

Collaborative Working Models For Winning Public Service Contracts

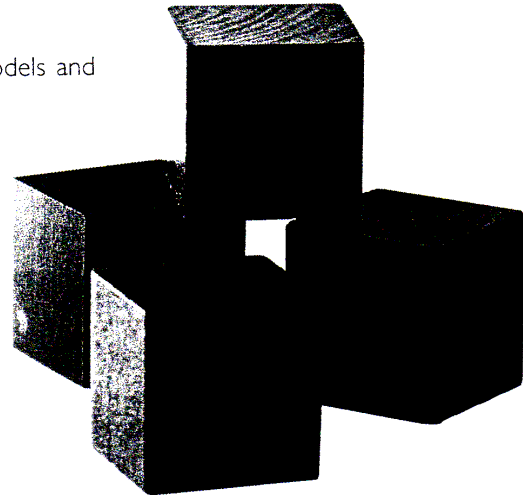
Since the Gershon Review of 2004-5 on Economic Efficiencies in Government Procurement, commissioners at all levels have looked for ways to increase their buying power by aggregating public service delivery and supply contracts. The current economic climate and the need to reduce the national deficit have only accentuated this. Philip Green's review of central government has criticised the way the government does not make the most of its combined purchasing power.

The practical application of this for most third sector organisations is the increasing amounts of joint commissioning at the local level. Teams like the 'Supporting People' teams have been amalgamated into wider procurement structures, while authorities are being encouraged to jointly commission across geographic boundaries and in partnership with health care commissioners. At the national level the Department of Work and Pensions has reduced its contract management processes to dealing with 16 Prime Contractors, which all other organisations will need to negotiate sub-contracts with.

In this climate, many third sector organisations will find the landscape changes, grants for service delivery are no longer available, and that they are too small to bid for the contracts that are available. In most cases, doing nothing is not an option. Third sector providers must evaluate who their potential partners are, in their area (geographic or service type) of delivery and evaluate how best to collaborate with them.

Where new opportunities to market services to commissioners exist, collaborative working is often cited as being the best delivery option for third sector organisations. This includes the two main examples of what might be perceived as contract sizes getting smaller; securing the approval of local authority commissioners (and therefore the opportunity) to deliver personalised public services direct to beneficiaries and also working with GP consortia to support practice based commissioning.

This factsheet includes a basic evaluation of the business models and structures that will enable collaborative working and the creation of opportunities for small organisations to continue to be involved in public service delivery.



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How to Select the Optimum Model of Collaborative Working

Given the need to do something, you must first evaluate the following factors in order to decide what the best solution for you in this specific situation is. All methods of collaborative working will be the most appropriate in different circumstances. The trick is knowing how to compare the different factors which influence this and to evaluate the most commercially viable way forward that has the greatest chance of winning this particular opportunity.

These factors are:

1. **Timescale:** The timescale you have in which to prepare a response to an opportunity will dictate what is possible. Forming a new company takes time, as does building relationships and trust. If the advert for the tendering opportunity has already been released, these things may not be possible, unless the partners know each other very well and have a strong track record of working together. It may be better for a small provider to secure sub-contracting opportunities with a strong lead partner.
2. **Capacity of the Local Sector:** If the capacity or expertise to deliver at quality and price is not there in the local third sector, then clearly there is not much point in forming a consortium exclusively for local partners.
3. **The Views of the Commissioner and Procurement Officer:** Although all procurement processes should be open transparent and fair, there is little point in offering a delivery model and solution that you know is unlikely to be of interest to the commissioner and procurement officer. For example if you know they strongly favour delivery of services by the private sector, then perhaps a private sector partner is the best solution for this scenario. Some commissioners are however extremely supportive of third sector consortia and are prepared to invest in their development.
4. **Ownership and Control:** In all situations where a small provider is working as a sub-contractor, there will be a question as to whether it lacks a degree of control over what opportunities are open to it, and what price it might receive for delivering that service. This may be perceived threat rather than a real one, but the lack of ownership is clear. A local provider may also be unsatisfied as to what limits sub-contracting places on its ambitions. As a local provider, you must decide either to perfect your negotiation skills to ensure you secure the conditions that are right for you, or develop a collaborative structure over which you do have a degree of ownership and control.

