

Bidding consortium: Joint bid submission as a strategic procurement instrument

A bidding consortium is an association of several legally independent companies that jointly and with a unified declaration submit a bid for a tender. The aim is to jointly perform services that a single company cannot offer on its own or on economically viable terms. For buyers, a bidding consortium represents a special constellation in bid evaluation and contract design that requires clear rules on liability, leadership and allocation of services.

Key facts

- A bidding consortium is a non-legal-entity association of several suppliers for the joint submission of a bid.
- Typical forms are Arbeitsgemeinschaften (ARGEs) for project contracts and consortia for larger supply or investment projects.
- Bidding consortia are generally jointly and severally liable towards the contracting authority, so the quality and stability of each member must be assessed.
- The association requires a clear internal agreement (consortium agreement, pooling agreement or ARGE agreement) governing leadership, rights and obligations.
- In public tenders, the designation of an authorised representative and the submission of uniform declarations are customary.
- In practice, a member may also be a subcontractor supplementing missing recommendations, provided the award conditions permit this.

Definition: bidding consortium

A bidding consortium is understood as the voluntary association of two or more suppliers who jointly submit a tender bid and intend to perform the contractual services jointly. The association is typically not a legal entity and exists only for the purpose of the tender and the subsequent contract execution.

Distinction from subcontracting and the supply chain

A bidding consortium differs fundamentally from subcontracting: while a subcontractor is incorporated unilaterally by the main contractor without its own role in the bid, members of a bidding consortium appear to the contracting authority as joint contractors and share responsibility. Pure buyer-side purchasing alliances must also be distinguished: there, buyers join forces to pool volumes, whereas a bidding consortium forms on the supplier side. For buyers, this distinction is important because it affects the number of direct contractual parties, the liability situation and the scope for shaping changes over the course of the project. The term is also relevant in the context of pre-qualification, when several suppliers must jointly demonstrate their capability, and in the supplier register, where such associations are often recorded separately.

Basic legal structures

In legal terms, the bidding consortium is primarily an association under the law of obligations, governed by the consortium agreement (also called a pooling agreement or ARGE agreement). In this agreement, the members determine who the authorised representative is, how decisions are made, how the orders are allocated internally and who is liable towards third parties. Towards the customer, the members are typically jointly and severally liable, meaning each individual participant can answer for full contract performance. Whether and to what extent a liability exclusion of individual members is effective must be examined on a case-by-case basis, particularly where public law or industry-specific regulations apply. Buyers should therefore review or request the consortium agreement in good time.

Methods and approach for evaluating bidding consortia

Evaluating a bidding consortium requires an adapted approach compared with classic single bids. Buyers must assess the capability, performance and reliability of each individual member while at the same time ensuring that the consortium as a whole can function.

Pre-qualification and capability assessment of all members

The starting point is a pre-qualification in which the capability of each individual member is examined. In practice, contracting authorities require the same evidence from all participants as from single bidders: references, financial ratios, certifications and quality assurance evidence. If individual members fail the examination, it must in general be clarified whether they can be replaced or whether the entire bid is disqualified. Particularly important is the joint safeguarding of risk areas, for example when one member performs the core manufacturing activities and another provides the technical documentation. It is helpful if the contracting authority is prepared to issue clear evaluation criteria tailored to bidding consortia.

Analysing the structure of the consortium

Before bid evaluation, the internal structure of the bidding consortium should be understood: Who leads? Who performs which parts of the services? How are interfaces and handover points defined? A look at the consortium agreement clarifies whether a recognisable leadership structure exists or whether the consortium is loosely organised. Particularly relevant for the subsequent contract design are provisions on decision-making authority for changes, termination of individual members and replacement in the event of failure. Buyers should clarify these questions ideally before contract award and document the results in the award documentation. This also includes the question of whether several members with comparable capabilities in the same area should be involved, or whether a clear division-of-labour configuration is desired.

