (ESES CRD) is a £1.3 billion investment from the Scottish and UK governments to accelerate growth, create new economic opportunities, and meaningful new jobs that will help to reduce inequalities. Scottish Borders Council is a partner in the CRD. There is a specific ESES Communities portal created to match offers and requests of community benefits support.

<https://www.scotborders.gov.uk/community-grants-funding/community-benefits>
<https://www.esescommunities.org/register.html>

Dumfries & Galloway Council Community Benefits Wish List. The Wishlist form is open to any community group, organisation, association, social enterprise or charity within Dumfries and Galloway who would like to request external support. Example request for donation to support the creation of a textiles hub

Creation Mill CIC	Langholm	Sponsorship / funding initiatives	Financial funding to support the development of a Hub. Creation Mill CIC would like to provide extensive industry training and become a credited centre for textiles.	Donation TBC
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<https://www.dumgal.gov.uk/article/26277/Community-Benefits-Wishlist>

Payment For Facilitator Services

There are a number of ways in which payment for facilitator services could be arranged:

- Collaboration Agreement for unincorporated consortium (“loose” teaming arrangement for Basic Model) includes commitment by team members to share cost of facilitator services.

These would need to be defined or a maximum budget set so team members are not left with an open-ended commitment. Someone in the group would need to pay an invoice from the facilitator then recoup shares from the others in the group. However members may not be prepared to provide funds before any contract is awarded.

- Facilitator invoices the consortium company (once incorporated). Consortium company pays the Facilitator then invoices members for their share of the cost.
- Facilitator costs are paid by a third party which is not an SME member of the consortium.

4.2 Umbrella Body-led Consortium

Definition of Umbrella Body

An “umbrella body” in the context of this report could be defined as:

- An existing organisation or a newly created organisation
- With relevant expertise/knowledge – technical (retrofit/energy efficiency, construction) or could be a project management/quality management specialist
- Private sector (for profit) or third sector (not for profit) or public sector (but in this case the role is likely to be more limited)
- Has resources of its own to facilitate creation of a retrofit SME consortium and maintain its operations
- Representative body or Managing Agent or both

Umbrella Role In “Basic” Model of Informal Collaboration

Similar to the facilitated consortium above, an umbrella body could adopt an initial informal collaborative relationship pending a contract award. It could gather a loose association of contractors under a Collaboration Agreement, choose a selection for the tender opportunity, and only form the formally-constituted consortium when the contract is awarded. The umbrella body could occupy the role of the team leader, leaving the SME contractors free to focus on their tender inputs whilst managing their existing business. It could also act as an Agent for the group of contractors in terms of sourcing and engaging with Facilitator organisations and potential Buyers (private and public).

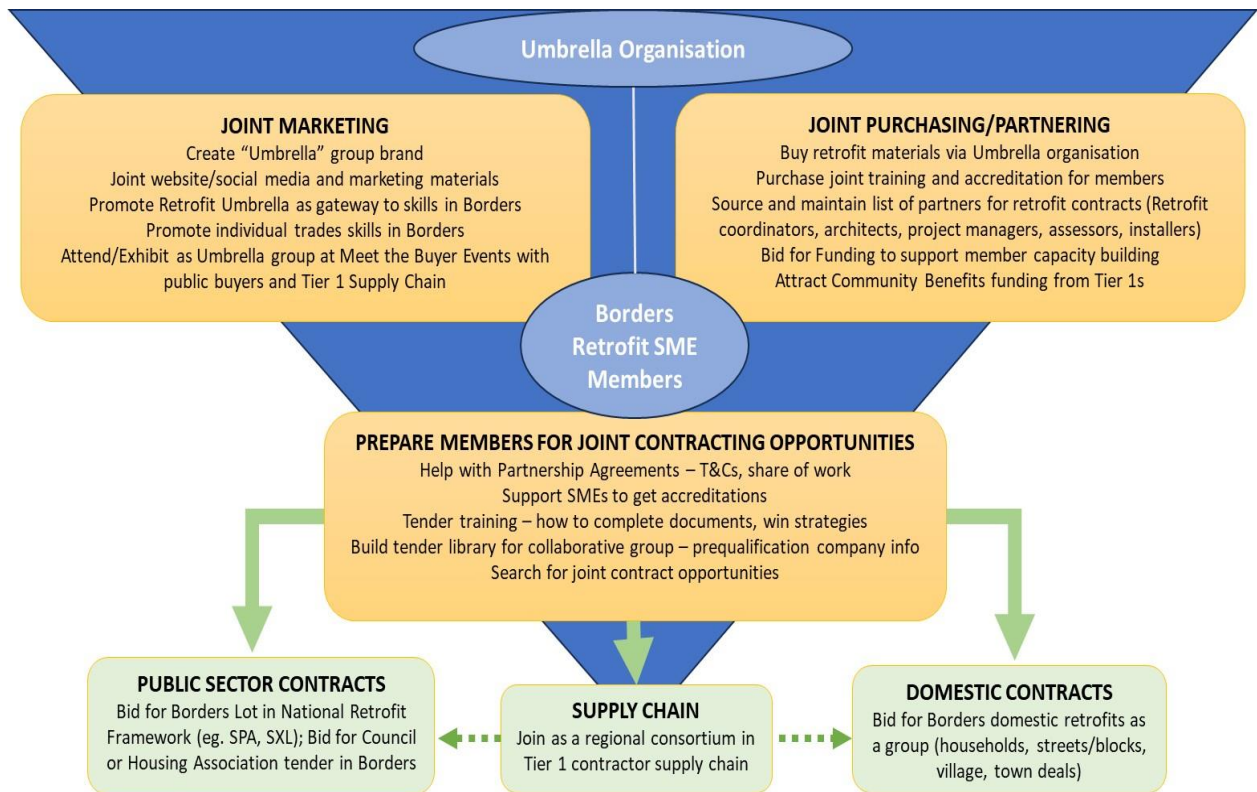
Incorporated Umbrella Collaboration

An umbrella consortium model could involve:

- A new organisation
- Or an existing umbrella group sets up a separate social enterprise
- Purpose – to support SME members in preparing and bidding for tenders but also to generate community wealth and wider benefits in the Scottish Borders
- Will look like a large company from the outside (reassuring to public sector clients) but operate internally as a co-operative
- Administering/managing all aspects of a project/contract for the consortium.
- Sharing its systems for project & quality management, health & safety, administration and communications with consortium members
- Managing internal member communications and negotiations
- Managing external communications with contract clients, legal authorities, stakeholders
- Create and maintain consortium brand – marketing programmes to raise visibility

In an umbrella consortium it would be expected that the potential facilitator responsibilities could be undertaken from **within the resources of the umbrella organisation**. The umbrella organisation could also contain various specialist resources, and/or be in a position to establish legal relationships with external resources necessary for the bid and the subsequent project. This would be more difficult and onerous for a 'basic' or facilitated consortium to achieve.

Overview of umbrella roles:



In the umbrella model, it would be expected that the umbrella organisation would have established processes and procedures in place, so the initial setting up and subsequent 'policing' responsibilities would be taken out of the hands of the SME team members.

The resources of an umbrella organisation may also allow for training of consortium members and familiarisation with the collaborative nature of the relationship.

Limitations of Umbrella Bodies

As can be seen, an umbrella-type organisation can have significant uses in supporting a collaborative grouping of SMEs. However this might not extend to direct participation in the bidding for contracts process. Firstly, it is possible that the umbrella organisation may be public sector or otherwise be conflicted in a competitive tendering scenario. Secondly, feedback suggests that the involvement of an umbrella organisation in the tendering and contract phases of a project would be adding a layer of management and impede communication in a supply chain which could conceivably already involve the client, a private/public sector procurement agency, a project delivery company and a lead contractor.

4.3 Examples Of Umbrella-type Bodies

The research undertaken for this report has not identified many examples of Umbrella-led consortia. Indeed, consultations with public sector buyers has confirmed that very few genuine consortia (as opposed to lead + subcontractor models) have bid for and won contracts. The following examples can be interpreted as umbrella organisations:

Borders Machinery Ring (BMR)
www.bordersmachineryring.co.uk
<p>Established in 1987 initially to match a shortage of machinery and/or labour capacity on one farm with a surplus on another. Legal form is a mutual society/cooperative. Now offers a range of services to over 1,000 members</p> <ul style="list-style-type: none"> • Contracting and Equipment Hire (machines + manpower/operators) • Labour hire – BMR subsidiary Borders Area Services Ltd holds a Gangmaster Licence for labour supply • Sourcing farm supplies and building products – negotiate bulk deals • Training – including LANTRA qualifications, cooperate with Borders College to deliver Pre-Apprenticeship Programme • Renewables – experts to advise on Solar PV and biomass installations • Woodland Management – advice, agent for woodchip providers to biomass operators • “Sales and Wants” Marketplace <p>Income revenue comes from two sources, annual subscription (Full membership £190+vat per annum, Labour Supplier £95, Private £70) and a small levy on every operation carried out. Depending on the service, 0.5% - 2% is levied on the supplier and 0.5% - 2% on the demander. Team of 7 BMR staff.</p> <p>Although BMR do not bid for contracts/tenders and are in a different sector, they do provide many of the services envisaged for the retrofit umbrella organisation.</p>

Warmworks Scotland LLP
www.warmworks.co.uk
<p>Joint venture between Energy Saving Trust (Company limited by Guarantee), Changeworks (CLG/Charity) and Everwarm Ltd (Company limited by Shares). Set up in 2015 to deliver Managing Agent contract for Scottish Government’s Warmer Homes Scotland national fuel poverty Programme. Responsible for procuring a Framework of energy efficiency contractors to deliver the Warmer Homes services. Latest procurement exercise for this supply chain was June 2023 for contract work valued £728m over 7 years. 61 bids, 32 successful tenderers (nearly all SMEs). South East Heating Services Ltd in Selkirk the only South of Scotland awardee.</p> <p>Managing Agent model could be replicated on a smaller Borders-region scale as an umbrella organisation to create a local contractors Framework</p>

Granite Care Consortium Ltd (GCC)
www.granite.care

Company limited by guarantee. Supported by Co-operative Development Scotland to set up a consortium co-operative consisting of 10 highly experienced local care at home providers to bid for the Aberdeen City Health & Social Care Partnership 'Care at Home and Supported Living' contract. The Buyer took a new, visionary approach, focusing on delivery of outcomes rather than task and time.

Consortium approach had significant advantages – combined private sector and third sector partners, hand-picked based on shared values, excellent performance, previous experience working together, capacity, specialist skills in care and supported living for a wide range of needs. Could offer the Buyer market stability (some previous contractors had failed leaving clients without care services), flexibility, integrated care approach/technology enabled/shared data systems and reporting processes.

The GCC consortium company is not involved in any service delivery although it was the signatory to the contract. All operations were subcontracted by GCC to its members apart from a “lean” central office function which is paid for from the contract fees. GCC has some insurance cover but all members were required as delivery partners to have their own Care Inspectorate certification, qualified staff and suitable insurance.

GCC members consulted are clear that the consortium would not have been formed without the support of Co-operative Development Scotland and the experience of one of the founding members in a previous consortium – Glasgow Homelessness Alliance.

Ayrshire Engineering Alliance (AEA)

<https://ayrshireengineeringalliance.co.uk/> (no longer updated since 2019)

Ayrshire Engineering Alliance was established to support local engineering companies in the wake of the oil and gas downturn/market collapse in 2016.

AEA's activities:

- Supporting/encouraging more formal industry accreditation qualifications via supplier development programmes
- Focal point for leads for new business opportunities to distribute to AEA members
- Supporting/encouraging joint marketing and collaborative initiatives
- Supporting improved innovation and technology adoption
- Encouraging intra-alliance mentoring
- Exploring the possibilities of collective procurement options and the sharing of resources
- Provide a vehicle to attract funding from public sector bodies and industry for AEA members' capacity building
- Inspiring more young people to consider engineering as a career

Initially meant to be industry-led but not enough momentum so three Ayrshire Councils led on setting up consortium with Co-operative Development Scotland support. 1 member 1 vote regardless of company size. Councils provided offices and a part-time administrator for initial years. We understand the AEA became dormant once this public support ended.

Fife Employability and Training Consortium (Fife-ETC)

[Fife Employability and Training Consortium - Brag Enterprises Limited Fife](#)

Fife Employability and Training Consortium (Fife-ETC) is a consortium of eight Fife-based third sector providers whose aim is to deliver a co-ordinated Fife-wide employability service to disadvantaged individuals. Fife-ETC's service is predominantly to unemployed people who experience multiple barriers to employment. Specifically targeting those who are long-term unemployed (of any age group); and people residing in the most deprived areas in Fife. The Consortium also operates a Key Worker Officer approach to client support with access to a range of specialisms including housing advice, mental health and emotional resilience, drugs and alcohol support and volunteering. The core employability provision is provided by a team of specialists with input from BRAG and Kingdom Works.