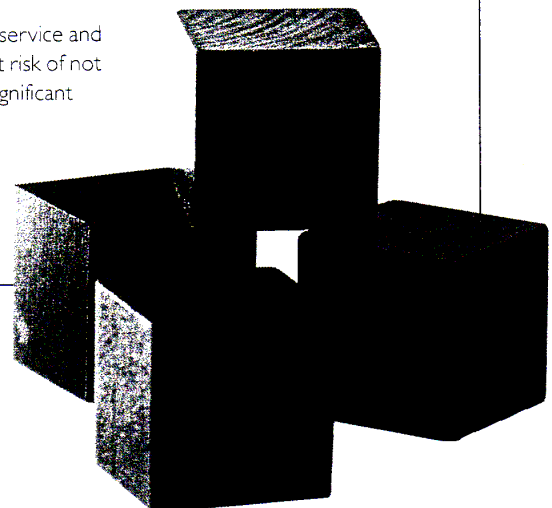
The Basic Models and Structures

The basic models that we will evaluate in more detail in this factsheet are:

1. Loose Network
2. Managing Agent
3. Managing Provider
4. Super Provider, Joint Venture Company or Special Purpose Vehicle

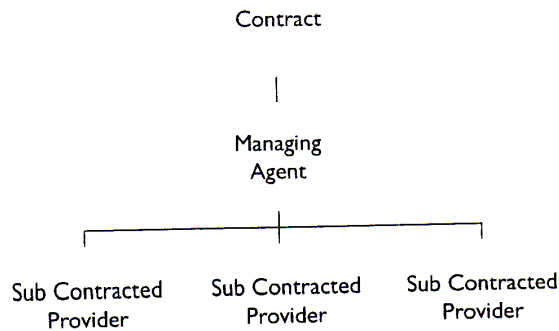
Most third sector organisations are already part of a loose network of providers, often grouped around infrastructure organisations and clusters of similar providers. This will include lots of examples of grant funded collaborations, as well as lots of individual acts of mutual support. There will also have been plenty of disagreement. To stay like this is effectively the do nothing option.

Obviously, a loose network could meet regularly to discuss responses to service and budget cuts, but if no actions are taken, then the sector continues to be at risk of not having the appropriate structures to meet the needs of one of its most significant stakeholders; the one who holds the money the sector and most importantly you desperately need.



Managing Agent

Managing agents are often referred to as Prime Contractors (although prime contractors may also be managing providers). The managing agent is a contract management company that holds the contract with the public sector body and sub-contracts delivery to a range of providers. This is the model employed by companies like SERCO to deliver a huge range of contracts.

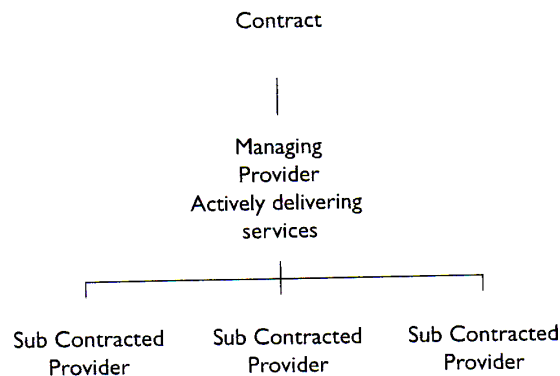


Managing Provider

The managing provider model is essentially similar to the managing agent, but lead by an actual provider who holds responsibility for the contract and allocates work accordingly. This is common in waste management contracting, where local authority contracts tend to be one by one of a handful of large multi-national companies.

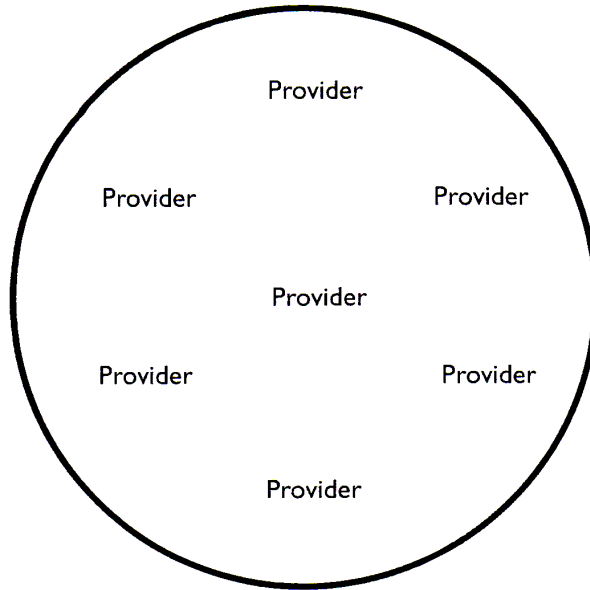
The model is also common where a national charity takes on the role of Prime Contractor: In this case the national charity has won a contract in which it has a direct interest in providing, but requires additional delivery capacity or expertise. For example BTCV hold a national contract with DWP to deliver employment training. Consortico is a highly ambitious 'hub and spokes' (see below) consortium initially developed in Bedfordshire that is looking to go into partnership with local providers in other parts of the country, and win contracts where ever they are available.