Contract and award design

In contract design, the buyer has several levers: he can conclude a joint contract with all members, combine individual member contracts, or organise contract execution via a lead agent. A clear selection decision on the contract form should already be made during the enquiry phase, so that bidders can structure their bids accordingly. A uniform NDA regime across all members is also helpful to regulate know-how protection consistently. For recurring services over several years, careful framework agreement maintenance is recommended, in which changes of individual members, new sub-projects and adjustments to the consortium are contractually defined. Short-term adjustments after the end of the tender are in practice frequently a source of conflict and delay.

Key KPIs for managing bidding consortia

Although there are no metrics that apply exclusively to bidding consortia, classic delivery and quality KPIs can be applied to the consortium. The crucial point is that the KPIs are measured for the bidding consortium as a single unit and linked to each individual member within the framework of overall responsibility.

Delivery and project metrics

Key operational metrics are schedule adherence measured via On-Time Delivery (OTD), the material availability check (ATP) for consortium deliveries, and milestone adherence in projects. For bidding consortia with multiple production sites, it makes sense to record the metrics per member first and then consolidate them into an overall result. In this way, weak points can be quickly identified before overall performance is impaired. A service level target that addresses not only overall performance but also the interfaces between members is equally sensible. In practice, it has proven worthwhile to record such targets contractually from the outset and review them at regular intervals.

Quality and risk metrics

On the quality side, the rate of complained-about deliveries, complaint rates and compliance with industry-specific evidence such as the Certificate of Analysis play a central role. For bidding consortia, the stability of the consortium itself must additionally be understood as a quality aspect: the exclusion of a member or a deteriorating flow of information between participants is frequently reflected in rising complaint or delay figures. Supplementary indicators such as the quality of supplier audits of individual members and responsiveness to change management requests can also be used. It is important that the evaluation does not rely exclusively on aggregate data, but also permits conclusions as to which member bears primary responsibility for systematic deviations. Only then can adjustments be made in a targeted rather than blanket manner.

Risks and controls for bidding consortia

Bidding consortia offer considerable advantages in terms of competence supplementation and risk sharing, but also entail specific risks that must be controlled. In particular, internal coordination, the redistribution of liability and the replaceability of individual members highlight the special management requirements.

Liability and coordination risks

Since most bidding consortia are jointly and severally liable, every member can in theory be held recourse-liable for the entire contract performance. In practice, however, the liability consequences are distributed according to the internal agreement, which carries risks if that agreement is inadequate or not recognised by the contracting authority. Furthermore, a coordination risk arises when there is no clear leadership structure or when members pursue divergent interests. Especially in critical phases, such as schedule or quality problems, a lack of clear responsibility can lead to friction losses and delays. Control measures include regular project meetings with all participants, documented escalation paths and a supplier audit that addresses collaboration within the consortium rather than isolated member attributes only.

Replacement of members and subcontractors

A common risk arises when a member leaves the bidding consortium, is made replaceable or itself finds

itself in a crisis. The contracting authority should establish clear rules on replacement in the award contract: under what conditions may a member be replaced? Does the contracting authority have to consent? Must replacement members meet the same pre-qualification criteria? Similar questions arise when subcontractors are incorporated at a later stage. In practice, clear consent and evidence obligations closely tied to the original evaluation criteria are sensible here. Without such provisions, the customer may find itself faced with services being rendered by a different company than originally tendered and evaluated.

Breach of antitrust and procurement law

Supplier-side associations can become problematic under competition law when they serve not to complement services but to agree on prices or divide up markets. Buyers should therefore watch for signs such as identical bid patterns, suspicious coordination before submission deadlines or links between nominally independent suppliers. In public procurement, bidding consortia must also meet formal requirements, such as uniform declarations and the designation of an authorised representative. Breaches of such requirements can lead to the bid not being considered. Where in doubt, legal or tax aspects should be examined by specialists on a case-by-case basis, as these areas are highly sensitive and strongly case-dependent.

Current developments and digital support

Bidding consortia are being re-evaluated in light of the increasing digitalisation of procurement and the growing pressure on supply chain security in industrial networks. Buyers today benefit from digital tools and platforms that improve collaboration and transparency across supply chains.

