

# **Joint Bidding Demonstration Projects**

## **Lessons Learned Report**

## **Contents**

Introduction .....	3
Programme goals.....	4
Achievements .....	5
Lessons learned and suggestions for further work .....	6
Case study overview .....	10
Summary .....	10
Frequently Asked Questions (FAQs) and sources of further help .....	11

## Introduction

The Wales Procurement Policy Statement, first published in December 2012, and updated in June 2015, emphasises the importance of making procurement opportunities open and accessible to new bidders, including consortia. One of the recommendations of the January 2012 Task and Finish Group report on Micro-businesses was that the Welsh Government should “encourage micro-businesses to consider consortia approaches to public sector procurement”.

During 2012 discussions took place between the Welsh Government, the Wales Co-operative Centre and the Wales Council for Voluntary Action (WCVA) about the challenges that organisations often face when bidding for public contracts as consortia. More collaboration on the buy-side has sometimes led to larger contracts becoming out of the reach of small businesses. The third sector in particular considered that more funds were being channelled via competitive tendering and fewer projects funded by the awarding of grants. The challenge was to ensure that smaller organisations, which can often deliver high quality products and services, could more readily form consortia to win and successfully deliver contracts.

To respond to this challenge the three organisations jointly commissioned the development of guidance on collaborative bidding. They also commissioned a review of how the SQulD (Supplier Qualification Information Database) question set and guidance might need to be amended to make it more suitable for consortia bids.

This led to the research and creation of the Joint Bidding Guide in 2013. The Guide is a handbook for the public sector, its procurement specialists, service owners/leaders and the bidding community. The principles and guidance are appropriate for complex projects and can be scaled down where necessary. It consists of 18 short chapters, each of which is self-contained and covers a particular stage in the planning, preparation and bidding cycle. An electronic copy of the guide can be found at [www.wales.gov.uk/jointbidding](http://www.wales.gov.uk/jointbidding).

Jane Hutt AM, Minister for Finance and Government Business, launched the Joint Bidding Guide in October 2013 and announced that a set of pilot projects would be carried out to test the tools and approaches covered in the Guide.

A Steering Group with membership from public sector bodies, organisations representing suppliers and universities was assembled to oversee this programme, and ensure more widespread application of the new Guide. It was hosted and co-chaired by Cardiff Business School to encourage the take-up and use of the Guide by both buyers and suppliers. The Steering Group renamed the pilots “Demonstration Projects”, to reflect the fact that whilst consortium bidding and collaborative contract delivery are not entirely new phenomena, there was merit to be gained from applying the advice in the Joint Bidding Guide.

The support provided to the Demonstration Projects ran from July 2014 for 12 months to test some of the tools in the Joint Bidding Guide. Each of the projects ran on its own timescale. Therefore not all of the procurements had concluded at the time of writing. This report covers the major findings and future recommendations emerging from the Demonstration Projects.

## Programme goals

It was envisaged that around six public sector organisations would take part in the Demonstration Projects, and that each body would choose one or two procurements. These were planned to commence with enough lead-in time to be able to implement some of the advertising and market-testing advice in the Joint Bidding Guide. Not all of the projects would necessarily be completed before the end of the year.

Organisations were asked to consider their forthcoming procurements and identify any that may lend themselves to delivery by a consortium. These would be identified using the Procurement Assessment Model described in Chapter 3 of the Guide, and/or because the buying organisation was aware of potential consortium bidders for the project.

It was expected that the Demonstration Projects would cover a wide range of markets and contract values. Once the opportunities were identified, support was provided to the buying organisations. Business Wales and the Wales Co-operative Centre were available as a separate source of advice to the proposed consortia. Care was taken to ensure that no project-specific communication was allowed between those offering support to the buy and supply sides during the procurement process, and that bidders requesting support would receive it. No preferential treatment was to be given to consortia in developing their bids.