At the local level, two or more charities may chose to follow a model where one is clearly defined as the contract holder and the other charity(ies) agree to sub-contract to it. This is an extremely common form of partnership working.



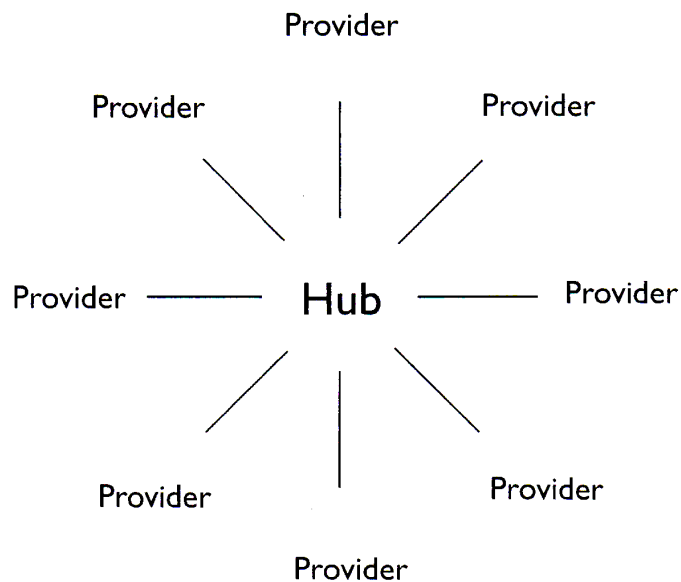
Super Providers, Joint Venture Companies and Special Purpose Vehicles

A group of third sector organisations could agree to cluster and work together as a super provider. This may form a natural progression from the fact that organisations are already doing this as a loose network. In order to bid for contracts the super provider must have a legal status, and will involve forming and legally constituting a Joint Venture Company or a Special Purpose Vehicle. This often happens when two or more private sector companies bid in partnership for a new contract. Indeed a major provider of public services will form a new company to manage a large contract anyway, in order to put up walls which protect the parent company.



The next question is how that contract is managed and how performance is guaranteed. It is one thing for two organisations working in partnership to have such a simple structure, but the more partners there are the more rigorous and accountable the management structure needs to be.

The solution is to build a management structure at the centre of the group of providers. We call this model Hub and Spokes:



The providers jointly own the hub through an equal share. It could involve anything from two providers to hundreds; in South Yorkshire the Learning and Skills consortium (VC Train) has over 120 members while in Sheffield the well being consortium has 58. REalliance, which is a trading consortium jointly owned by national and regional infra-structure bodies from the community waste sector, has only 4 members.

For the consortia to be successful the hub needs to ensure the following functions are delivered:

- Bidding and tendering to win business
- Leadership
- Contract management
- Business development and relationship building
- Financial management
- Data management

This does not necessarily imply the creation of any new resources, beyond registering as a company and forming a board, nothing. All the functions of the hub can be sub-contracted or 'charged out' to members of the consortia. For example: one could provide a bid writer two days a week, one a contract manager and another administrative support and data management. Exactly how that works depends on the expertise and capacity held by the consortium members.

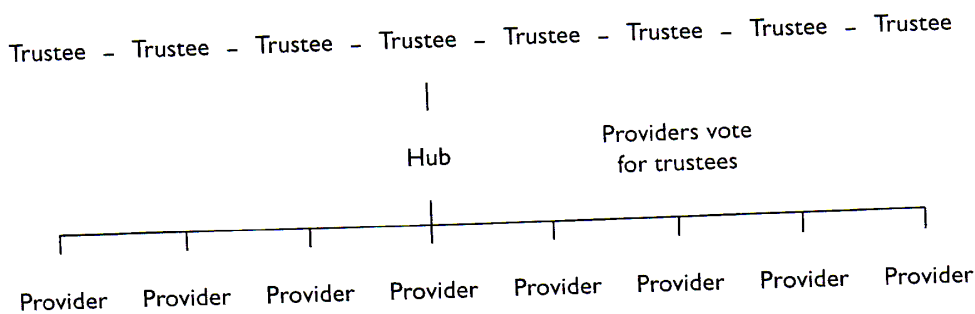
This is easily paid for once a contract comes in. For example a 10% top slice of a typical contract value of between £300,000 and £1,000,000 will bring in between £30,000 and £100,000 to pay for those costs. Once the business is up and running the goal ought to be to reduce this to a 5% top slice, particularly if the business expands. In future years, business could easily expand to £3,000,000 providing a £150,000 top slice which ought to cover costs perfectly well. At this point seconded staff may well transfer over to hub full time, but that is up to the owners of the company.