The lead partner in the consortium is BRAG Enterprises, a company limited by guarantee, established in the 1980s, with all the partners delivering differing interventions at various sites across Fife. The Fife-ETC consortium itself is not incorporated. BRAG has been successful in securing funding from various sources and has been awarded contracts from Dept Work and Pensions for example via tendering exercises.

Although this is effectively a lead+subcontractors model, BRAG can be considered an umbrella organisation due to its wider role in support of the consortium's activities.

The Retrofit Academy Community Interest Company

[The Retrofit Academy | The driving force in retrofit knowledge and skills](#)

Retrofit Academy CIC's mission - to drive the development of 200,000 competent retrofitters by 2030.

Incorporated in 2016 as a CIC, company limited by shares. Offers membership of the Academy. Corporate members receive an in-depth workforce development consultancy and support from a dedicated team. Also offer an enhanced membership option for those looking to recruit. Basic Membership fees range from £750 to £2,000 per annum. Membership benefits – retrofit knowledge base, Retrofit Careers Hub, Online events, discount off retrofit qualifications; access to PAS2035 software; CPD training.

Won a contract from Dumfries & Galloway College 26 Feb 2024 - To supply a complete Retrofit/PAS2035 training and support service to enable the college to develop and deliver training for a number of PAS2035 roles.

Umbrella organisation similar to trade association membership model. Despite CIC status, seems to be run on commercial model not social enterprise/not-for-profit.

The Collaborative Process

The Role of the Facilitating and Umbrella Bodies in the stages of the collaborative process - from finding partners and identifying opportunities through to delivering the contract - is set out in a series of diagrams at Annex G. These identify the various forms of support which could be provided at each stage, and show how the roles of a facilitating body and umbrella organisation might combine, overlap or be complimentary, depending on the circumstances.

5. Legal and Financial Protections

This section of the report will consider legal and financial protections for the consortia and the participating members. This will look at protections in terms of Contractual - Structural – Governance.

5.1 Contractual

Pre-contract award: Informal structure

The initial legal protection to SMEs and any other collaborating partners will be provided by a Confidentiality Agreement.

A Confidentiality Agreement, also known as a non-disclosure agreement (NDA) should be entered into at an early stage. The parties (SME's and any facilitator or umbrella organisation) will need to have quite detailed discussions with other parties before an assessment can be made as to their suitability. Each party may need to disclose potentially commercially sensitive information, so it is important that a confidentiality agreement/NDA is in place from the outset. The confidentiality agreement will be legally binding agreement defining confidential information and the limits on its use by the parties and disclosure to third parties. There can be a multi-party confidentiality agreement, or a series of 1-2-1 confidentiality agreements. The latter would be more likely if there is a 'prime contractor' or umbrella organisation involved.

If the discussions are positive, the next step would be likely to be a non-binding head of terms or a letter of intent recording the principles of what has been agreed and what actions are to ensue.

Then at a later stage there would be either a collaboration agreement, if the pre-contract award relationship is to be informal, or the establishment of the formal legal entity such as a Consortium Co-operative - Company Limited by Guarantee (CCLG).

Collaboration Agreements are described in detail at Annexe A and the CCLG and Members Agreement are discussed in section 1.1 and below respectively.

Formal Contractual Relationships following contract award

Consideration of the points addressed below will contribute significantly to the cohesion and long-term viability of the consortium. Evidence that this has all been thought through and planned for will also be an important factor in convincing the customer of the viability of the consortium tender - i.e. helping to instil customer confidence.

Contracting with clients or customers

When the group carries out work for a customer as the consortium, the contract will be with the legal entity of the consortium. The client/customer will issue a PO or order in the name of the consortium. The contractual legal responsibility for completing the work will lie with the consortium. Legal liabilities of all kinds which are usual for that type of work will be held by the consortium. Customer invoices will be issued by and in the name of the consortium.

That is not to say that the representatives of the individual members will not be the ones actually speaking to the customer and doing the work. However they will do this in the name of the consortium - contractually - but usually with their own member's identity transparent. Indeed, that will probably be exactly who the customer wants to do that work – it's just that the member will be 'wearing the invisible hat' of the consortium.

Contracting with members

So clearly, if the consortium has the contract and all the other responsibilities to the customer on one hand, but yet it is the member businesses who are doing the work, there will have to be a contractual relationship between the consortium and its members. This is a relationship completely separate from the membership agreement and relationship. Instead, this is a commercial 'arm's length' arrangement. Remember that Directors of the consortium have to actively promote the success of their company (as do Directors of members). The consortium Directors need to make sure for example that the members who are going to do the work have all the necessary information (or know where to get it), that the members take a share of any liabilities, that they have any necessary insurance and that any advance payments have been properly flowed-down.

The consortium therefore requires to pass on the work to the members from the customer in the form of a sub-contract (with the degree of formality depending on the circumstances). Members will invoice the consortium which will invoice the customer. Like any subcontract relationship, the consortium will want to make sure the cash flow is maintained so that member payments are not due before the consortium itself can get paid by the customer.

It is important to note that not all members need to be involved in every project undertaken by the consortium. If there are opportunities for some but not all of the consortium, some members may 'sit it out' whilst the others pursue bids and discharge contracts. Naturally any costs and resultant income associated with that work would normally be ring-fenced and would not involve the non-active members.

It is very important that there is legal clarity between your consortium members on terms and timing of payments, costs, revenues and warranties built into your consortium's bid design and project plan. There are a number of important commercial matters which must be agreed in advance of them becoming issues for your consortium.

Important Considerations to be agreed by consortium members

Payment Schedules

The group must establish what the contract with the customer is offering or will accept.

What is the identity of the party representing the consortium ("the contracting member"), and which will receive the contract - will this be the party which will also receive money from the customer? This may be the consortium legal entity itself, perhaps a CCLG. Will all of the participating consortium members be paid at the same time - if not what is proposed? Do any of the participants expect or require payment before the contracting member has been paid by the consortium's customer?

Managing cash in an equitable and transparent manner is critical to trust and for some members to meet their legal commitments on salaries and tax. The proposed internal payment schedules should be agreed as part of the teams' internal bid preparation and cost estimates, and set out or addressed in the Collaboration Agreement and/or Members Agreement.

Costs

How will costs be apportioned equitably at different stages of your consortium's lifecycle? For example pre-contract do all your members expect to bear their own costs unless explicitly agreed otherwise in advance? How will unforeseen costs which arise be dealt with?

Liability Considerations

For the consortium contracting party, it will be important to limit its financial liability vis à vis the client/customer - preferably to a sum which is no more than the value of the contract. The liability will then require to be apportioned amongst the members by way of subcontracts, in proportion to the value of the member's involvement in the contract. For the member, it will be important to check that the liability assumed by it is proportionate and limited to no more than the value of the subcontract.

Liability levels accepted should always be in keeping with the contracting party's insurance cover.

A Force Majeure clause should always be included in contracts at all levels.

In the construction-related context of EESC projects, the inter-dependence of contractor members of the consortium can be an important consideration when it comes to liabilities and the legal protection afforded to the members. One member/contractor may end up in breach of contract because of shortcomings on the part of another member/contractor. It will therefore be important that the member subcontracts address this situation and exclude any resulting liability accordingly.

Facilitator involvement

The nature of involvement (if any) of a facilitator following contract award is likely to vary from case to case. 'Facilitator' implies that the entity will not have an active role in performance of the contract. It is possible that a facilitator may be appointed by the consortium as a project manager, to coordinate delivery of the whole project that the consortium is contracted to deliver. As such, there would be a contract issued by the consortium to the facilitator/project manager, and the same liability/protection issues would apply as for the member/contractors.

5.2 Structural

Assuming that the legal form chosen for the consortium company is the CCLG, the protections for members and the organisation itself will be contained mainly in the Members Agreement. There is usually an element of protection in the Articles of Association as well, but there is less flexibility with the Articles (they will be addressed further in the 'Governance' section below).

Members Agreement

The main documents required in a CCLG are the Articles of Association (similar to that required by a company limited by shares) and the Members Agreement. The Members Agreement augments the Articles in relation to the running, governance and ownership of the consortium. Whereas the Articles of Association, together with the Memorandum are lodged with Companies House and are available for anyone to scrutinise, the Members Agreement is a private contract which is exclusively for the sight of the consortium members.

A Members Agreement can evolve from a Collaboration Agreement, where there has been an informal relationship in the early stages of a group's collaboration. Alternatively, it can be drafted from scratch if a group has decided to go for a formal structure at the outset.

The Members Agreement focus more on the rules which they agree to cover the relationship between the members themselves – it is essentially a private contract between the members, containing details which the members are not required to – and would in many cases not want to – have in the public domain. However, it is also entered into on behalf of the consortium itself, so does bind the consortium (and therefore the directors) in some areas as well. There may therefore be some areas of overlap between the Members Agreement and the Articles of Association and any inconsistency or conflict which results from that will normally be agreed to be settled in favour of the Members Agreement having priority.

Examples of topics in a Members Agreement which you would not see in Articles of Association would be:

- applications by new members
- membership subscriptions
- duties of members to one another and to the consortium
- duties of the consortium towards its members
- limitations on important decisions being made without the agreement of all the members;
- what happens when a member leaves - circumstances, process and consequences

It is possible for the constitution of CCLG to have different categories of member, each with different rights and duties (for example differing voting rights). These would be detailed in the Members Agreement. Thus the category of 'Associate Member' may be created and used for a Facilitator, or an Umbrella Organisation. As well as associate members, the CCLG can have consultants, subcontractors, suppliers.

5.3 Governance

Governance of a CCLG is an important consideration for consortium cooperative members and particularly for any facilitator or umbrella organisation participant. See Annex [D] 'Consortium co-operatives - summary guide to governance'. (or 'General Consortium Guidance'). It is important for a number of reasons including customer, team member and third party confidence, as well as the viability of the group in the medium and longer term. Governance will cover items such as the following:

Commercial Management

How will revenues from the consortium's customer contract be apportioned? Will the different members have a common approach to pricing their services? If they do not - then they should, otherwise it could cause serious conflict. For example, if one member is adding on overheads and another is pricing at direct cost they will expect different levels of cost mark up. Will there be any funds retained centrally, for example as contingency or for the Lead Member's project/risk management and on-going insurance costs?

How will staff secondments be handled, and pre-work costs being carried by one member on behalf of the team? Good records, audited timesheets and open book information on such costs all help design and demonstrate a fair system.

Consortium Membership

What are the criteria for somebody being a member of the Consortium? How will requests from potential new members to join be dealt with? How will the consortium ensure compliance with the key points of competition law identified on p15 in section 2.2. What impact might this have on any existing tenders or contracts that are underway at that time?

Decision making

How will decisions be made? Decision making meetings and processes must cover both your operational, day to day, decisions and strategic decisions impacting the consortium. Decision making

processes must strike a balance between inclusiveness, governance and the ability to make decisions very quickly when required.

Document Control

How will key documents be managed and controlled? This does not just cover crucial project documentation but also documents and correspondence between consortium members (e.g. on commercial agreements). Sometimes setting up new email addresses and managing documents within an e-portal can help.

Quality Management Procedures and Project Management.

Following on from Document Control, the consortium's lead member may have committed to manage the project according to a formal quality management and/or project management system such as ISO 9001:2015. How will the consortium ensure that all the consortium's members are following the required systems and that all activity, documentation and output is being managed in the appropriate way sufficient to satisfy an external auditor? Habits are hard to break and sometimes people fall back to their own organisation's procedures putting the consortium's Quality Management System (QMS) at risk on non-conformity. Larger contracts are typically the subject of QMS audits under ISO 9001 surveillance reviews.

6. Financial Standing and Insurance Requirements for Bids

6.1 Financial Standing

Providing evidence of good financial performance is a requirement for most construction-related tenders in the public sector. It is also part of qualifying to join the supply chain of larger construction and trades companies.

Public sector regulations in Scotland provide specific guidelines on how to assess financial performance as part of the Single Procurement Document, a standardised document for the first selection stage of a tender (previously referred to as the Pre-Qualification Questionnaire):

- Turnover with copies of accounts as evidence
- A minimum turnover level may be stipulated but this must not exceed twice the estimated contract value – this may help remove obstacles to SME involvement
- Buyers may also require bidders to meet specified values for financial ratios, based on their accounts for 1-3 years – for example, Acid Test (assets/liabilities), Cash Interest Cover, Return on Capital Employed, Profit, Gearing.