The final stage of the Demonstration Projects was to write up the lessons learned. The Steering Group had met regularly throughout the year and discussed the progress of the projects and emerging lessons. At the end of the programme procurement staff involved in the projects, and service managers where possible, were interviewed to capture their feedback on the process. Successful consortium bidders were also interviewed, or received a set of questions to answer. There was no expectation that the only successful projects were ones where the contract was awarded to a consortium. Lessons were therefore to be learned from all projects regardless of the outcome.

The success criteria agreed by the Project Board are set out in Table 1, with evidence to demonstrate the extent to which they were met.

Success Criteria	Achievement of success criteria
<b>Consortia Bids.</b> Bids were submitted by consortia for the demonstration projects.	Joint bids were submitted on 5 of the 12 projects to date.
<b>Joint Bids Awarded.</b> Some of the contracts awarded on the demonstration projects were awarded to consortia.	6 consortia have been awarded projects or placed on multi-year frameworks to date.
<b>New teams formed.</b> Businesses/third sector organisations that had not previously worked together in a consortium will have done so, thus developing transferable skills.	5 new consortia were formed to bid, 4 of which were successful. 3 of these were in the third sector.
<b>Fair treatment.</b> Bidders, whether consortia or not, were content that the process was fair and efficient, irrespective of whether they secured a contract.	Evidence from interviews and from information collected during the procurement was that the procurement teams dealt with potential consortia in a fair and helpful manner. As far as is known, no concerns have been raised by bidders after

	procurements have concluded.
<b>Early engagement.</b> The delivery team could demonstrate evidence of early advertising and early market testing for each project.	In all but one of the projects considerable emphasis was placed on arranging early market engagement events and using these opportunities to welcome and promote joint bidding.
<b>Effective Assessment.</b> Evidence was available that some consortia had used the content of the guide and features of the advertised contract to decide not to continue with their bid.	In one project some early work to form a consortium was carried out, but the consortium did not bid once the specification had been finalised. In another case the consortium reconfigured with a new lead partner.
<b>Range of projects.</b> At least 10 projects were covered, with a range of contract values and market sectors.	12 projects were supported. They ranged from social services to commodities and construction. The values ranged from £1.4 to £400+ million frameworks.

A further success criterion, not set out at the start, but agreed with the Steering Group afterwards, was that the programme would be instrumental in raising awareness of using the Joint Bidding Guide. Evidence suggests that this has been the case, especially within the procurement community and the third sector. Further work is required to raise interest, especially within the private sector.

## Achievements

The following were the top 10 highlights of the 12 months' work:

1. As at July 2015, five of the Demonstration Projects resulted in the award of contracts to consortia. Some were still in the procurement cycle at the start of August but were expected to attract joint bids.
2. Two of the winning consortia (for the Families First contract in Carmarthenshire) were not for dividend/social enterprises which were able to bid and win contracts of more than a million pounds between them. These were new consortia set up specifically to bid for the contract with support from the programme.
3. Three Local Authorities were enthusiastic members of the Steering Group. Each Authority sponsored a demonstration project. All three authorities encouraged joint bids from the earliest opportunity, for example at "meet the buyer" events or by publishing Prior Indicative Notices (PINs). This resulted in bids being received from new or existing consortia. All three authorities appointed consortia as either winning bids or onto competitive, multi-year frameworks.
4. A consortium of two construction firms was successful in being listed onto the £400+ million construction framework for schools and public buildings in South and Mid Wales called SEWSCAP2.
5. The National Procurement Service (NPS) staff were early adopters and advocates of Joint Bidding. Over 20 of their category managers and officers undertook additional training on the implementation of the Joint Bidding Guide. NPS staff are now working to ensure that all potential procurements are assessed for their potential to attract consortia bids. Opportunities for collaboration are now routinely raised at early discussions with buyers and in supplier engagement meetings.