In the early stages local authority commissioners may well be willing to invest in the development costs of consortia and secure finance for the initial hub functions. Given cuts to budget and grant availability, it may however be essential for the members of the consortium to consider the early stages as; at risk development work. If this model is adopted, then the crucial thing is that consortia members ensure the capacity is there to bid for and win the first contract.

In the long term it should be noted that as well as cutting hub management costs, individual members need to aim to challenge their own management and transaction costs in order to keep the whole process competitive and efficient. This is about entering a commercial market place.

Consortia Management Structure

The consortium needs to be managed by a board of trustees. This needs to be functional, while allowing members to feel a genuine ownership of the democratic process. In most cases, it will not be practical or desirable for all members of the consortium to have a seat on the board. In this case people, who meet the person specification for the role of trustee, should be democratically elected by the members. The members therefore elect the board whose job is to manage the hub and ensure it delivers the maximum benefits to the consortium.



If the board is made entirely of representatives of members who provide services, it may be open to charges of having a conflict of interest. While the initial board is likely to be made up entirely of members who have worked hard to set the company up, this issue should be addressed at the first available opportunity.

The following diagram suggests an ideal board structure:

Trustee	Trustee	Trustee	Trustee	Trustee	Trustee	Trustee	Trustee	Trustee
Independent individual	Independent individual	Independent individual	Associate provider	Associate provider	Full member	Full member	Full member	Full member

This make up provides some protection against conflicts of interest in decision making as it includes representation from three independent individuals, who are not linked to any of the provider members. If recruited properly, these independent members are also likely to bring additional skills and contacts to the makeup of the board. Suggestions might include:

- A local authority commissioner
- Someone with extensive commercial private sector experience
- Someone with financial experience
- A solicitor

Depending on what criteria, such as PQQ (Pre-Qualification Questionnaire) readiness, have been used to select who is eligible for membership, the members may also wish to include a number of seats for organisations who are working towards full membership or associate members, so that that their voice can also be heard.

In looking at this we are assuming that most third sector consortia will be set up to bid for more than one contracting opportunity and that not all members will be interested in all of the contracts that the consortia bids for. The above make up should therefore enable the board to still be quorate if decisions need making regarding internal tendering processes.

Pro's and Con's of the Different Structure Models

Model	Pro's	Con's
Loose Network	<ol style="list-style-type: none"> 1. Builds on existing patterns of partnership working 2. Encourages sharing of information 3. Path of least resistance 	<ol style="list-style-type: none"> 1. Doesn't address rationalisation agenda 2. Doesn't create economies of scale 3. No critical mass 4. Little or no joint bargaining power 5. Procurement agencies are less likely to support it 6. Although individual members of the network may be able to win contracts most will lack the skills or resources to deliver all the aspects of it
Managing Agent	<ol style="list-style-type: none"> 1. Uses existing infrastructure 2. Less vulnerable to fluctuations in output performance 3. Risk is 'managed' by managing agent 4. Could be perceived as "less risky" by funders and commissioners at outset 5. The managing agent is likely to have a strong track record of managing public service delivery and a national profile and reputation 	<ol style="list-style-type: none"> 1. Development support may not be available to help sub-contractors increase their capacity to deliver 2. Sub-contractors are not in control 3. Sub-contractors do not get to agree the management top slice 4. Managing agent may not understand nuances of third sector sub-contractors 5. Management processes and decision making frameworks of managing agent and providers might not match straight away. 6. Risk of institutional baggage hampering the development of a professional relationship 7. Much more difficult for third sector to maintain separate identity and brand