Alternative evidence of financial standing can be provided for new start companies (options must be stated in the tender documents and could include management accounts, cash flow forecasts, bank references/statements). This would also apply to a new consortium legal entity which would have no trading history.

Feedback from public sector buyers for this report indicates that there are no formal guidelines for assessing financial standing for a group bid or a bid from a new consortium company, only general guidance as shown below in an extract from the Procurement Journey:

Scottish Govt Advice to Buyers in the Procurement Journey

*You can explicitly state requirements regarding **group** economic and financial standing or the criteria relating to technical and professional ability. Such conditions must be justified by objective reasons and be proportionate to the contract.*

Depending on the extent to which suppliers will be relied on to perform the contract, you may require particular members of the supplier group to meet all or some of the selection criteria.

<https://procurementjourney.scot/route-2/develop-documents/exclusion-selection-and-award-criteria>

Comments from consultations with a number of public sector Buyers regarding the approach to assessment of a consortium's financial standing were largely similar:

- *There is no fixed approach – undertaken on a ‘case-by-case’ basis and dependent on the value/risk level of the contract. Construction-related contracts are considered inherently high risk.*
- *For a consortium company with no trading history, the financial standing of partners would need to be assessed – we would accept details of their previous experience in a similar area outside of the new consortium as an additional means of verifying capability and reliability for contract delivery.*
- *Turnover is not the only consideration – we will look at the full financial standing for each partner using standardised SPD ratios and credit rating services such as Equifax, Creditsafe, Dun & Bradstreet. We would use a minimum turnover level if the construction work was high value/higher risk – it could be possible to aggregate the turnover of all the consortium partners at that point but we would still want to see that each partner had a suitable level of turnover to match their share of the project.*
- *Some bigger strategic thinking is needed at Scottish Government level to get around the current procurement structures and create more innovative procedures for collaborative bidding for SMEs and new consortia. The Hubs are an example of a public-private partnership model which didn't exist before, however this involves the larger Tier 1 contractors.*

Contact was made with the Construction team in the Procurement & Property Directorate of the Scottish Government to ask about guidance on assessment of consortium bids in the Construction Procurement Handbook. <https://www.gov.scot/publications/construction-procurement-handbook/>

“There is indeed no reference in the CPH specifically to the evaluation of consortium bids for public works contracts offered by bodies in scope of the Scottish Public Finance Manual. We will consider whether or not specific guidance is needed in The Guide. It should be noted that as neither SBC nor SUP are within that scope they are not obliged to adhere to The Guide at all and should have their own procurement processes, including relevant evaluation procedures.

That said we do however strongly encourage non-Scottish Government CAs to regard the Client Guide as their baseline of good construction procurement practice and, where appropriate, begin to officially absorb its provisions into their associated corporate governance so that in due course it will become in effect required practice for delivering built assets into their organisation's estate. The Guide is a dynamic document and whenever matters are raised which may require further guidance, we will certainly look into it.

It would be helpful if SBC/SUP were to consider feeding the findings of your work into Scottish Government's procurement improvement processes. There is some important work in the offing that will focus on SME access to public procurement generally and anything that helps identify actual and

perceived barriers to entry will be very useful to us. If SUP are so inclined, they may wish to contact Rachael.Hughes@gov.scot in the first instance.”

As financial standing is a pass/fail question in the Single Procurement Document (SPD) and bidders may be rejected at SPD selection stage without their tender being evaluated, this is an important criterion to clarify with the Buyer in advance of the Contract Notice being published (preferably) or failing that, via the Q&A/Messaging function as soon as a tender is “live”.

6.2 Insurance Requirements

One of the motivators for collaborative bidding is the ability to pursue and win larger contracts. However, larger contracts sometimes require new insurance or additional cover for items such as Professional Indemnity, Product Liability, Public Liability, Employers Liability and general insurance.

These may be:

- Required or increased by your consortium due to the potential contract size and risks, as part of risk transfer under your risk plan; or
- Requested by the procuring authority to a level beyond the thresholds currently held by your individual consortium members. You should assess if this is reasonable and discuss it with the procurement team before you prepare your bid. The procurement team may be listing standard terms for its organisation, and have some flexibility to change. On the other hand, it may be unable or unwilling to accommodate your suggestion.

Your consortium members may need to acquire additional insurance cover. You need to be very clear as to the length of the on-going future indemnity period for which this insurance might have to remain in force. This could be a significant factor in your future profit/surplus projections and so it needs to be costed in. It depends on who is the Lead Member, your consortium’s legal structure and whether there are joint and several liability clauses proposed to be within the final contract.

Often the Lead Member or the consortium itself, if it is a new entity/Special Purpose Vehicle, needs headline level insurance cover for larger contracts. Insurers’ terms of business often ask for information on major bids up front in order to assess the premiums and levels of cover needed. Levels of insurance are therefore really important to assess as early as possible. A pre-formed consortium has time and opportunity to obtain a quote and negotiate.


Your consortium might need to consider taking out additional insurance, to mitigate against the perceived risk of a consortium bid, at the request of the buyer side. This might be appropriate to help your consortium win its first piece of work and prove your delivery capability with a major customer. This needs consideration if your consortium is hoping to develop a long-term relationship beyond the initial contract.

In consultations with public sector buyers for this report, the issue of who holds insurance in a consortium context was raised i.e. could an umbrella organisation or consortium company purchase insurance to cover all the consortium members. Most said they would verify such a situation with the buying authority’s insurance manager/adviser but for construction it seemed likely that all consortium members would need to hold insurance themselves and at a level required for their particular allocation of the work. It was noted by one that for a lead/prime contractor + subcontractor model it was normal to require the lead to have the full cover but also mandate the same cover for significant subcontractors, although the lead contractor would retain liability.

7. Professional Memberships and Accreditations

Public sector buyers require contractors for construction, trades and energy efficiency works to hold a range of qualifications, certifications, professional memberships and trade accreditations in order to achieve a “pass” in the tender process. In the area of energy efficiency and retrofit in particular, there are specific mandatory and discretionary requirements which all bidders – including a consortium bid team – will need to be aware of.

Based on recent retrofit tenders published by public sector Buyers, the following are examples of some of the requirements:

FOR ORGANISATIONS
PAS2030 - 2019/BBA - covering installers in selected areas (eg. Insulation - Loft, Floor, Draught Proofing, Flat Roof, Cavity Wall, Internal Wall, External Wall, Pitched Roof, Hybrid Wall, Room in Roof); Energy Efficient Glazing & Doors
Trustmark - linked to PAS2030, hold the centralised database for logging installations data
PAS2035 - contractors must confirm compliance to standard, not issued as a separate certification, standard defines retrofit roles for “whole house” works
Microgeneration Certification Scheme (MCS) MCS Certified Companies carrying out Retrofit work can subcontract to non-certified tradespeople/labour, providing that they work alongside/supervise the installation as a Certifier, and therefore have sufficient knowledge of the project to be able to sign off at the end of the project.
Safety Schemes in Procurement (SSIP) health and safety certification - most commonly used are CHAS, SafeContractor, SMAS Worksafe, Constructionline.  https://SSIP.org.uk/members/
ISO 9001:2015 or suitable internally audited quality management policy and system
ISO 14001: 2015 or suitable internally audited environmental management policy and system
NICEIC corporate (electrical)
SNIPEF membership (plumbing)
Competent Roofer

National Federation of Roofing Contractors
GasSafe
External Wall Schemes either BBA, Blue Flame Certification, CERTASS, Certsure, NAPIT or Stroma
Cavity Wall Insulation - CWI Extraction Third-party scheme by BBA or equivalent
Waste Carrier registration

FOR INDIVIDUALS
Microgeneration Certification Scheme (MCS)
NICEIC (electricians)
GasSafe (heating, plumbing)
City & Guilds or SVQ Level 3 in chosen trade
Relevant competency for system or product being installed
Safeguarding - DBS Disclosure, Protection of Vulnerable Groups (PVG)

PAS 2035 splits the fulfilment of the specification's requirements into particular roles:

- Retrofit Adviser
- Retrofit Co-ordinator
- Retrofit Assessor
- Retrofit Designer
- Retrofit Installer

Individuals in these positions must undertake training, possess qualifications and may be required to be members of professional institutions according to their role and the type of building being retrofitted. These will usually be defined in tender documents. See Annex E for example.

In a collaborative model some of these retrofit roles could be delivered by members of the consortium, by the facilitator organisation(s), by the umbrella organisation or by subcontractors to the consortium company/umbrella organisation.

The key role is the retrofit coordinator, often described as a project manager with expertise in retrofitting buildings, who is responsible for overseeing the activities of the retrofit adviser, retrofit assessor, retrofit designer, retrofit evaluator and retrofit installer. The coordinator may undertake some of these other roles (other than installer) as necessary. This will be an important role for the consortium to agree whether it will include this "in-house" or restrict its tendering to installation projects only, where another party covers all other retrofit roles and the consortium is a subcontractor to them. See below:

SCENARIO	PROs	CONs
Consortium company provides all retrofit roles within its team	Stronger control of project Clear team identity Easier to combine roles Can compete with larger companies	Consortium bears cost of multiple certifications and training Higher risk for consortium if handling "Whole House" projects

		Self-managing - could be conflict of interest if any issues arise Would PAS2035 allow all roles in one contractor?
Umbrella organisation is qualified retrofit coordinator/advisor/assessor Subcontracts other consortium members as installers	Clear contract leader role Would need to be architect or project management company Can compete with larger companies (or may choose large company as the umbrella organisation) Avoid high cost of qualifications for non-installer roles	Possible conflict of interest Umbrella organisation takes on high share of project risk High dependency on installers
Consortium only bids for installer workpackages as part of supply chain not as main contractor	Reduce project risk Can work for multiple main contractors	Paid subcontractor rates Risk late payment by main contractor
Consortium includes suppliers of energy efficiency systems/products as members	Combined purchasing power of consortium secures better prices/guarantees for products	Consortium "tied in" to one supplier. Buyer may see this as a risk

Professional qualifications/memberships/certifications are assessed at the Selection Criteria stage of a tender, so any bid that fails to meet the specified requirements will be rejected at this first stage before their technical submission or pricing is considered. For smaller businesses this can be a major barrier to participation as the cost of acquiring and maintaining certifications and PAS standards is likely to be significant and not viable unless the SME has sufficient work to cover the costs. Some Buyers may allow bidders to commit to gaining certain qualifications/accreditations if they are successful and then putting them in place before any works commence. This would not be practical for many courses which could take several months to complete.

Consortium as “owner” of certifications

In theory, a Borders retrofit collaboration model where the consortium legal entity holds and manages the corporate certifications applicable to all works (PAS2030, Trustmark, SSIP health & safety) would offer cost savings for SME consortium members not to mention saving them burdensome time on management of the schemes, audits and training. The cost to the consortium company would be factored into pricing for its contract work and/or charged back to member companies as part of an annual administration/ management fee.

However, feedback from a number of certification bodies has confirmed that this would only work where the consortium legal entity had its own employees. The SSIP accreditation or PAS2030 would need to be held by the individual member companies/individuals of the consortium company.

In a tender situation at Selection/SPD stage, there is also an option for a bidder to “rely on the capacity of other entities to meet the selection criteria”. The consortium company could “rely” on the NICEIC and GasSafe registrations of its members to pass the first Qualification stage of a tender for retrofit or construction & trades work. However, there is no guidance currently for public Buyers for assessing this type of “reliance” statement. For each tender the consortium would need to confirm with the Buyer what would be acceptable.

With regards to ISO9001 and ISO14001, the consortium company could apply in its own right and share the cost with member companies. It could also present an alternative internally audited quality management system and environmental management system to cover all consortium contracts – this is allowed for in the Procurement Regulations. Again, it would be up to each individual Buyer to

assess whether this was adequate for the contract(s) and would need to be clarified early in the bidding process.

