

**LANCASTER
CITY COUNCIL**

Promoting City, Coast & Countryside



LANCASTER CITY COUNCIL

PROCUREMENT THROUGH PARTNERING GUIDELINES

1st Edition

November 2004

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1	Partnering is a Contracting Activity	2
2	The Partnering Process	4
2.1	Planning.....	4
2.2	Tendering	4
2.3	Partnering Workshops	5
2.4	The Contract.....	5
2.5	Continuous Improvement.....	5
2.6	Contract Renewal	5
3	Principles of Partnering	6
4	Partnering Tips	6
	Appendix A	8
	TEN BASIC QUESTIONS ABOUT PARTNERING ANSWERED	8
	Appendix B	11
	PARTNERING CHARTER	11

1 Partnering is a Contracting Activity

- 1.1 With Best Value procurement increasing the focus on competitive purchasing practices in the public sector, contracting is becoming increasingly sophisticated and aimed at generating maximum benefits for local authorities.

Partnering is one of the more advanced contract management techniques which embraces joint management, process measurement and improvement tools to achieve enhanced contract performance and improved customer service.

- 1.2 Advanced models of partnering include strategic alliances and facilities management arrangements - both long-term supply relationships of strategic importance to customer service delivery.
- 1.3 In partnering arrangements, suppliers and contractors are selected using multi-criteria selection process based on functional and performance-based specifications. Partners are also selected on reputation, their own ability to control and improve business processes, their understanding of the vision, mission, values and objectives of the Authority and for their ability to become part of a team. In these contracts innovative payment arrangements can reflect an understanding of value for money and total cost.
- 1.4 One of the important elements of partnering is that partners share the benefits and the risks in a previously agreed and quantifiable manner. For example, cost savings could be shared, as could profit, and both parties will share common objectives focused on achieving the desired outcome, and will have equal access to, and openly share, information and knowledge.
- 1.5 Through 'Re-thinking Construction' (the Egan Report) Government are keen for local authorities to explore new ways of working and part of that agenda is to try and get away from the adversarial nature of some contracts through working in partnership with the private sector.
- 1.6 The application of a partnering approach is widening but might not suit all situations. Generally, partnering should be adopted in situations where strategic gains in cost and quality can be delivered and where service requirements are complicated or continuously developing.
- 1.7 Partnering strengthens relationships with contractors and suppliers, and is arranged through normal contracting processes in accordance with established procurement procedures. Active contract management techniques are employed to ensure the contract requirements are delivered. The contract should be re-appraised periodically using a pre-arranged and agreed procedure and process to ensure openness, transparency and best value for money, and after an agreed period (e.g. five years) the contract should be re-tendered to ensure open competition.

CONTRACT PLANNING

PLANNING



CONTRACT INFORMATION

TENDERING



PARTNERSHIP WORKSHOP



CONTRACT MANAGEMENT

THE CONTRACT



IMPROVEMENT



CONTRACT RENEWAL

- Identify customer needs
- assess risks and issues
- consider partnering and remuneration options
- consider procurement plan/strategy

- establish selection criteria
- issue public tender inviting partnering proposals
- evaluate proposals and remuneration models

- set common objectives
- develop issue resolution process
- establish joint management structure
- establish action plans

- include deliverables/outputs
- develop performance criteria
- incorporate performance measures
- prepare contract management plan

- monitor performance
- measure customer satisfaction
- plan-do-check-act
- active contract management

- evaluate contract
- re-tender to ensure open competition
- re-award contract

2 The Partnering Process

2.1 Planning

2.1.1 Partnering should be considered for contracts that are critical, strategically important or require an innovative approach. Preparing a procurement plan is particularly important for strategic, innovative or complex projects or where the contract value is high (e.g. likely to exceed £1 million). This plan should provide a checklist of key issues and set out how critical specific services are to core business activities. Arrangements should be made for the potential risks associated with the partnering contract to be considered, evaluated and placed where they can best be managed. There should be an effective system for identifying control and risk management issues which considers:

- What would be the potential impact should a risk materialise?
- What is the probability of the risk materialising – high, medium or low?
- What would be the impact – high, medium or low?
- How can the risks be minimised, managed or mitigated?