Model	Pro's	Con's
Managing Provider	<ol style="list-style-type: none"> 1. Uses existing infrastructure 2. Less vulnerable to fluctuations in output performance 3. Risk is 'managed' by managing provider 4. Could be perceived as "less risky" by funders and commissioners at outset 5. The managing provider is likely to have a strong track record of public service delivery either locally or nationally 	<ol style="list-style-type: none"> 1. Potential conflict of interest in the way the managing provider allocates the work resulting from the contract to partners or sub-contractors 2. Lack of formal legal control of the process by sub-contractors 3. Sub-contractors do not agree the management costs of the contract 4. Risk of institutional baggage hampering relationships between Managing provider and sub-contractors
Special Purpose Vehicle	<ol style="list-style-type: none"> 1. Genuine accountability to and ownership by local organisations 2. Enhanced bargaining power for local organisations 3. Offers the opportunity to work collaboratively to rationalise back of office infrastructure, reduce costs and procure supplies collectively 4. Should enable individual organisations to focus meeting need, service delivery and performance 5. Encourages the spread of best practice among members 6. Enables the sharing of needs analysis data and the development of structured reporting mechanisms 7. Can enable the development of creative collaborative local solutions to service delivery 8. Can ensure the full needs of local beneficiaries are met 9. Can ensure processes are in place to support smaller and new organisations to work towards full membership of the consortia 10. Enables the sector to collectively manage the achievement of output targets 11. Can enable the sector to unite behind a single ambitious and competitive voice 12. Can enable collaborative responses to service consultations 	<ol style="list-style-type: none"> 1. The forming of a consortia is not a miracle cure 2. Requires a number of local organisations to take ownership of development phase 3. Is not possible to develop this model at short notice in response to a tender that has just been advertised 4. If key commissioners are not convinced of the capability of the third sector to deliver, then a consortia approach may not change this 5. Individual members will hand over some control of their future despite owning the new structure 6. Smaller members may still feel overlooked in internal tendering processes 7. Members may worry about cliques of individuals or organisations having too much control 8. There may still be conflicts of interest and disagreements over strategic direction or shared values 9. It will require the development of rigorous performance management procedures for handling failure 10. Members will have to maintain focus on remaining competitive, driving down costs and ensuring they continue to deliver the best possible service 11. The members must ensure the effective management of the hub 12. Due to turnover thresholds and experience, the new organisation may be limited as to what tenders it can bid for in the early years.

Conclusions

Individual third sector organisations have a lot to gain from collaborative working. Indeed to not collaborate with other providers may effectively mean the same as deciding to close down or at least deliver your activities without public funding of any kind.

Given the appeal of local accountability and democracy to most small to medium service providers, forming a consortia is bound to seem like the most appealing option. This cannot be entered into lightly or it will fail. It is also extremely important that once initial momentum has been developed, that it is sustained; otherwise the process will stagnate and potentially collapse altogether.

Equally not all private sector organisations are inherently 'evil'. They will enforce rigorous standards on the sector's performance, but if the sector cannot meet these in the long term our consortia will loose out in competitive tendering against private sector prime contractor's any way. Some third sector organisations will in fact find the private sector's straight forward approach and clear reasoning refreshing, when compared to third and public sector politics.

Ultimately, all forms of collaboration have their merits and the needs and views of the commissioner will shape the market at the local level in this regard. While quality of service is likely to matter to beneficiaries, the legal structure of how the providers collaborate is unlikely to matter to most people. All third sector providers need to have an understanding of what options are open to them in order to make the commercial decisions that will enable us all to carry on delivering the services we want to deliver.

Further Support

Bassac Collaboration Support Programme:
<http://www.bassac.org.uk/our-programmes/collaboration>

Consortico:
<http://www.consortico.com/>

The Gershon Review:
http://webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/spending_sr04_efficiency.htm

NCVO Collaboration Support Programme:
<http://www.ncvo-vol.org.uk/advice-support/collaborative-working>

Sheffield Wellbeing Consortium:
<http://www.sheffieldwellbeing.org.uk/>

Sir Philip Green Review:
<http://download.cabinetoffice.gov.uk/efficiency/sirphilipgreenreview.pdf>

Social Investment Business:
<http://www.thesocialinvestmentbusiness.org/>

Voluntary Action Sheffield Consortia Development Toolkit:
<http://www.vas.org.uk/services/procurement/index>

3SC:
<http://www.3sc.org/>

ACEVO Commissioning Support Helpline

Contact us for advice and support on procurement and commissioning issues:

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T: 0207 280 4937

W: www.acevo.org.uk/commissioning