Funding and Support for Consortium Skills and Training

The consortium company could play an important role in supporting training and skills development and the gaining of certifications across member companies, including searching for funding and resources, for example:

- Energy Saving Trust Green Heat Installer Engagement Programme helps businesses discover funding opportunities, navigate current legislation and access resources to help customers. The programme is delivered by Energy Saving Trust on behalf of the Scottish Government and works with a number of key partners, including Home Energy Scotland, Business Energy Scotland, and the Energy Skills Partnership. The consortium could apply.
- The Scottish Government's MCS Certification Fund provides heating engineers with an interest in installing heat pumps (either air, ground or water source) with a grant to become MCS certified on heat pumps. The grant will pay 75%, up to a maximum of £1,000, of the certification fees and will operate until funds run out or a redeveloped scheme is launched (estimated January 2025).
- Joint sessions/group bookings could be arranged for consortium members for technical/product training, health & safety, equalities, other relevant topics – achieving reduced rates with larger numbers of attendees.
- Form a partnership link with retrofit skills and training organisations including Borders College, Energy Skills Partnership <https://esp-scotland.ac.uk>; Retrofit Academy CIC, CITB, NICEIC, etc
 - in the Basic collaboration model, include them as associate members of the consortium cooperative
 - in the Facilitated model local Colleges/skills bodies could be involved in the consortium to provide tender preparation support and post-award provide paid training services
 - in the Umbrella model, a social enterprise or other organisation formed or selected for this purpose could be a skills development and training provider, with consortium members paying a subsidised fee or share of profit on contracts
- The consortium could hold a centralised knowledge base/library accessible to all members for training materials, product information, useful links. Investment in Microsoft 365 for the consortium company and members shared management would be an advantage and would also provide consortium-branded email addresses for all members.
 - Basic consortium cooperative model – part of the admin service offered by company or include a skills/knowledge member or pay a third party to provide this service
 - Umbrella model – select or create social enterprise or other organisation to provide central knowledge hub

8. Additional/Unforeseen Issues

8.1 4th Collaboration Model – Large Company as lead

Introduction

The focus of this report on the collaborative model variants - Basic, Facilitated and Umbrella Organisation - together with the associated desk research and interviewee feedback regarding the

barriers faced in collaborative tendering, has highlighted a further option for consideration in assessing the development and maintenance of an SME EESC supply chain in the Borders. This option sees a role for large construction companies primarily based outwith the Borders region.

The Evidence

The evidence disclosed during the report research and preparation which may support the above proposal is as follows:

1. Shortage of construction sector SMEs in the Borders

It is unlikely that Facilitation or Umbrella Organisation involvement can be wholly/solely focussed on the Borders supply chain. A collaborative group, whatever the model variant, will most likely require to look outwith the Borders area for resources anyway in order to fully address a tender opportunity.

2, Lack of admin/'core'/project management resource in SME group members

Whereas large construction companies have these resources. Public/third sector organisations may have also, but see below.

3. Constraints on public sector bodies in facilitator/umbrella roles

It is difficult to see how a public sector facilitator or umbrella agency could perform key direct roles in or for a consortium in a competitive tender environment. Please refer also to section 4, p25.

4. Experience elsewhere: Case Studies

The research carried out in Wales for the Welsh Government Joint Bidding Guide found that successful collaboration solely amongst local SMEs was rare, due primarily to:

- the marketplace (Wales) being too small
- the customer perception of risk attached to consortium bids
- the familiarity of the market/customers with a 'lead contractor' model

The Warmworks LLP umbrella-type consortium noted in Section 4.3 involves a large private sector partner in the joint venture – Everwarm Ltd (£68m turnover in latest accounts and part of £275m turnover parent company Sureserve Group). Warmworks is the Managing Agent for Warmer Homes Scotland, the Scottish Government's national fuel poverty scheme. Since the first phase of the scheme was launched, Warmworks and its network of supply chain partners have helped more than 35,000 homes and families across Scotland to manage their energy costs and install energy efficiency measures in their properties. Warmworks has been appointed as the Managing Agent of the second phase of the scheme, launched in October 2023.

5. Established Supply Chain Model

The increasing role of collaboration in procurement and delivery of public sector construction projects, such that large private construction companies will have responsibility for contractor engagement. The contractors will wish to have their own subcontractor supply chains, and the involvement of an umbrella organisation in such chains could be seen as an impediment. This does not preclude the involvement of an umbrella organisation in some kind of support role, but not in a collaborative context. Please refer also to section 4, p25

6. Wider opportunities

The Welsh study found that when the successful consortia 'hooked up' with large companies from outwith Wales, the local Welsh community and pool of skills benefitted from the

relationship, not least because the model was successful in winning tenders in Wales which the local consortia would not have managed.

Collaboration involving a large construction company (essentially non-Borders based) can lead to further work, not necessarily competitive and not necessarily in the Borders, thus developing the local supply chain.

7. Qualifications and accreditations

Having a lead partner larger company with its own established qualifications and certifications would make the selection stage of tenders much more straightforward (ISO9001, ISO14001, SSIP Health & Safety, all insurances, PAS2035 Retrofit Coordinator compliance). The local SMEs in the supply chain would also need some of the certifications associated with installation work – PAS2030, NICEIC, GasSafe.

8. The Collaborative opportunities with a large construction company

Collaboration is very much a theme of modern construction. A collaborative relationship could be entered into by EESC contractors in the Borders with a large construction company as a member. There would be advantages to the SME contractors in forming a working relationship which could carry through to repeat projects. For the large construction company, it would be attractive to be able to readily tap into a local pool of resources covering the required different trades and specialisation for a project in the Borders. If the local contractors already had an established relationship, that would be an additional attraction.

Such an approach could aid in achieving the EESC objectives within an accelerated timescale and which would address many of the challenges and barriers identified in this report.

8.2 Focus on the private sector demand side, i.e. clients of the collaborating SMEs

This report has focused on a tendering environment where the customer is assumed to be a large public sector client or a procuring agency on behalf of such a client. This is understandable, as in order to build and sustain the local supply chain to fulfil the expected demand for energy efficient retrofit and new installations the Borders, the local construction sector SME's must be able to work on large projects.

However, as has been disclosed in this report, there are significant barriers involved in collaborative tendering for such customers. On the other hand, working on irregular, single buildings whether domestic or commercial will not readily facilitate the capacity building which is needed.

It was suggested in the course of this project that it may be possible to engender collaborative procurement of energy efficient work for private domestic and commercial projects, thus allowing the required (but optimised/manageable) scale. Being private sector, many of the barriers associated with public sector procurement would not exist. There could be further benefits, such as:

- SME supplier input to the (locally-based) client procurement group to develop specifications and ensure manageable-sized projects
- Cost-effectiveness and environmental benefits from the work being performed by locally-based personnel
- No barriers to local authority or other agency support to the client procuring grouping
- The fostering of community relationships and pride

This is something which could be explored further in tandem with a pilot project to create a collaborative grouping amongst local SME suppliers, a prospect which will be returned to in the Conclusions/Recommendations sections of this report.

9. Public Contracts Challenges

Southern Upland Partnership (SUP) and the Borders Construction Forum have been engaging extensively with small businesses in the Scottish Borders via formal and informal means to gauge interest in collaborative bidding for public sector energy efficiency works contracts.

Feedback from SMEs to date has highlighted a reluctance to participate in public contracts based on negative perceptions of the “**bureaucracy**” of the procurement system, **delays in getting payment** and past experience of unsuccessful bids for construction and trades works where the contracts have been awarded to **larger companies** outside of the Borders.

It is essential that any future collaborative approach for Borders companies bidding for public works provides practical means to address these challenges in a manageable way.

9.1 Excessive “bureaucracy”

Procurement Regulations

Public sector procurement involves a competitive process and is regulated by the Public Contracts (Scotland) Regulations 2015 and The Procurement Reform (Scotland) Act 2014. As a result, public Buyers need to closely follow specific procedures to make sure that the tendering process is fair, transparent and compliant with all Regulations.

The duration, scope and overall value of retrofit works contracts will dictate the approach taken in the tender process. There are specific thresholds in Scotland covering Works – <https://www.gov.scot/publications/public-procurement-updates-to-procurement-thresholds-sppn5-2023/> which mean that any contract valued £2,000,000 ex vat or more will fall under some form of regulation. A four-year contract of £50,000 value per annum would fall under the Regulations so this can capture a lot of smaller trades and energy efficiency works as well as the larger multiannual retrofit programmes.

Public buyers can use a system called Quick Quotes for any Works below the £2M threshold and this could be a route for better engaging local suppliers/consortium in future:

- Quick Quotes are not published on the Public Contracts Scotland (PCS) – the Buyer will decide who to invite to quote
- Usually 3-5 companies will be invited so there is much less competition than an “open” PCS competition
- Buyers are encouraged to include local SME suppliers
- Quick Quotes documentation is usually much simpler than a full tender

Complex Tender Documentation

All regulated tenders in Scotland comprise three elements – Qualification, Technical and Price.

Qualification

The Qualification part of tenders is always the first stage and requires bidders to meet various selection criteria. This used to involve a Pre-Qualification Questionnaire (PQQ) which varied widely in content across different Buyers and was very heavily focused on health & safety, often favouring larger companies, and requiring submission of multiple policies, procedures and other evidence at the time of bidding.

Since 2014 this has been replaced with the Single Procurement Document (SPD) <https://www.supplierjourney.scot/supplier-journey/bid/tenders/procurement-procedures/single-procurement-document-spd> comprising a list of standardised questions which Buyers can then choose from to apply in each tender. No evidence is required to be attached at bidding stage, only at a later point and usually only for those companies who have been successful at stage 1.

This move to the SPD has helped significantly to reduce the complexity and increase the consistency of pre-qualification documents and it means that bidders can more easily prepare responses in advance to all standard SPD questions.

On the PCS-Tender and PCS portals used to submit Scottish public tenders, SPD information can be lodged in an online “Profile” area for a bidder and automatically imported for any new tender exercises – a great improvement on earlier systems where a new SPD Word document had to be completed for each tender.

Any future collaborative bidding group will need to prepare SPD content for use in tenders to describe:

- The form of collaboration and who is in the group of bidders
- Lead partner or name of the consortium entity
- Any accreditation/certificates held by the consortium and/or its members
- Insurance held by consortium/members – could include Employers, Public Liability, Product Liability, Professional Indemnity, Contractors All-Risk, Motor
- Turnover past 3 years for consortium/members
- Examples of relevant Works (past 5 years)
- Membership of relevant trades schemes/bodies such MSC, Trustmark, NICEIC, SELECT, GasSafe add here – held by consortium body itself and/or its members
- Standards held (PAS2030, PAS2035) by consortium members
- Profiles of key personnel (qualifications, years’ experience)
- Number of personnel/management posts
- Access to external technical expertise, technical facilities
- List of plant, equipment, systems
- Quality management system/measures in place (does not need to be ISO9001 certified)
- Environmental management system/measures in place (does not need to be ISO14001 certified)
- Health & safety management system/measures in place (does not need to be ISO45001 certified but Buyers may ask for Safety Systems in Procurement SSIP such as CHAS, SMAS Worksafe, SafeContractor)

Although this appears to be a long list, in practice this type of SPD information could be managed in future by a lead bidder or a facilitating partner or an umbrella organisation, with consortium members only required to provide updates prior to a new tender exercise.

How Buyers assess SPD content

In relation to the required information listed above, there is still some ambiguity regarding assessment of a consortium SPD with respect to insurance, reaching minimum turnover levels, professional memberships/trade qualifications, quality management systems, environmental management systems, health and safety management systems. As these are “pass-fail” questions in the SPD, a consortium will need to ascertain whether the selection criteria apply only to the lead partner/consortium entity or to each of the consortium members as well. This issue was analysed in more detail in Section 7 Professional Memberships along with feedback from public procurement professionals.

Currently there is no specific legal guidance on the approach to assess pass/fail for the SPD content for a consortium legal entity in Scottish Government procurement guidelines – the only guidance is that all members of a group need to be named and each member needs to submit a separate SPD with basic company details and the business probity questions.

In their recent tender for the N9 Retrofit & Decarbonisation Framework, [N9 Contract Notice on PCS](#) major UK procurement body LHC have included a Consortium Bid Further Information Template which aims to help bidders ensure that their consortium proposal has fully addressed the due diligence needs of the Buyer. This was developed by LHC specifically as there was no other guidance available. The topics covered are:

- Structure and Status of the Consortium
- Strategic Governance
- Operational Day-to-Day Management
- Financial Management

Bidders are encouraged to include copies of Organisation charts and Memorandums of Understanding/Partner Agreements.

Providing more specific guidelines for consortium bids could be an important recommendation for SUP/Scottish Borders Council to take forward to the Scottish Procurement Directorate.

Technical/ITT

The Technical/ITT stage of tender submission can also be challenging for a small business, particularly providing evidence of:

- proposed capacity and capability to deliver larger programmes of work including contingency
- professional project management and IT systems to control works
- suitable plant, materials and equipment
- comprehensive health & safety and environmental plans and procedures
- ability to finance upfront costs of contract operations
- access to a secure supply chain for materials, skills, ancillary services

It is these questions which tend to be scored in tenders and where smaller bidders often fall short in the technical evaluation as the Buyers have a high risk mitigation threshold. Also, they may not have had the time or the expertise to read and digest all the information in the tender pack and/or learn how to use the tender portals.

