



Funded by  
UK Government



southern uplands partnership  
*living land, living community*



## TRADES CONSORTIUM AND COLLECTIVE BIDDING

Summary of a study commissioned by Scottish Borders Construction Forum which is delivered by Southern Uplands Partnership and funded by the UK Government Shared Prosperity Fund (SPF).

### Background

Over the last few years, efforts have been made to develop a better understanding of the supply and demand for works to improve energy efficiency in homes and businesses across the Scottish Borders.

SBC declared a climate emergency in September 2020 and the Scottish Govt has an ambition to meet net zero carbon emissions by 2035. It has also recently approved a Local Heat and Energy Efficiency Strategy (LHEES) as required by Scottish Government. The key aims of the LHEES are:

- Improving the energy efficiency and decarbonising the heat supply of all buildings in the Scottish Borders
- Eliminating poor energy efficiency as a driver for fuel poverty.

In relation to this work, the LHEES sets out priorities to:

- Support the local economy and improve the regional skills, employment, and supply chain.
- Utilise procurement, delivery models, planning, regulation, and other powers to make this transition work for the people.

Work to date (funded by both Scottish Borders Council and by the Westminster Government through the Shared Prosperity Fund) has identified a number of key issues which require to be addressed. There is a clear need for further collaboration with a range of partners including public sector procurement teams, and SBC procurement team, to understand the barriers and opportunities for local businesses to access and deliver energy-efficiency work.

Demand from the public is still at a low level, at least in part because works are expensive and there is still some doubt about the real need. Any grant

support is fragmented and often short-term. Messaging is not consistent, and advice has often been contradictory.

Linked to this to some extent, is the perception that the built environment sector is not worthy of consideration as a prime career prospect. Young people (and their teachers and parents) aspire to other sectors seen as more demanding or more lucrative. However, the challenging task of retrofitting Borders buildings will require a considerable number of highly skilled and well-paid workers. Schools, teachers, and parents need to better understand this so that young people can be encouraged to consider the sector more seriously.

Scottish Borders (like other rural areas) has very few larger firms delivering building works. Most of our businesses are small or exceedingly small. They generally have full order books and tend to avoid bureaucracy wherever possible. This means they avoid formal bidding for work-contracts as the tendering process can be burdensome. They also tend to avoid accreditation schemes and Government-funded grant work because of the red tape (and the prolonged reimbursement process that some have experienced). Unless essential, training opportunities are not taken up. The result of this is that there is a shortage of local businesses able to deliver government grant-aided work (where accreditation is required). It also mitigates against local firms tendering for larger-scale contracts because, on their own, they cannot deliver the full range of works required.

The result of this is that almost all local contract work is currently awarded to larger companies from out with the Borders thus reducing potential local jobs and economic benefits and mitigating against the drive for community wealth building.

## **The Commission**

The above has become clear as we have worked with the Borders trades and agencies over the last three years. One suggestion that arose from this was that there might be scope for some form of collaborative body to act on behalf of the local trades in bidding for contracts and delivering larger projects. It was suggested that such a body might also hold some of the insurances and accreditations required and it could potentially play other roles, reducing some of the bureaucracy faced by small businesses, handling cash-flows, and even arranging and managing shared apprenticeships.

To explore the feasibility of this, a study was commissioned in 2023 from experts in cooperative working and procurement law. We asked them to address a number of questions:

- What options exist for helping existing micro-businesses, sole traders, and SMEs to jointly bid for local construction and energy efficiency contracts?
- What are the pros and cons of these options?
- Is it possible to develop a structure that allows collaborative bids to be developed and delivered (if collaborative bids from individual trader's partnerships, were not an option)? This might be a facilitated group or a social enterprise/charity model.
- What legal and financial protection would be needed for the partners/Social Enterprise in any such arrangement? This protection would need to be manageable and proportionate.
- How could the barriers that currently prevent such businesses from tendering for these contracts be removed or significantly reduced?
- How would contracts be entered into, such 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?
- If the only option were a facilitating body, could this be a cooperative or social enterprise, or is another type of structure required?
- How could tendering costs (the actual cost to the business or trader to apply) be kept 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).
- Are there implications for professional memberships and quality assurance schemes (MCS, OVEZ, Trustmark) etc., - what needs to be in place for both the individual sole traders/small businesses or the wider social enterprise/charity?
- Are there any other/unforeseen issues that need to be considered?
- Experience has put many people off bidding for "public" contracts, partly because of the amount of time they must wait to be paid and partly because of the excessive bureaucracy that is often encountered. How can a future system be made manageable for SME's and sole traders?
- Are there examples of working partnerships or third-party organisations managing the bid process?