6. Members of the Welsh Government's Corporate Procurement Service were early testers of the Guide. Their input was invaluable on subjects ranging from changes to terms and conditions of contract to updating specifications and timelines allowing for joint bidding.
7. A consortium was appointed onto a multi-year supplier framework for liquid fuels by the NPS.
8. A team of micro and small businesses were appointed to a major construction maintenance framework agreement let by Caerphilly Council and have now started work on a project with a value exceeding a million pounds.
9. In at least one of the projects, bidders considering collaboration received proactive support from supplier development officers within the buying organisation, resulting in the creation of a successful consortium.
10. The Steering Group has agreed to support the Joint Bidding initiative for another 12 months. Members will be advocates of the opportunities for consortia participation in public tendering.

Given the original recommendations of the Task and Finish group in 2012, the progress has been significant. The Demonstration Projects programme is a tangible success for Wales. With the increasing pressure to deliver value for money, and the high numbers of micro-businesses in Wales, joint bidding is set to make an ever increasing contribution to national economic performance and help to address the public-sector funding challenges ahead.

## Lessons learned and suggestions for further work

The case studies in the Appendix each detail the background, process, award information (where completed), feedback and lessons learned on a Demonstration Project. However there are also a number of general points identified across several projects, and recommendations for future work:

1. When timescales are short and procurement/project resources are in short supply it can be difficult to influence senior service owners and sponsors about the need to invest time and effort into encouraging consortium bidding.

**Lesson learned:** The need for senior level buy-in can be crucial to a successful result for a bidding consortium. More awareness-raising amongst senior public sector staff will be vital. This should include the sharing of success stories.

**Further work:** The Procurement Assessment Model from Chapter 3 of the Joint Bidding Guide has been found useful in engaging with senior staff engagement and helping buyers to assess the suitability of their project for consortium bidding. The model would benefit from further refinement and including some of the additional market-related factors that might influence a project's suitability for consortium delivery.

2. Early signalling that consortia would be welcomed by the buyers was instrumental in the success of many of the Demonstration Projects.

**Further work:** An update to the Sell2Wales website would be useful to include a tick-box function for procurement teams, stating that “the buyer believes that the tender is suited to a consortium approach and will welcome joint bids on behalf of potential consortia.”

3. Early engagement events can result in some confusion if the purpose is not clear. Potential bidders may be frustrated if they are expecting detailed information about the forthcoming procurement when this is not yet available.

**Lesson learned:** Attendees should be given a clear steer on the purpose of an early engagement meeting. For example, it should be clear if the meeting is being held for early information sharing and feedback, or held as an opportunity for potential consortium members to meet.

4. Delegates at early engagement events may need assistance in finding suitable consortium partners.

**Lesson learned:** If permission is sought in advance, sharing a delegate list at early engagement events can allow potential consortium partners to identify one another.

**Lesson learned:** Potential Bidders should be encouraged to ask for help from support organisations such as the Wales Co-operative Centre and Business Wales to find a suitable partner, where there is one available, in advance of the tender.

5. On occasion there was some clear lobbying during “meet the buyer” events from the leaders of traditional supply chains. They tended to promote the traditional supply chain approach as a safer contracting option compared with micro business based consortia. This lobbying was still witnessed despite a range of micro businesses and SMEs being present within these traditional supply chains.

**Lesson learned:** Careful planning and organisation of pre-procurement meetings helps to avoid confusion and creates the conditions for potential consortium members to make contact. Limit the number of delegates allowed from each organisation to prevent large company dominance and lobbying at such events.

6. There is a risk that the scope of the project may change between holding an early engagement event and the start of procurement. This reflects the challenge that sometimes such events need to be set up before funding sources, and details of the requirement, are finalised.

**Lesson learned:** The risk that changes to the scale and scope of a project may change after an early engagement event needs to be shared and accepted. The benefits of early engagement usually outweigh the risks of changes as long as on-going communications are in place.