In this situation a jointly prepared technical proposal can help smaller consortium members to “piggy back” on the expertise of other partners. A different approach can be taken depending on the consortium model used:

Traditional lead + subcontractors model	Lead bidder has to submit the tender in their name but can ask subcontractors to provide input to the tender preparation. Lead partner should have sufficient resource to prepare the tender and also manage the project post-award
Basic unincorporated consortium	Need to agree within the group an informal “lead”
Consortium cooperative company	The cooperative Board will form the bid team and prepare the submission with input from all

	relevant members and an option to buy in/subcontract bid writing services
Facilitated model	The facilitation partner could be a larger company with inhouse expertise in bid writing and available resources or a project/bid management company with a specific consortium role for writing the tender then contract management post-award

The Commercial/Pricing element of the tender submission can also be complex for a sole bidder but more so for a consortium bid.

- In a lead+subcontractors model the lead will invite quotes for agreed packages of work and/or rates for labour/materials and build this into their own pricing model with an overhead to cover project management/bid management at tender stage
- In a facilitated consortium vehicle, the pricing will need to be a negotiated process with a joint strategy. Consortium members will need to price their own contributions but also agree how to cover the overhead costs of the consortium (similar to what a lead bidder has to calculate as overhead contribution to price)

In a consortium scenario there will be a larger pool of expertise available for pricing strategy decisions but there will be challenges in sharing as a group what would have commercially sensitive information for each participant. Non-disclosure/confidentiality agreements as part of the wider teaming agreements will be important at this stage for all consortium members involved in the specific tender.

The administrative aspects of public sector tendering – creating and maintaining a tender library and undertaking tender searches/market research – are very important and can influence directly the win ratios for small businesses. However few SMEs have resources available to support this activity and either miss new opportunities, find them too late to bid effectively or have to “start from scratch” with each new tender as information is not readily available.

A well-organised collaborative approach for one or more tenders can share the burden of tender content creation/management and tender search for SMEs provided there is a central coordination role to:

- develop the shared tender content system (Teams, Sharepoint, Google Drive, DropBox or proprietary system)
- define the content that consortium members need to contribute and what quality standards/formats
- ensure that all consortium members provide content in a timely way
- put in place update schedules at regular intervals
- assist consortium members with templates for creating standard tender content (shared policies/procedures, CV/profile formats, project case studies, etc)

The cost of this central “tender library” role will need to be covered by all consortium members but could be built into tender prices as part of the overhead for works/service delivery.

Tender search and market research would normally be a shared responsibility for all consortium members, ensuring multiple “eyes and ears” for opportunities, again an advantage of a collaborative approach. The consortium or lead bidder could engage work experience placement students to assist with these activities at a low or nil cost.

9.2 Delayed payments to contractors/subcontractors

Main Contactor Payment

The Scottish Government has a strong focus on ensuring prompt payment in supply chains for public sector contracts, recognising that this has been a disincentive to SMEs to get involved.

Section 15 of the Procurement Reform (Scotland) Act 2014 requires public contracting authorities to set out in their Procurement Strategy how they intend to ensure all payments made to contractors and sub-contractors are paid within 30 days of receipt of a valid invoice. A Scottish Procurement Policy Note (SPPN) has been issued specifically for Prompt Payment

<https://www.gov.scot/publications/prompt-payment-in-the-supply-chain-sppn-2-2022/>

The SPPN should be referenced in all final contracts with public bodies by the lead bidder/consortium cooperative Board as a means to ensure that prompt payment best practice is adhered to by all parties.

Subcontractor/Consortium Member Payment

Buyers are required to ensure that public contracts are awarded to lead bidders who have good payment performance history and have systems in place so that their supply chain is paid on time in accordance with the terms of the contract. This is checked as part of the Qualification stage/Single Procurement Document (bidders may offer to have open book accounts available or feedback from supply chain/consortium members to the Buyer) and compliance should be monitored by Buyers as part of ongoing contract management.

Assuming that the lead bidder organisation is paid by the public contracting authority within 30 days of a valid invoice, it is vital that all others involved in delivery of the works/services also have a firm arrangement for “back-to-back” immediate payment against valid invoices. Payment terms should be negotiated as part of the tender preparation process in line with the consortium model.

Project Bank Accounts

Scottish Government has been active in promoting the use of Project Bank Accounts for public sector construction projects over £2m <https://www.gov.scot/publications/construction-projects-implementing-project-bank-accounts/>

Project Bank Accounts (PBAs) are ring-fenced accounts which see payments made directly and simultaneously by a public sector client to members of the construction supply chain. PBAs improve subcontractors' cashflow and ring-fence it from upstream insolvency. Following the introduction of UK Construction Procurement Note PN 1/2019 relevant public bodies must include a PBA in tender documents for public works contracts commencing procurement procedures from 19 March 2019 with an estimated value more than or equal to £2,000,000 for building projects.

A PBA arrangement for a consortium company to ensure timely payment of members for contract work would overcome the reluctance of smaller companies to bid for public work. The consortium company would require financial administration resources to set up and run the PBA.

9.3 Competing against larger companies

Supporting greater SME involvement in delivering public contracts is a prominent Scottish Government procurement strategy theme since the initial Procurement Reform programmes in 2008. More recently a focus on sustainable procurement and community wealth building has further strengthened public sector resolve to support local business contract wins and ensure SMEs are included in the supply chain of larger contractors who are awarded publicly funded works.

A number of measures have been adopted in the public procurement landscape to address these ambitions and which can benefit Scottish Borders SMEs in construction and energy efficiency sectors:

- Supplier Development Programme www.sdpscotland.co.uk - Free webinars and e-learning on how to bid successfully for public sector contracts. National and local Meet the Buyer events organised for SMEs to attend and raise their visibility. **SME consortium could attend Meet the Buyer events (National, North and South of Scotland versions) to promote its services.**
- Dynamic Purchasing Systems (DPS) are now being used by Councils and collaborative buying organisations like Scottish Procurement Alliance and Procurement for Housing. The DPS allows SMEs to join a form of approved list after filling in a relatively simple application form. Unlike Frameworks which are only run every 4 years, a DPS will stay open to new applicants. Buyers then issue tenders to the DPS list of companies for specific works in a form of mini-competition, usually a simpler process than a full tender and with no pre-qualification process needed.
- Public Contracts Scotland (PCS) portal – launched in 2008, this is a very underused resource and can be invaluable for SMEs to find supply chain opportunities and potential partners. All public contracts over £50K for Services/Goods and over £2M for Works must be advertised on PCS. The portal has contract information from over 900 public bodies and can be used to find contract awards (**Consortium can approach winning companies to offer services, find partners**), Prior Information Notice for upcoming large contracts and Frameworks (**market engagement meetings with Buyers to check their attitude to consortium bids**), Contract Notices (**live tender opportunities for consortium to bid for**)
- Quick Quotes – Scottish Councils are increasingly changing their internal procurement rules (Standing Orders) to ensure that local SMEs are included in the short list of organisations (usually 3-5) invited to quote. The threshold for Quick Quotes for Works is up to £2m value so there is scope for SMEs to win significant contracts. **A Scottish Borders SME consortium could complete a Supplier Finder Profile on PCS in order to attract Quick Quotes invitations and be visible for local South of Scotland buyers.**

In addition to these procurement-led measures, there may be opportunities for an SME consortium to get capacity building help from Business Gateway.

Numerous schemes exist across Scotland with UK Share Prosperity Fund support (previously EU funded) for “Expert Help” (procurement but also finance, digital marketing, ICT).

If the consortium is set up as a separate legal entity it will be in a position to bid for grant funding on behalf of all its members provided it meets the eligibility criteria.

A search for available funding and external professional support would be recommended as part of the business case for the consortium approach.

This type of support could be used by the SME consortium to develop its tendering infrastructure:

- Design and build a consortium tender library (shared policies, procedures, consortium methodologies, organisation structure, case studies, CV/training store, SPD completion docs)
- PCS portal - tender search training, setting up Profile
- Training on how to submit consortium tenders on PCS-Tender portal/ PCS
- Create consortium (digital) marketing strategy for public sector new business development
- North of England opportunities/portals
- Assistance with preparation for certification – ISO9001/14001 or equivalents; Health & Safety SSIP schemes – CHAS, Constructionline, SafeContractor etc; PAS2030/2035

10. Conclusions

There are a number of different collaborative options and structures, formal and informal, which could be adopted by construction sector SMEs in the Borders.

Examples of successful collaborative groups are to be found, but not generally in the tendering/contracting construction sector environment.

There are a significant number of barriers and challenges for any collaborative grouping of construction sector SMEs in the Borders. Some of these can be overcome or alleviated by the members of the groups themselves. Others could be greatly assisted by externally provided facilitation. However, some relate to geographical and customer/procurement agency matters which are outwith the control of a collaborative group or their supporters.

An umbrella-type organisation could play a significant role in creating, developing and supporting a collaborative grouping. Though not as a member of the proposed team for contract delivery.

As well as the barriers and challenges alluded to above, a collaborative grouping will have to deal with various, qualifications, certifications, insurance, governance, legal and financial requirements, the combination of which will be extremely demanding for a group of collaborating SME's. This is particularly salient because in general, the group entity or any facilitating or umbrella organisation will be unable to hold qualifications/accreditation/insurance on behalf of its members: each SME member will still need to hold these itself.

Given the above, it is suggested that a collaborative SME grouping requires comprehensive facilitation as a minimum, with the support of an umbrella organisation if possible as well. Even then, not all of the barriers could necessarily be satisfactorily dealt with.

The alternative is, whilst adhering to the collaborative concept, to focus on targeting the established construction sector procurement model already in existence, which is familiar to procurement agencies, customers and the SME contractors. Collaboration models could be pursued in the context of establishing, encouraging and facilitating the training, upskilling and development, "tender-readiness" and other support of the local SME construction sector workforce, perhaps involving an umbrella organisation set up for that purpose.

In this case, effort could be directed towards promoting the availability and capabilities of the Borders construction sector SMEs with the established private construction companies, albeit such companies are based outwith the Borders.

Either as an alternative course of action, or in parallel with the above, the establishment of private sector groupings of domestic and/or commercial customers alongside the development of collaborative SME fulfilment groupings appears to be a promising scenario.

Consultations with public sector Buyers has confirmed a lack of detailed guidance from Scottish Government for procurement teams regarding designing tenders to facilitate SME consortium bids and how to evaluate them at selection stage. The onus currently is on SME consortia to work on a case-by-case basis with public buyers to ensure they are not discriminated against in tenders as a perceived higher risk bidder.

11. Recommendations for Further Actions

Option A

Direct engagement by collaborating group(s) of Borders SMEs with public sector tendering and procurement process

Option B

Establishment and preparation of collaborating group(s) of Borders SMEs with facilitation and/or umbrella organisation support whilst identifying, engaging with and signposting major construction companies which are active in the delivery or pursuit of public sector energy efficiency projects in the Borders. The group(s) under this option would not contract directly with clients. This may also comprise a 'pilot' project.

Option C

The establishment of private sector groupings of domestic and/or commercial customers. This option may be pursued either instead of or in addition to the other options.

Option D

Engage with Scottish Government (as per their request) to share report findings and participate in follow up actions to improve access for SME consortia to the procurement process.

Option A

By way of a pilot project, take steps to set up, train and support a collaborative grouping of local construction sector SME's, with the objective of tendering directly for public sector energy efficiency projects in the Borders. This could involve the steps listed below.

Help to find suitable partners

- A. Analysis should be carried out on potential 'hosts' and the practicalities of setting up a register of 'collaboration-friendly' SME's
- B. 'Educate' existing CDS partner agencies and Scottish Enterprise Account Managers etc to identify collaborative-friendly candidates.

- C. Discuss co-operation with trade associations such as Scotland IS or the Supplier Development Programme or Business Gateway to promote collaboration and partner search.
- D. Run collaborative tendering and other collaborative workshops, information sessions

Increase Awareness

- Programme of meetings with Business Gateway managers and local authority economic development teams
- Presentation/Training for Business Gateway staff – webinar or as part of other training session they undertake
- Attend Meet the Buyer events as exhibitor and give presentation
- Chambers of Commerce and other agencies...

It would help if examples of success, where SME's have actually won tenders collaboratively could be publicised. However there are few examples available. So:

- Wider efforts should be made via partner agencies, chambers of commerce, networking groups to identify examples

Provide the know-how and 'tools'

Collaboration/Training - but upskilling/technical training needed also

Government agency support

- Develop a "Consortium Journey" to sit alongside the Procurement Journey and Supplier Journey on the Scottish Government website and Public Contracts Scotland.