Digital platforms and pre-qualification

Digital platforms considerably facilitate the pre-qualification of bidding consortia, since evidence, certificates and references can be managed centrally. It is important that the platform reflects the capability of individual members and their mutual interdependencies. In practice, buyers often choose a combined approach: technical and quality assurance data are captured digitally, while cooperation-related aspects – leadership structure, decision-making paths, communication modalities – are examined in structured interviews. A look at Supply Base Optimization as an overarching strategy is also helpful here: bidding consortia can be part of a targeted differentiation of the supplier base in order to tap bottleneck competences missing from one's own network.

Crisis resilience, compliance and sustainability

Against the backdrop of supply chain disruptions, buyers today increasingly ask for a Business Continuity Plan (BCP) that the bidding consortium can present as a consortium. Compliance and sustainability aspects are also relevant: certifications, evidence of raw material origin and aspects such as the recycling rate are increasingly becoming evaluation criteria that are collected for each individual member and consolidated at consortium level. At the same time, documentation requirements are rising, for example through a clearly structured award documentation in which the entire communication and evaluation can be traced without gaps. Bidding consortia that prepare such evidence in a structured manner gain a measurable competitive advantage in practice, as they reduce the buyer's audit costs.

Typical metrics

On-Time Delivery (OTD): > 95 %

Typical benchmark for release and project deliveries within a consortium

Complaint rate: < 2 %

Industry-standard value; for consortia, measured per member and cumulatively

Milestone adherence: > 90 %

Proportion of project milestones achieved on time within the consortium

Practical example

A medium-sized mechanical engineering company tendered a special machinery contract that encompassed both complex milling and welding components and a specialised electrification. No single supplier on the market could cover the entire scope of services to specification, so three suppliers formed a bidding consortium. The buyer at the mechanical engineering company audited each member individually via supplier audits, set uniform service level targets and required the consortium agreement to be submitted before contract award.

- Preparation of a detailed award documentation with all evaluation steps and protocols
- Obligation of all members to submit separate evidence and certificate packages
- Designation of an authorised representative with clear escalation and change management authority
- Regular joint project meetings and joint BCP exercises to safeguard critical phases

Conclusion

Bidding consortia are a proven instrument for offering complex or service-specific contracts that individual suppliers cannot cover alone. For buyers, this entails particular requirements in capability assessment, contract design and ongoing management. Those who define clear rules on leadership, liability, replacement and metrics can exploit the advantages of the consortium and avoid the typical friction losses. What is decisive is the early and systematic examination during the enquiry phase, not only after contract award. If this is implemented consistently, the bidding consortium is a fully fledged and often cost-effective alternative to the single bidder.

Frequently asked questions

What is a bidding consortium?

A bidding consortium (consortium) is the voluntary association of several independent suppliers who jointly submit a tender bid and perform the contract jointly. Internally, a consortium agreement governs leadership, rights, obligations and liability. Towards the contracting authority, the members are generally jointly and severally liable.

What is the difference between a bidding consortium and an ARGE?

The Arbeitsgemeinschaft (ARGE, joint venture) is the most common form of bidding consortium found in practice, particularly in the construction and plant engineering industries. The two terms are often used synonymously. The ARGE is the concrete contractual implementation of the more general term bidding consortium.

How many members can a bidding consortium have?

There is usually no fixed maximum number. In practice, a bidding consortium often comprises two to five

members, with the number depending on the complexity of the contract. More members increase the breadth of competence, but also the coordination and verification effort for the contracting authority.

Can a member of a bidding consortium be replaced at a later stage?

Yes, in principle this is possible with proper regulation, but it is usually subject to the approval of the contracting authority. The replacement member must typically meet the same capability and pre-qualification criteria as the departing member. Without an explicit contractual provision, a change of members is unregulated in practice and prone to conflict.

Are bidding consortia legal entities?

The classic bidding consortium is generally not a legal entity and serves solely the purpose of the tender and contract execution. It is formed by contract and ends upon completion or termination of the project. Whether a different legal form is chosen in an individual case depends on the industry, contract volume and risk assessment.

When is a bidding consortium worthwhile for suppliers?

A bidding consortium is worthwhile when individual suppliers do not possess the full competence, capacity or authorisation required for a tender. It is also frequently chosen in order to share economic risks on large projects. For buyers, this often results in a wider selection of qualified bids that would not otherwise have materialised.