2.1.2 The Council needs to clearly define customer needs (which of course are dynamic) and this information should be incorporated into the tender specification and used throughout the lifecycle of the contract, and particularly to monitor the contractor's performance.

2.1.3 Consideration should also be given to intellectual property ownership, payment mechanisms and associated incentives, which will form an important element of the partnering arrangement.

2.1.4 In establishing a partnering contract the risks and human resource issues, such as employment status and possible union involvement, should be considered. The financial and legal responsibilities of all parties should also be identified at the planning stage and a contract management plan should be developed.

2.2 Tendering

2.2.1 The partnering selection process follows tendering guidelines in a robust and auditable process and results in a formal contract.

2.2.2 As part of the tendering process, an appropriately skilled selection team should be used to develop performance based selection criteria (which may include the extent to which risk is proposed to be shared) to be used during evaluation. Partnering proposals and remuneration models should then be evaluated against the predetermined selection criteria and contracting objectives.

2.2.3 The selection team should conduct a due diligence process to ensure the recommended tenderer has the capacity, including financial viability, to fulfil the contractual obligations.

2.3 Partnering Workshops

The purpose of the partnering workshop is to establish a sense of joint mission and set common objectives and guidelines for the further development of the relationship.

- 2.3.1 Issue resolution processes, joint management structures and action plans are developed during partnering workshops.
- 2.3.2 It is important that the people who have the greatest influence in making the relationship work, not just senior management, attend the workshops.
- 2.3.3 Senior managers should attend if they play an active role in work processes, or if their presence is considered necessary to demonstrate commitment.

2.4 The Contract

- 2.4.1 Partnering relationships are commercial contracts that require performance measures through the use of Key Performance Indicators (KPI's) to assess not only the effectiveness of the partner organisation but also the Council's ability to deliver. Rigorous contract management and performance reviews are required to ensure contract obligations are delivered. Detailed guidelines on contract management are available from the Internal Audit section of the Intranet within Financial Services.
- 2.4.2 Most partnering relationships are also outlined in a non-binding Partnering Charter (see Appendix A) which formally details the mission and objectives of the partners and demonstrates the commitment of the key people involved.

2.5 Continuous Improvement

- 2.5.1 Continuous improvement in partnering involves a team approach to determine whether work processes are meeting the needs of customers, and where necessary, to improve them.
- 2.5.2 Performance measures are established and regularly monitored, and combined with customer satisfaction measures, provide valuable data for continuous improvement.
- 2.5.3 Joint process improvement teams should be established to investigate problems or pursue improvement opportunities.
- 2.5.4 These teams should be trained in the partnering philosophy, team development, conflict resolution, the Plan-Do-Check-Act improvement cycle, and quality improvement techniques.

2.6 Contract Renewal

- 2.6.1 The rules of transparent and fair competition, accountability and probity must also be observed in the renewal of partnering contracts.
- 2.6.2 When a formal partnering contract expires it should be evaluated against the contract objectives and then publicly tendered again to ensure open competition.

- 2.6.3 This tendering process will encourage competitive tenders and allow innovative offers to be received. This will result in the best value for money solution when the contract is re-awarded.

3 Principles of Partnering

- 3.1 Partnering relationships should be established according to the following principles and everybody involved in the partnering arrangement needs to understand and accept these principles:

Commitment

Partnering requires considerable effort, innovation and patience. Open book accounting would be fundamental to this commitment.

Common Objectives

Partners must identify, understand and support each other's objectives. Partners work together to translate their individual objectives into common objectives, and strive to achieve the same goals.

Open and Honest Communication and Trust

Partnering establishes principles and systems for the timely and accurate exchange of information to develop trust and efficient management. Business relationships could suffer through the guarding of information and poor responsiveness.

Ethical Behaviour

High ethical standards are fundamental to partnering and the conduct of all parties must be totally transparent and ultimately accountable.

Teamwork

A team approach (and there is no reason why end users cannot be represented on the team) is essential in partnering and lays the foundations for continuous improvement. Teamwork builds trust and keeps the relationship successful. It is also a good means of resolving problems.

- 3.2 Partnering is about value for money, exploring new ideas and sharing risk and reward.