Compile a list of FAQ's regarding collaborative bidding & promote widely

Public sector procurement process

1. Engage with a wider representative sample of customer procurement agencies (surveys, meetings, discussion threads, focus groups) regarding:
 - A. Buyer attitudes/receptiveness
 - Risk management approach in procurement – what developments to improve SME participation?
 - Strategic approach in encouraging local SME consortia for specific contracts?
 - Conflict of interest – reduce costs versus incur cost if supplier engagement increased
 - issue of accountability in a consortium as opposed to a lead+ partner/sub arrangement – perceived higher risk to contract

B. Processes/procedures

- Standard SPD asks for 2 reference projects – may be no consortium projects to use if consortium just set up. If a large group, then limited scope to present full experience of all members
- allowing consortium to present combined turnover in order to reach minimum turnover requirements – no agreed best practice guidelines across Scotland
- insurance – do all consortium members have to have the required levels compliance with health & safety/environment/equalities – all consortium members expected to have evidence of this; may not accept a consortium HSE policy and procedures
- CHAS and other SSIPs registrations – will be for individual consortium members not the consortium company. What if one member can't comply?

Option B

This option could involve all of the above steps except for the public procurement items. In addition, there would be engagement directly with selected large construction companies and representative organisations so that the collaborative SME groupings would be responsive and compatible with the large construction companies requirements.

Option C

This option is not necessarily an alternative to the other options. In any event, the steps listed for option 1 (other than public procurement) would still be desirable. In addition however, it is suggested that there should be a fact-finding exercise involving discussions with parties who may have an input or indeed a role to play. These could include:

1. **Scottish Borders Council** (<https://www.scotborders.gov.uk/housing-homeless/energy-saving-advice>) - could possibly assist with early planning discussions for homeowners retrofit work, in particular the Council team responsible for delivery of LHEES Strategy (includes private sector owners) <https://www.scotborders.gov.uk/downloads/file/12585/lhees-consultative-draft-delivery-plan-with-cover>.
2. **Changeworks** - who operate the Home Energy Scotland energy advice service on behalf of Energy Saving Trust – they may be interested to engage with a Borders consortium as subcontractors to deliver the energy efficiency projects.
<https://www.homeenergyscotland.org/partner-with-us-and-help-others/>
3. **Community groups** in the Borders who are working on sustainability: for example Sustainable Selkirk, Greener Hawick and others covering individual villages.

References

Welsh Government Joint Bidding Guide

<https://www.gov.wales/sites/default/files/publications/2019-09/joint-bidding-guide.pdf>

CITB local skills report

(<https://www.citb.co.uk/media/tgsiuvlr/local-skills-scotland-report-2023.pdf>)

Annexures

ANNEX A

COLLABORATION AGREEMENTS

What is a Collaboration Agreement?

Essentially a Collaboration Agreement is a written record of how the parties are going to work together to achieve the goal which would have been beyond them individually, the goal of winning the tender. It will cover the details of the tender preparation in response to the ITT, but also address the post-contract award arrangements. In both cases, this will include details of roles and responsibilities as well as the rules governing the relationship, for example:

- Confidentiality
- Responsibilities – especially who will be leader: different perspectives
- Communications with the customer
- No independent bidding
- Publicity – release of publicity without prior agreement
- Dispute resolution
- Assignment (without agreement – eg takeover, merger, new company created, transfer to team member's spouse's consultancy business etc)
- Termination – when the agreement would come to an end (it is replaced by subcontracts; contract is awarded to somebody else; tender requirement cancelled; insolvency; debarment (criminal act); time).

In addition to these, members of the group would wish to have certain duties & responsibilities discussed and then incorporated into the Agreement. One of the member companies would be the 'team leader'. The team leader would have to be entrusted with being the 'face' of the group with the customer but not to act unilaterally except if that had been agreed. The team leader has responsibilities to the rest of the group but the rest of the group also have responsibilities to pull their weight.

The **Team Members' Duties** might include:-

- Respond promptly to all questions/requests from the team leader
- Provide all certification and documentation required by the tender
- Participate - as deemed necessary - in negotiations, discussions, and other communications with the Customer (but no communication without the prior express approval of the team leader)
- Final say in format/content of proposal; also prices

Whereas the **Team Leader's Duties** would include:-

- Coordinating bid preparation
- Communication with the customer and other 3rd parties
- Consultation before changing tender details
- No commitments of others without prior consent
- Timely transmission of tender documents & any amendments received from Customer
- Keep team members fully informed
- Respond promptly to any questions/queries from customer

Why is a Collaboration Agreement important?

- Makes parties think about all the issues
- Gives a written reference for who is doing what
- Builds relationships
- Locks in team member
- Locks out competition
- Ammunition in event of bad faith
- Precursor to contract
- Can be provided to the Customer to assist in instilling confidence.

Characteristics of a Collaboration Agreement

- Pre-award exposure - the agreement itself probably not legally binding
- No significant expenses incurred by relationship
- Contractual terms of relationship need to be agreed
- Can be used as a bidding vehicle for specific tender(s) with option to incorporate/formalise later if desired
- A 'Team Leader' will need to be appointed, as discussed above
- Separate binding Confidentiality Agreement required

ANNEX B

CLIENT/PROCURING AGENCY PROCUREMENT CONTEXT

What assumption re how future SUP areas retrofit work will be commissioned/paid for (ie who are the Buyers that local SMEs need to engage with):

PUBLIC

- Scottish Borders Council (+ other Councils Scotland-wide)
- Housing Associations in the region
- Collaborative Buying Group (LHC/SPA, Scotland Excel Framework, others) – public
- Scottish Government
- Scottish Futures Trust >> Hubs
- Other individual public authorities (NHS, HE/FE, Blue light, central Govt, smaller depts/agencies, quangos)

PRIVATE

- Private landlords
- Investment bodies
- Funding bodies (part payment)
- Energy companies
- Construction companies
-

What calendar for retrofit/energy efficiency buying plans for the above for 2024 onwards?

More work will need to be done by any future consortium to identify pipeline opportunities. Some current examples for public sector work are:

- Scottish Procurement Alliance/LHC – N9 Retrofit and Decarbonisation Framework published 29 April 2024. Has regional and technical Lots so may be possible for a pilot project. Deadline 21 June 2024.
- Scottish Borders Council – do not cover retrofit
- Borders Housing – nothing published on PCS portal currently
- GFP Decarbonisation Delivery Framework – Scotland £231M. Awarded https://www.publiccontractsscotland.gov.uk/search/show/search_view.aspx?ID=JAN497024
Greener Futures Partnerships (GFP) procured a National framework of suitably qualified constructors and consultants for the delivery of retrofit works and services in Scotland. The Framework will be for a total of 7 years (4+3) to enable delivery of retrofit works in accordance with the current energy efficiency standard for social housing (ESSH2) and will be open to all Contracting Authorities in Scotland to access.

Legal regime applying in Scotland for public procurement

Procurement Reform (Scotland) Act 2014; • Public Contracts (Scotland) Regulations 2015; • Public Contracts (Scotland) Regulations 2016

ANNEX C. CASE STUDIES

Welsh Government Joint Bidding Guide

<https://www.gov.wales/sites/default/files/publications/2019-09/joint-bidding-guide.pdf>

1. Jones Bros Civil Engineering and Balfour Beatty

Jones Bros is a large business by Welsh standards. Therefore growing the business in a small geographical area is a challenge, especially when tenders for larger contracts draw major competitors from outside of that area. Furthermore, the financial threshold level of large public sector contracts may well exclude companies even as significant as Jones Bros.

Jones Bros wanted to tender for a major Welsh contract whose original threshold level was beyond their financial standing on turnover. By joining with a large company from outside of Wales it was possible to jointly cross the tender turnover threshold. This would keep the contract delivery team in Wales, support Welsh jobs, sub-contractors and suppliers. Jones Bros therefore negotiated to partner with a large civil engineering group, Balfour Beatty.

The partnership won the contract for the design and construction of the Porthmadoc By-Pass. The contract was valued at £40m. It was shared between the two companies, completed on time, and was a financial success for all parties. It was clearly to Jones Bros' advantage to partner with Balfour Beatty and gain access to a large contract. It was also to Balfour Beatty's advantage to tender with a Welsh company and use Welsh labour on a contract funded by the Welsh Government.

This successful collaboration has stimulated the partners to bid for more work together. Plans are in hand to tender for an even larger contract, as well as a range of other civil engineering contracts in Wales. The contract was managed equitably with a lot of the delivery by Jones Bros. Key factors in the decision to partner with the large, non-local construction company were:

- the small size of the local marketplace
- to ensure sustainability of local SME's, joint tendering must target large projects outwith local area
- the controlling position of large construction companies

2. Victory Consortium

The Victory Consortium comprises 12 separate third sector organisations based in Portsmouth. They decided to formally collaborate as joint bidders. Each of the organisations has a particular niche or sector offering. The team believed that they would be able to submit stronger joint bids offering to work collaboratively. They believed this offered greater flexibility to procurers by bringing together a range of different skills, experience and complementary offerings in a single, more innovative bidding consortium.

The members agreed that a formal arrangement was necessary. In May 2011 they set up an entirely new charity organisation called the Victory Consortium. The Consortium was preformed and had considered the legal aspects of bidding, contracting and operations. As a well designed and prepared consortium matters affecting future roles, delivery and finances had been agreed before any bid was considered.

Several bids have been submitted by this new organisation. To date, the Consortium has not been successful. Its tenders have not passed beyond the prequalification stage. The limited feedback received by Victory Consortium has led them to conclude that procurers see their joint bids as too high a risk. Members believe this perception of risk by procurers relates to an absence of a track record and financial references for the new organisation. This is despite having good individual member track records and organisational longevity.

Following these disappointing procurement reviews, the members continue to collaborate via the model of a single lead partner with a strong track record and financial references and the other members work as sub-contractors. Victory Consortium members consider this is a more accepted model for procurers despite the innovation and investment.

Lessons Learned

Procurers' views of risk.

This case demonstrates the crucial role of the procurers' assessments of risk in determining the success of a joint bid. Although the Consortium had been carefully planned and organised, and a legal body created for tendering, this was not enough to satisfy the risk assessment of several procurers. The impact of the procurers' perception of risk in evaluating joint bids from new entities cannot be overstated.

Procurement risk criteria for selection need to be made explicit so that joint bidders can identify the model that best matches the procurer. Equally, procurers should recalibrate their risk criteria to encourage the innovation and value for money from consortia.

Innovation and creativity versus risk.

The Victory Consortium was able to offer innovative solutions to the procurers which, arguably, single service providers could not. They offered an integrated range of services which could be personalised to users. However, the criteria relating to track record and financial track record excluded the Consortium. This meant that the innovation and creativity elements of the tenders were not sufficiently highly weighted.

Robustness and flexibility.

The model of collaboration chosen by partner organisations needs to be robust so that it can outlive the disappointment of individual failed tenders. It must also be flexible so that it can change as needed to match the procurers' analysis of risk.

ANNEX D. CONSORTIUM COMPANY FAQs

How many members can a consortium have?

There is no limit to the number of members a consortium can have but it must be at least 2. With larger numbers, it can be advantageous to make use of a category of associate members.

What are the advantages of a co-operative compared to other forms of business?

A **co-operative** is defined by Collins Dictionary as "a jointly owned enterprise engaging in the production or distribution of goods or the supplying of services, operated by its members for their mutual benefit.". If the desire is to run a business but with that same collaborative ethos, a co-op may allow the best of both worlds.

What is the legal form of the consortium?

A consortium can choose from a variety of different legal forms; however businesses require to have what is known as 'legal personality'. The legal form which is often particularly suited to a consortium of SME businesses is the company limited by guarantee. The consortium company limited by guarantee is democratically owned by its members, with each member having one vote in electing the board of directors. However, this legal form will not suit every consortium, and other legal forms are also possible.

What is the difference between a consortium company limited by guarantee and a company limited by shares?

A company limited by guarantee does not have a share capital or shareholders, but instead has members who act as guarantors of the company's liabilities: each member undertakes to contribute a limited amount specified in the articles (CDS suggests £1) in the event of insolvency or of the winding up of the company. The maximum liability of each member is therefore £1 whereas the liability of shareholders in a company limited by shares is the 'nominal value' of the shares – so is the shareholder has 100 x £1 ordinary shares, that shareholders maximum liability would be £100.

Can we have a non-Scottish company as a member?

Yes, as long as there is at least one Scottish member and the consortium itself is incorporated in Scotland.

Do we need to submit accounts and an annual Confirmation Statement?

Yes, just as with a company limited by shares. You will also need to keep Companies House updated with changes to directors and other changes through the life of the consortium.

Can I convert a guarantee company to a share company?

There is no process for converting a company limited by guarantee to a company limited by shares. If you wish the consortium's business to start trading as a company limited by shares you would need to set up a new share company and transfer the assets of the consortium/guarantee company to it. If you want to keep the name of the consortium company limited by guarantee, you can change it to another name before you set up the new share company. That way, the original name is available at Companies House for the new company.