7. Standard procurement terms and conditions need reviewing to ensure they are consortium-friendly. Sometimes, whilst the rhetoric may be welcoming to consortia, detailed instructions can put barriers in the way of a successful consortium bid. The success of several of the Demonstration Projects required a review of contract terms. In some of the cases this legal work could have been completed earlier in the process.

**Lesson learned:** Terms and conditions need to be reviewed carefully in advance to ensure that a consortium bid can be received and assessed fairly. Bolting on consortium-friendly clauses to standard sets of terms and conditions may not be enough.

**Further work:** During the programme a set of standard terms and conditions was reviewed and amended to make them more suitable for consortium delivery. These could be further developed and shared as examples.

8. Joint and Several liability clauses caused some concerns for consortia where there is an inequality in size of the member organisations. For example, a smaller member of a consortium may not have the capacity to bear the risk of a larger partner failing to deliver. This can be a deal-breaker for some potential consortia and public sector organisations may be unable or unwilling to vary this requirement.

**Lesson learned:** With sufficient notice and discussion, suitable legal agreements can be reached by consortium members to mitigate the risks to smaller partners. Consortium members might consider using a formal collaboration framework, such as BS 11000 to plan how the consortium will operate. Particular care is needed in planning internal and external governance and reporting to ensure the transparency of key information and a proportionate approach to risk management.

9. The rules of the procurement process need careful review to ensure that they are consortium-friendly and in order to avoid facilitating collusive practices in current and future competitions. It took time to stabilise protocols to ensure that businesses were not getting multiple opportunities to tender.

There were some initial incidents of procurement teams needing to advise potential bidders that membership of a single consortium per lot was the only acceptable approach. This was more prevalent in commodity supplies such as construction materials. Some buyers insisted that suppliers could not team up with other consortia, even when a segmented lotting strategy was used.

**Further work:** The guidance on this area needs to be strengthened with practical advice on setting rules around the tendering process. The key test is whether or not the consortium members have visibility of, and input into, the lead bidder's costing, pricing and documentation. If a supplier is offering output pricing to multiple lead bidders, but does not have further knowledge or involvement in the bid submission, then they can potentially offer to supply multiple supply chains. If a supplier is nominated as a member of a consortium the supplier can only be involved in one bid team.



10. On occasions information system challenges arose during the procurement process. For example, whether data on consortium members should be uploaded separately or collectively into the system being used to host the tender.

**Lesson learned:** The SQuID question set allows consolidated data on consortia to be added, and care should be taken to ensure that these questions are consistent with the tendering instructions and hosting system.

11. Supply-side support can be very valuable to new bidders. However, supplier support staff should operate in formal separation from those undertaking the procurement. During the programme, unforeseen circumstances limited the capacity of the supply side support teams, which limited the number of projects that could be supported directly.

**Lesson learned:** Commitment to support from organisations such as Business Wales and the Wales Co-operative Centre should be established before the start of any procurement. Whilst supply-side support was not sought for all of the Demonstration Projects, and should not be considered necessary for successful tender formation, it can be very helpful for new consortia.

12. On some projects, the developing consortium required the support of a Lead Bidder or an experienced Bid Manager to establish formal management systems. This included establishing the relative shares of work and income that would be assigned to each consortium member during contract delivery.

**Lesson learned.** Potential consortium members should consider appointing an experienced lead bidder or bid manager in order to help in setting the management, commercial and financial systems, and in ensuring the correct allocation of work and income post-award.

13. Considerable reluctance about consortium working needed to be overcome in some established markets. In one of the demonstration projects this was one of the most important issues to address.

**Further work:** Evidence of success needs to be generated and shared widely, to encourage more attempts at consortium bidding. Cultural barriers to consortium working, and concerns about the impact of information-sharing on future competition, need to be explored and addressed with potential bidders early on. The information can and should be shared, relevant to the particular project, and needs to be agreed up-front. Also see the recommendations from points 4 and 7 above.