This work was put out to tender, and the contract awarded to Clerwood Business Support Ltd – the work being done by Gavin Tosh and Gill Joy.

Their report can be read here: <https://sup.org.uk/wp-content/uploads/SBCF-SUP-Report-Trades-Consortium-and-Collective-Bidding-July-2024.pdf> and the following is our interpretation of the findings. It is an overly complex area and inevitably the answers are not straight-forward!

The authors consider these issues through three potential collaborative models in the form of:

- a “**basic**” 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 are referred to in the report as, respectively the '**Basic**', the '**Facilitated**' and the '**Umbrella**' option.

## **The Report**

The Report agrees that some sort of support for collaboration would be valuable as a means of helping the small rural businesses that predominate in the Scottish Borders. There are models from other regions and sectors where collaboration has been supported using these models and some of these are described in the report.

While there are models that could support more collaborative working amongst trades, they all have significant issues which could be expensive and difficult to overcome. This is at least partly due to the complexity of the current procurement system, which was effectively designed to maximise competition and minimise risk to the client. Any collaborative body will certainly be seen to be of higher risk than a bid from an established company. Even if the perception of risk could be overcome (which might be through collaborative agreements, guarantees or formal sub-contracts), it would be complex (i.e. expensive) to ensure that each member of the collaborative group delivered its agreed element to the right budget and quality. Legal agreements would be needed to ensure this, and this would generate additional bureaucracy (and administration cost, especially if any enforcement action had to be taken).

Importantly, it would not be possible for any collaborative body to hold accreditation certificates or insurances on behalf of the collaborators to

reduce the burden on individual SMEs. Each member of the collaborative body would still need to demonstrate appropriate cover and skill-level (although the collaborative body might be able to support the acquisition of these).

Perhaps the biggest issue would be the financial cost of running the collaborative body. It would need staffing to manage the bidding process and to establish the delivery structure and this would be a cost on top of that of the actual work. If this cost were built into the bid, it would result in the bid being too expensive. If it were funded in another way – it could be seen as unfair competition.

The report examines possible legal structures for collaboration, paying particular attention to the 'consortium company limited by guarantee.' 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. 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. If this could be created, the group would need to formalise a collaboration deal on award of any contract.

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

The report also highlights the dearth of construction sector companies in the Scottish Borders, both amongst SMEs/microbusinesses and larger construction companies. No solution to this is examined as part of the report remit, however it is a factor which bears on the conclusions.

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 would be the involvement of large construction companies (probably based out with the Scottish Borders). 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. Effort could be put into supporting this establishment of this sort of arrangement. Some resource would be required to allow this to take place.

Another avenue which is considered in the report is to focus on collaborative innovations in the customer/buyer sphere, instead (or perhaps 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.

## **Recommendations and Conclusions**

- 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 SMEs. 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 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 out with 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.
- 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).

In summary, the report identifies key challenges for sole traders and small businesses in relation to the aims of the LHEES and NZ and suggests some ways of addressing these.

### **Our take from this work:**

Establishing a new local body to work directly with local trades, playing a lead role in bidding for and delivering energy-efficiency contracts is not viable partly because of the complexity and partly because it would result in excessive costs.

However, effort is needed to support local businesses/trades to upskill themselves so that they can benefit from the work that the LHEES will require. Ideally, some sort of umbrella body could be established to actively work with and support local businesses to adapt. The current Forum is doing elements of this, but more could be done if there was a dedicated resource.

Early identification of interested larger companies might facilitate the use of local trades in contract delivery. This would overcome some of the local reluctance to engage in the procurement process and provide stimulus to gain required skills and accreditation. A register of suitably accredited local businesses would be valuable here. Procurement processes could be adapted to encourage this, perhaps with a clause encouraging use of the local register.

A pilot project could focus on the creation of a selected group of 'volunteer' Borders SME contractors, harnessing the support of the agencies mentioned above, facilitated and/or with an umbrella component. The aim would be to develop and showcase the tender-readiness of the group, but not for direct public sector tendering purposes. Instead, the objective would be to gain contracts through the established construction sector procurement model, with the integral participation in the pilot project of one or more of the large construction sector companies which is active in the LHEES market.

If successful, the model could then be used for other collaborative Borders SME groups

Efforts to work with the demand side to encourage suitably sized collaborative contracts for the local market should be explored. This could be conducted in parallel to the pilot project, perhaps comprising a 'mini' pilot project in its own right.

*This project has been funded by UK Government as part of the UK Government Shared Prosperity Fund*