Does my guarantee company's name have to include the word 'limited'?

If you do not want your guarantee company's name to include the word 'limited', then there are certain rules to follow (a 'Section 60 exemption'). You must:

- set the company up with objects that are restricted to those promoting commerce, art, science, education, religion, charity, or any profession;
- provide in the Articles that the profits must not be distributed to members; and
- provide in the Articles that when it is wound up, its assets must be transferred to a similar type of body.

Can our consortium company limited by guarantee also be a Community Interest Company (CIC)?

Yes, but this needs to be set out at the incorporation stage and further formalities are required.

Can I incorporate the consortium at Companies House online?

Because it is a company limited by guarantee with bespoke Articles of Association, it is not possible to incorporate at Companies House online. The IN01 can be completed electronically but it then has to be posted to Companies House.

How does it cost to incorporate the consortium company?

It costs £40 for a manual incorporation.

How long does incorporation take?

If there are no problems with the application, it is normally completed within 2 – 3 weeks.

Who can become a member of a consortium company and can an individual become a member?

Any legal entity can become a member. This does not include an unincorporated corporation, which is not a legal entity in its own right and so technically cannot sign up to any legal obligations.

The concept of the consortium company is that it is a consortium of businesses. Technically, an individual could become a member and subscribe to the Memorandum of Association of the consortium company. However this is not recommended. It is the individual's business which should become the member: the individual may, if appropriate be a director. The individual may of course be a sole trader – this is perfectly acceptable but in this case it is in reality the individual's business which is joining the consortium.

If there is an individual whom the consortium wish to have working with or assisting the consortium in its business operations, sometimes an 'associate member' status would be appropriate.

What is the difference between a Director and a Member of the consortium?

A member has overall control of the consortium company whereas a director runs the consortium company on behalf of, and ultimately answers to, the members. How the directors are appointed will be set out in the Articles of Association. There are various options, with differing levels of convenience and member control. With a consortium company, directors are drawn from each of the member businesses. Therefore, where there are a small number of member businesses, it is likely that all the members will be also be represented amongst the directors.

In a small consortium company, democratic accountability to the members in the appointment methods for directors can be satisfied whilst maintaining simplicity and convenience. This is the case with the CDS template Articles of Association (Article 67), which are drafted with smaller consortiums in mind. However it may be preferred, particularly with larger consortiums where not every member can be a director, that the Articles specify that directors are appointed by the members at an Annual General Meeting.

What about insurance?

Because specific scenarios will vary, it is recommended that insurance queries should be directed to an insurance broker. However in general terms, if the consortium company takes on a contract with a customer, any direct contractual obligations in the contract would normally be undertaken legally by the consortium company itself, not by its member businesses. This would include any requirement for having insurance cover. However, members, or other parties involved in the work would also need to have insurance.

If submitting a bid for a contract, the ITQ or tender documents may require a commitment that the bidder (ie the consortium) takes out specified insurance. This will apply even if the work will actually be done by one of more of the members. It should be noted that the insurance would only be required to be obtained if the consortium's bid is successful however.

Can we hold a General Meeting either wholly or partly remotely/virtually?

Yes, however the Articles of Association would need to include specific wording to authorise this. Template wording is provided at [Appendix 1 to the Articles of Association Guidance](#).

Can Directors attend Board Meetings remotely?

Yes, as long as the Articles of Association do not contain a specific prohibition on this (which the CDS template Articles do not). The consortium's Articles could be amended to specifically allow it, but this is not strictly necessary. It is recommended however that all the directors specifically agree to the remote attendance.

Where can I look for further information?

Links for help

CDS - <https://www.scottish-enterprise.com/support-for-businesses/business-development-and-advice/work-with-other-companies>

UKIPO – trademarks <https://www.gov.uk/government/organisations/intellectual-property-office>

Co-operatives UK - <https://www.uk.coop/support-your-co-op>

<https://www.co-operativebank.co.uk/business/community/the-hive>

Companies House - <https://www.gov.uk/government/organisations/companies-house>

ANNEX E

Example qualifications and certifications required for PAS2035 Retrofit Roles

FOR SPECIFIC RETROFIT ROLES UNDER PAS2035-2019 – examples of required qualifications and membership
Retrofit Adviser - City & Guilds Energy Awareness & Advice
Retrofit Coordinators- Level 5 Diploma in Retrofit Coordination and Risk Management, or currently working towards this via RPEL process or SQA training course
Retrofit Assessor - Domestic Energy Assessor UKAS certified or qualified as per Coordinator above SQA Level 6 Award in Energy Efficiency Measures for Older and Traditional Buildings (if relevant)
Retrofit Designer – Must have one of the following <ul style="list-style-type: none"> • Specialist Designer measure specific training or qualification • Manufacturer training • Retrofit Coordinator • Chartered Architectural Technologist (MCIAT) • Architect (ARB) • Professional Member Chartered Institute of Building (MCIOB) • Chartered Building Surveyor (MRICS or FRICS) • Accredited scheme in building conservation (Traditional Construction) • Chartered Institute of Building Services Engineers (CIBSE), also Retrofit Coordinator
Retrofit Installer – Organisations must hold PAS2030-2019 and comply with PAS2035. A proportion of Installers on the delivery team must have completed approved PAS2030 training – specific to the energy efficiency systems installed.

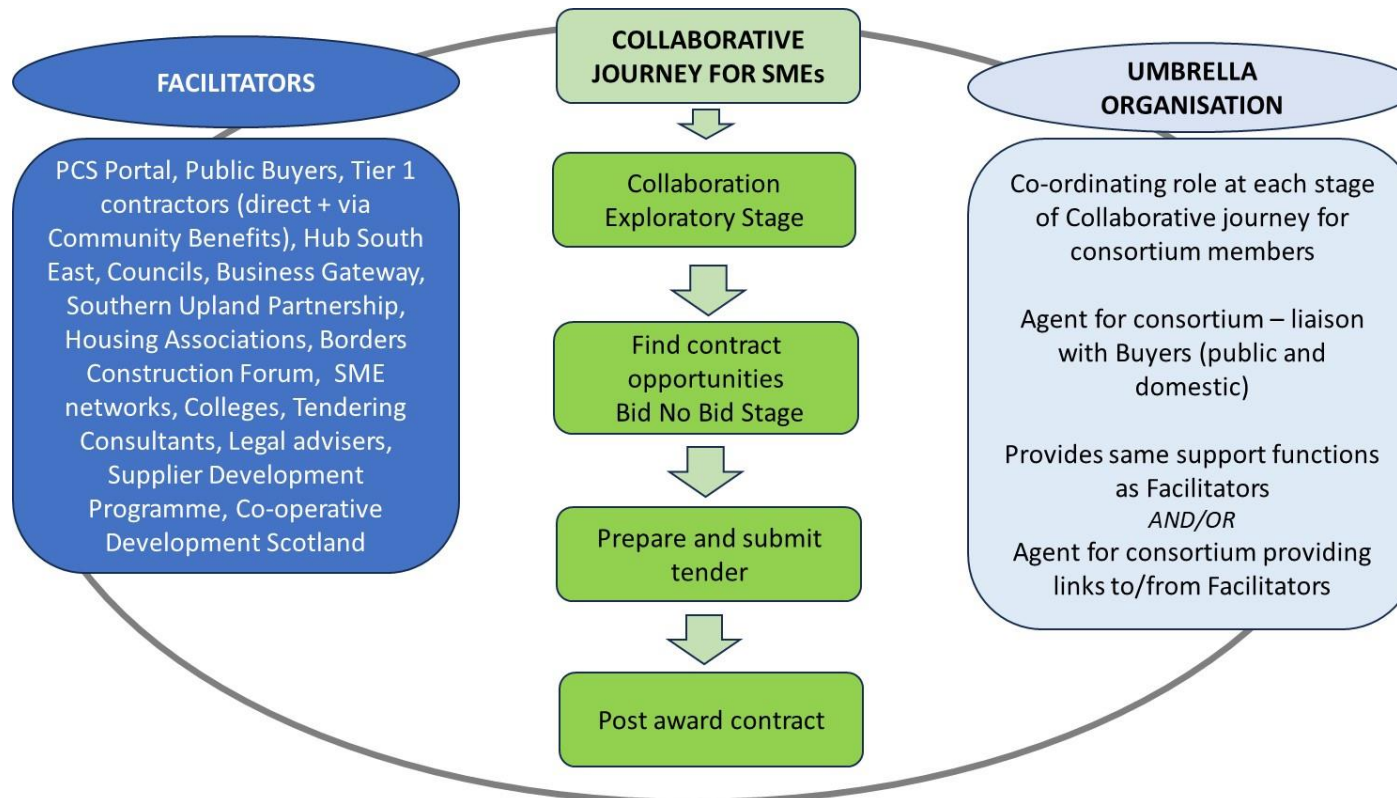
ANNEX F

Individuals/Organisations consulted during report preparation

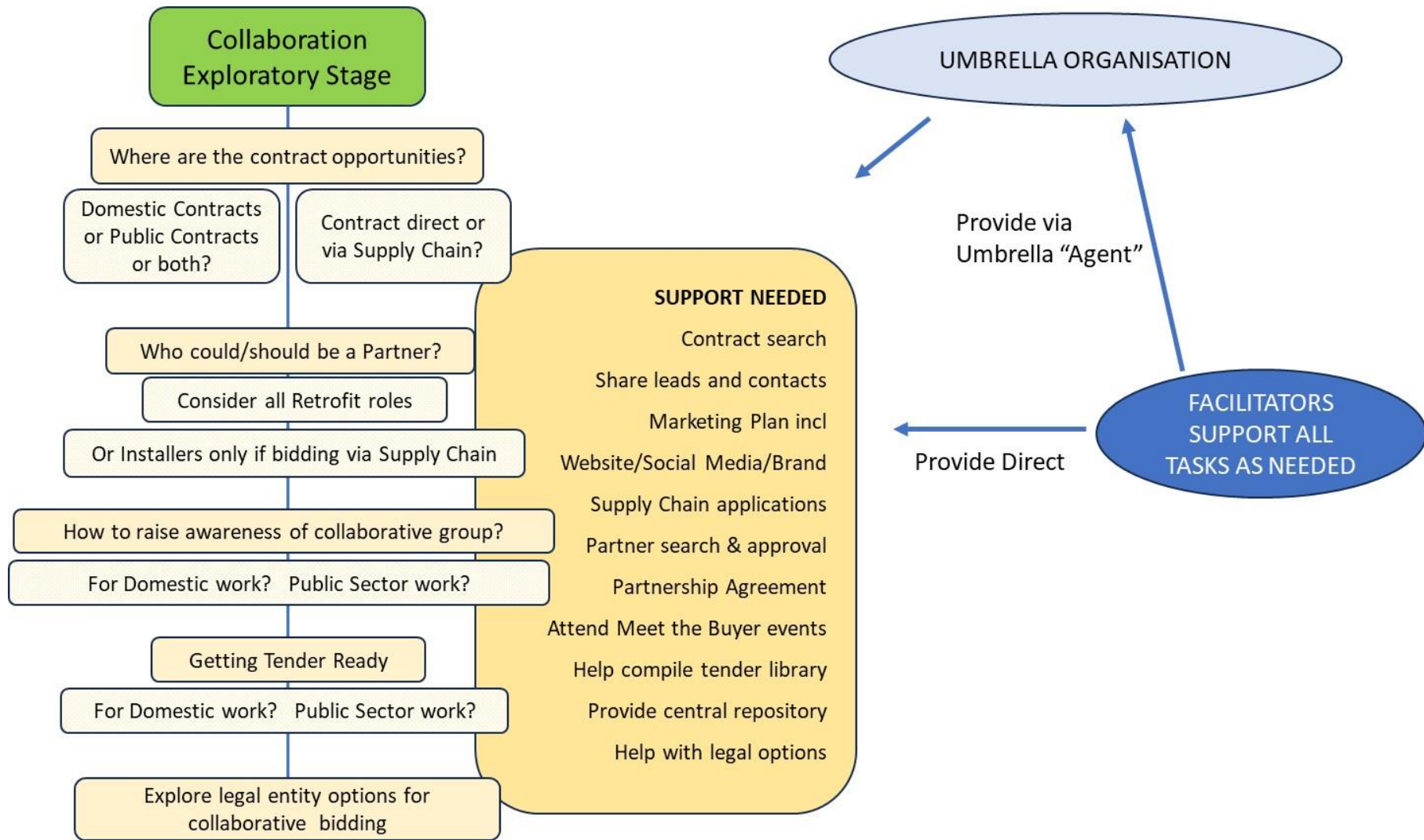
1. Gregor MacGregor, GKM Property Maintenance Limited
2. Suzanne Orchard, Cooperative Development Scotland (CDS)
3. Jaye Martin – Cooperate Scotland
4. Stuart Fargie, Procurement Construction Lead, Fife Council
5. Mark Houston, former Supply Chain Manager, Hub South West
6. Dean Fazackerley, Head of Technical & Procurement, LHC
7. Daniella Bryans, Senior Procurement Officer, Scottish Procurement Alliance
8. Fiona Matthew, Certification Manager, Certass (PAS2030)
9. Serina Hollow, GasSafe Register
10. Nick Price, MD myCare, member of Granite Care Consortium
11. Lisa Stephen, Operations Manager, Granite Care Consortium
12. Ryan Douglas, Head of Procurement, Scottish Borders Consortium
13. Colin Judge, Procurement & Property Directorate, Scottish Government