14. Some concerns about ensuring that competition law was not breached were raised on a few Demonstration Projects. The impact that information sharing on one procurement may have on future competition is important to consider and address.

**Further work:** Clear and practical advice is required to address concerns about competition law. It may be necessary to develop some additional guidance to cover this issue specifically, or to update the existing material in Chapter 6 of the Joint Bidding Guide.

15. In some cases buyers required that a new consortium should form a single legal entity before the contract was awarded. This should be made clear to prospective bidders as early as possible in the bidding process.

**Lesson learned.** If the buyer requires a consortium to have formed a single legal entity prior to the award of the contract this should be communicated to bidders early in the process to allow sufficient time for a new organisation to be formed.

16. The NPS successfully demonstrated how the combination of category management along with an understanding of the factors that encourage joint bids can contribute to providing suitable bidding opportunities for consortia.

**Lesson learned.** Using a category management approach can help a buying organisation to identify the contracts most suitable for consortium delivery, to understand the market, and to use this information to devise a lotting strategy for each procurement that will attract bids from a variety of suppliers, including from consortia.

## Case study overview

Twelve Demonstration Projects started within the twelve-month period. The contract notices for several of these have been delayed pending final funding confirmation, but their progress will continue to be tracked as part of the on-going support to Joint Bidding.

The project split was:

- Local Authorities – 3 projects
- Welsh Government – 4 projects
- National Procurement Service – 5 projects

The total value of the initial projects is estimated to be around £1bn as at October 2015, including multi-year framework totals. The value of projects awarded to date, either as the first appointment within a framework, or stand-alone awards, ranges from £1.1 to £16.7 million.

The mix of projects ranges from social and support services, through construction and maintenance, to large-scale product supplies.

Details of each case study are included in the supporting document called *Appendix. Joint Bidding Case Studies from the Demonstration Projects 2014 to 2015*.

## Summary

This report documents the lessons learned so far from a series of Demonstration Projects on the Joint Bidding Guide. It is designed to act as a closure report for the formal Demonstration Projects programme, identifying lessons to be shared and additional work that is needed.

Although some of the projects have reached contract award stage, and some are still at the design stage, there are already significant examples of success in attracting bids from, and awarding contracts to, consortia. Of the 12 projects supported through the programme, 8 have reached award stage and for 5 of these, awards have been made to consortia. In most cases these were new consortia set up specifically to bid for the contract or framework in question.

This early success suggests that much more can be done to promote consortium bidding for public-sector contracts. The lessons learned from these projects will be shared widely and sources of support will be advertised to enable joint bidding and joint delivery of public contracts to become more common and successful.

## **Frequently Asked Questions (FAQs) and sources of further help**

Sets of “FAQ”s for buyers and suppliers have been published separately from this report. They can be found along with some single-page “infographics”, and the Joint Bidding Guide itself at [www.wales.gov.uk/jointbidding](http://www.wales.gov.uk/jointbidding).

General assistance for buyers on application of the Guide is available from Value Wales by emailing [VWPolicy@wales.qsi.gov.uk](mailto:VWPolicy@wales.qsi.gov.uk)

If you are a supplier and need support on developing and submitting a consortium bid, direct hands-on support is available free of charge from:

Wales Co-operative Centre <http://www.walescooperative.org/> and  
Business Wales [www.businesswales.gov.uk](http://www.businesswales.gov.uk).

The Wales Council for Voluntary Action <http://www.wcva.org.uk/> also provides support to third sector organisations and will be able to direct you to further sources of help and advice.

If you wish to explore collaborative working in more depth you might want to consider becoming accredited to BS11000, the British Standard on Collaborative Business Relationships. The Joint Bidding Guide is aligned to BS11000, though accreditation to the Standard is not a mandatory requirement for suppliers who wish to collaborate to bid for public contracts in Wales. Support is available via the Institute for Collaborative Working (ICW). See [www.instituteforcollaborativeworking.com](http://www.instituteforcollaborativeworking.com)

November 2015