

# A guide to consortia for human services NGOs

A consortium is formed when two or more organisations agree to work together to deliver a service or project. It is commonly in response to a tender. Successful consortia have a shared vision, alignment of purpose, effective communication, appropriate governance structure and strong project management.

It is important to remember consortia require a strong commitment from all participating organisations to achieving the project objectives. Your organisation should only enter a consortium if it will further your organisation's vision and objectives.

## Can you use a consortium in NSW government contracts?

NSW Government's key objective is to deliver customer-centric human services that provide value for money to the people of NSW. To enable this, many NSW government agencies allow NGOs to form a consortium to respond to a tender. The **NSW Government's Small and Medium Enterprises Policy Framework** states that where products and/or services may be too large for one small or medium enterprise to undertake alone, these enterprises should be given the opportunity to prepare tender responses by forming consortia and joint ventures.

The most common form of consortium arrangement with NSW Government is the lead agency model. This means the lead NGO contracts directly with the governance agency and the other consortium members are sub-contractors.

If you are unsure, discuss any potential consortium arrangements with the relevant government agency.

## Is a consortium suitable for my organisation?

You need to ask yourself the following questions:

- Does this project align to my core purpose?
- Has the NGO clearly identify the skills gap that it is trying to address by forming a consortium?
- Will a consortium deliver better outcomes? If so, how?
- Are there potential partners that share my organisation's vision, values and purpose?
- Is a consortium worth the risk? How will the risks be managed and what governance arrangements would need to be put in place for the consortium?
- Can I manage potential disagreements in the consortium?
- What is the cost of bidding in a consortium and can I afford it?
- What needs to be contracted prior to bid submission?

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### Benefits of a consortium

- **Secure additional contracts** — by bringing together the capability and geographic locations of different organisations you can secure additional income, diversify your service offerings and provide better services.
- **Knowledge transfer from shared skills** — strong working partnerships facilitate knowledge sharing and better integration of complementary elements in the tender development and in project delivery.
- **Focus on what you do best** — each consortium partner plays to its strengths, resulting in greater efficiency, effectiveness, economies of scale and better outcomes.
- **Sharing costs and risk across partnerships** — consortium partners can share the administrative costs of project delivery. This can reduce overheads and the resources required of each business. Together, partners will be able to better eliminate or mitigate any risks associated with the contract.
- **Increased recognition and status** — the collective bargaining and purchasing power that arises from the shared business can build each organisation's reputation in service delivery
- **Facilitates innovation** — new partnerships mean new perspectives, ideas and approaches that can boost creativity.

### Consortium challenges

- **Complex working arrangements** — consortia can bring together different personalities, expectations, work quality and governance processes. Strong project management is needed from the outset to establish quality and performance expectations, coordinate the different elements of the project, meet milestones, decision making processes and ensure cohesion.
- **Potential conflict** — conflict or disagreement may arise where there are different perspectives or opinions. Consortium members need to focus on the project objectives and commit to finding practical solutions in a timely manner.

Even with a documented dispute resolution process in place, consortium members need to be conscious of the time, cost and resource implications of possible legal action.

- **Initial costs and timeliness issues** — consortia development can be time consuming and often more costly than responding to a tender individually. You will need to invest time upfront to agree governance, costs, resources and etiquette. A consortium developed in haste can be ineffective and low quality.
- **Agreeing the key contact for the consortia** — each consortia will need to nominate a contact person for the funding agency, and who will also sign the contracts on behalf of the consortia. Deciding on who this should be and what powers they have to make decisions on behalf of the consortia can be difficult.
- **Risk to reputation** — you are only as strong as your weakest link. If a partner organisation does not meet requirements or breaches the contract with the government agency, this can impact your organisation's capacity to secure future tenders and you may be liable.

### I'm interested in using a consortium, what steps should I take?

- **Determine if a consortium is allowed** — check the contracting documents and with the funding agency to see if you can form a consortium to deliver the contracted services.
- **Find suitable partners to form a consortium** — potential partners need to have shared values, necessary skill set, resources and capacity to deliver as specified in the tender. Successful consortia will also have compatible workplace cultures and business values.
- **Get legal advice** — your organisation should seek legal advice on the legal implications of forming a consortium, the appropriate structure, governance arrangements and the development of a contract between consortium partners.

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- **Get financial advice** — establish appropriate funding arrangements to ensure that the consortium remains financial viable over the life of the project.
- **Be prepared and set clear expectations** — establish the legal, financial and governance structure for the consortium. A written contract between the consortium members should set out the lead provider(s), roles and responsibilities (assign roles and identify gaps, agree recruitment plans), key personnel to complete the work, service quality, process for communicating with funding agency, process integration, payment terms, timelines, reporting, key performance indicators, services, intellectual property, confidentiality, information sharing, dispute resolution process etc.
- **Identify risks and barriers** — the consortium and each partner organisation individually needs to identify and monitor risks, barriers and mitigation strategies for the overarching projects, and to the individual projects respectively.
- **Establish the safety record** — look at what type of safety training programs are in place to ensure that they are compliant with Work Health & Safety legislation.
- **Seek references** — ask for these from previous consortium partners while also conducting an online search in addition to running ASIC searches.
- **Review latest audited accounts and relevant financial information** — you need to ensure that your prospective consortium partner(s) has and will continue to have financial capacity to deliver.
- **Check consortium members have the necessary insurances and certifications** — you need to confirm that all consortium members have the appropriate insurances, certification accreditations needed to perform the work. You should also check that they have not been declared bankrupt.
- **Budget for setbacks** — be prepared for the possibility that the work will run behind schedule which may generate additional costs. Establish in advance the protocol of managing timeline extensions and how additional costs will be managed.

## Where do I find more information?

If your organisation is considering about establishing a consortium, you should first discuss this with the funding agency.

The resources below provide general information:

- Not-for-profit Law Guide — **Working with Other Organisations: Summary of legal issues to consider when working with other not-for-profit organisations** (Justice Connect)
- **Checklist: Working with other organisations** (Justice Connect)
- **Business structures and arrangements for community housing providers in a changing operating environment** (NSW Department of Family & Community Services, Housing NSW)
- Joint working arrangements – a supplement to the business structures report for community housing providers dated June 2014 (NSW Department of Family & Community Services, Housing NSW)
- **2016 Joint Working Agreement Guide for Homelessness Services** (NSW Department of Family & Community Services)
- Fact sheet: A guide to sub-contracting for human services NGOs