ANNEX G

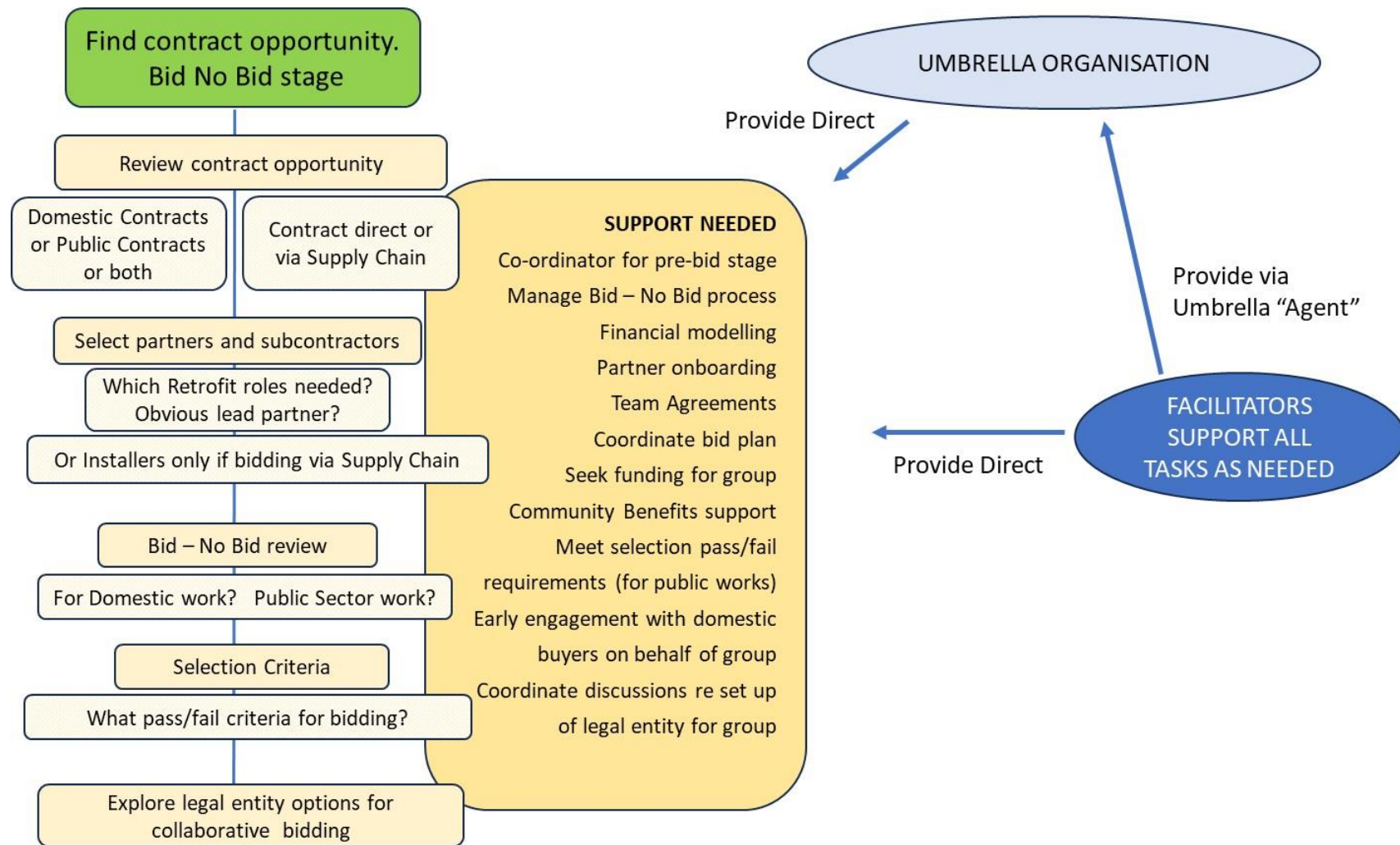
The Role of the Facilitating and Umbrella Bodies in the stages of the collaborative process - from finding partners and identifying opportunities through to delivering the contract - is set out below in a series of diagrams. These identify the various forms of support which could be provided at each stage, and show how the roles of a facilitating body and umbrella organisation might combine, overlap or be complimentary, depending on the circumstances.



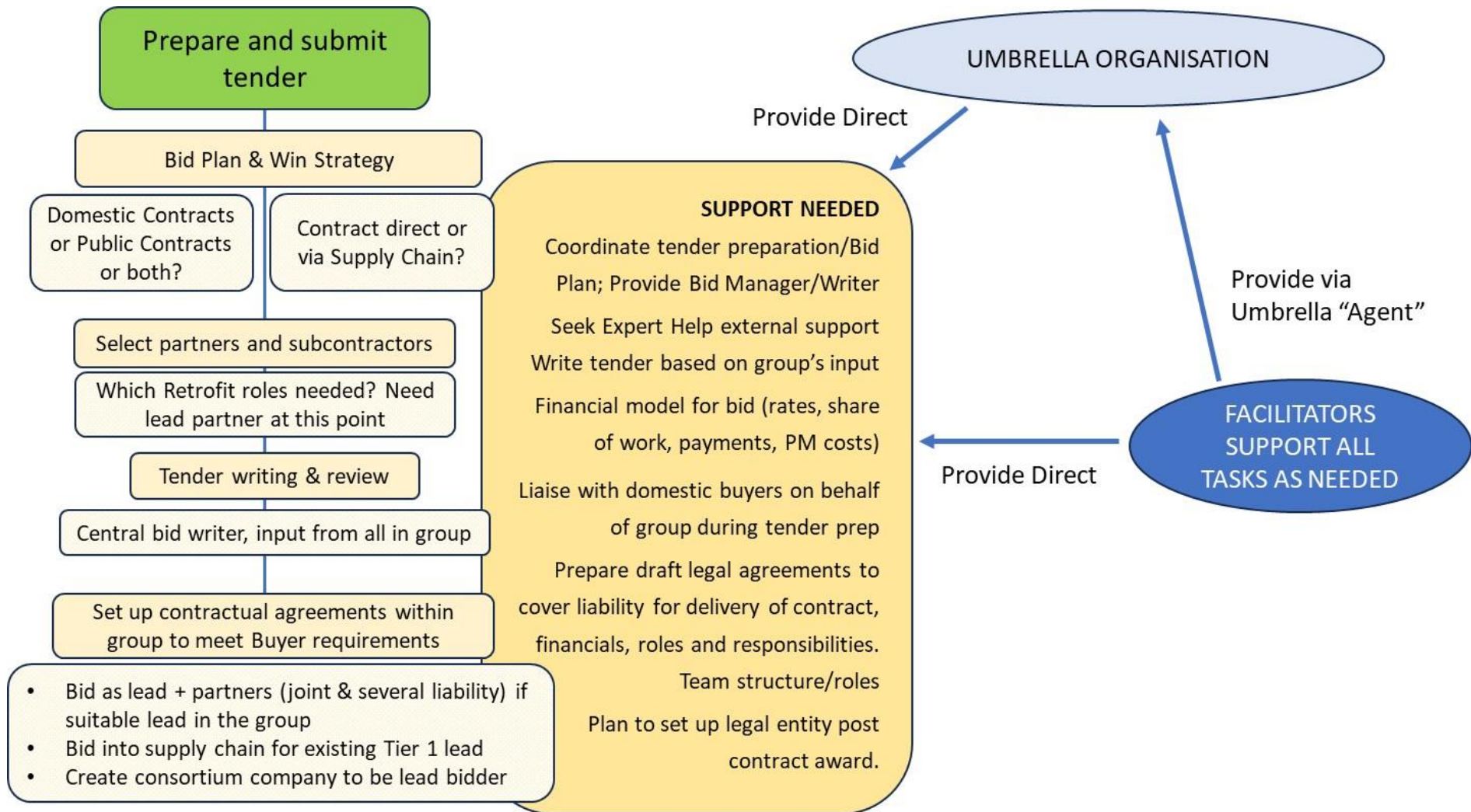
Overview Collaborative Journey



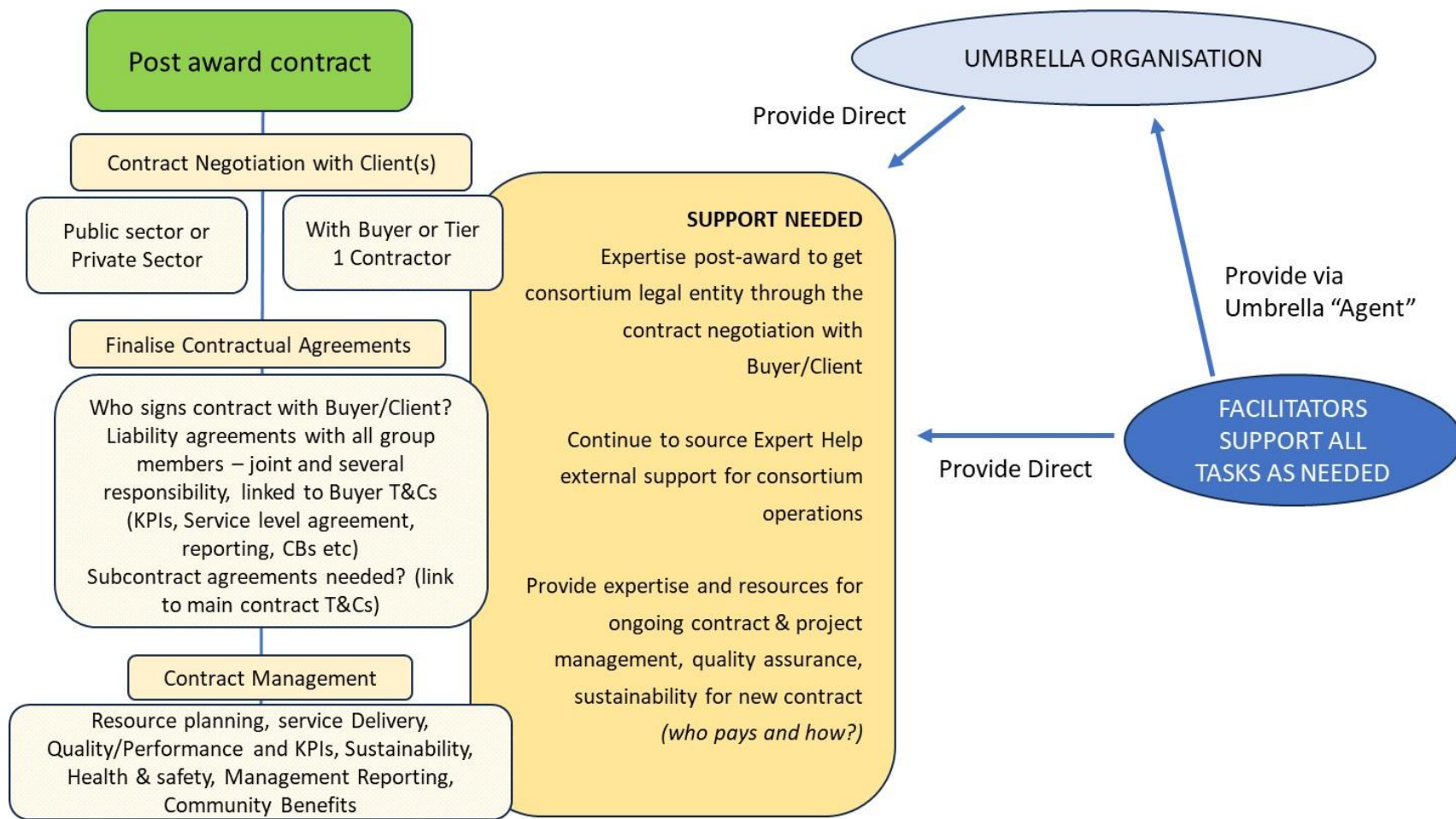
Collaboration at Exploratory Stage



Collaboration at Bid-No Bid Stage



Collaboration at Tender Preparation Stage



Collaboration Post Contract Award