4 Partnering Tips

- 4.1 The introduction of partnering into a public authority should be carefully planned, with the following issues considered:

- Partnering works best within an environment that understands quality management, customer focus, process improvement, participative leadership, and team practices.
- Partnering should be endorsed as corporate policy.
- Partnering should be phased in slowly to allow a cultural transition to take place.

4.2 Successful partnering arrangements have considered the following:

Education

Partnering requires a new way of thinking within a public authority. As suppliers and contractors should be seen as an extension of the public authority and treated as members of the team, informing and educating those involved is critical.

Personalities

The key personnel involved in partnering are critical to the success of the relationship. These relationships need to be developed; changes to these personnel can impact on the effectiveness of the arrangement and need to be managed.

Resolution Procedures

It is essential that partnering arrangements include effective and clearly defined conflict resolution procedures that work.

Win-Win Outcomes

Effective partnering is built on a continuing recognition that the arrangement results in win-win outcomes for all parties.

Customers

Do not lose sight of the fact that we provide services for our customers. A suitable mechanism needs to be put into place:

- to evaluate services from their perspective
- to take account of their views
- to involve them as appropriate in service development proposals
- to show them that we care.

Appendix A

TEN BASIC QUESTIONS ABOUT PARTNERING ANSWERED

1 What is a partnering arrangement?

The legal definition of a partnership is that of two or more parties coming together, usually (but not always) to exploit a commercial opportunity. Partnerships can be project based, time based or open-ended. One of the important elements to a partnership is that the partners share both the benefits and the risks in equal measure.

2 Why partner?

The Government is keen for local authorities to explore new ways of working, and part of that agenda is to try to get away from the adversarial nature of some contracts, particularly those created during the CCT era. There is no doubt that some of the Council's contracts have been, and possibly still are, adversarial in nature. Partnerships in the private sector are seen as good examples of a way of working to which local government should aspire. However there are benefits to the private sector in working in partnership that do not necessarily translate through into the public sector. In the private sector, partnerships are used to aid supply chain management, in other words each partner adds value, shares the risks (and reduces costs) throughout the supply chain. Local authorities are by and large consumers of goods and services rather than part of the supply process.

Partnerships can produce economies of scale, encourage greater capital investment, capture specialist skills and knowledge and produce better operational management.

3 Are they likely to affect me?

Under the Best Value regime you should always be trying to think of other means of provision that improve on existing arrangements, and potential partnerships should be considered. Partnerships in the true sense of the definition are unlikely to be significant in number, however the potential for altering the way we work and our attitude to contractors as outlined in this paper are likely to have a far more significant impact.

4 Don't the current rules prevent partnership arrangements?

Certainly the Council's Contract Procedure Rules and Financial Regulations will need to be looked at in the light of Best Value and developments in partnership arrangements. However it is quite possible to enter into partnership arrangements by utilising the current Contract Procedural Rules.

5 This document talks about partnerships and continuing competition. Aren't the two opposites?

No. Whilst partnership contracts will probably be for longer periods than more conventional contracts, they will not be infinite. Renewed competition from time to time has the benefit of testing value for money, as well as preventing complacency and too cosy a relationship developing.

6 How do I get started?

You should above all have a vision for the service concerned, and this could be informed by the outcome of the fundamental performance review. A market analysis is the usual starting point (indeed the market players will almost certainly want to know whether there is to be an in-house competitor). A combination of any or all of the following would be classed as a market analysis:

- an advertisement in appropriate trade journals could invite proposals (this may also have the effect of stimulating a market where currently it is weak);
- questionnaires could be sent to selected suppliers to ask how they could add value through partnership arrangements;
- other local authorities (UK and world-wide) could be asked for their approach;
- compile a 'scrapbook' of successful partnership arrangements/ suppliers.

Even handiness is important, and you should be careful that any subsequent specification does not reflect one supplier's product.

At this stage no decision has been made to procure therefore the public procurement rules do not yet apply. But once you have made that decision you must follow the rules as set out in the Contract Procedural Rules and the EU's public procurement rules.

7 Is there anything wrong with talking to the private sector?

Best Value fundamental performance reviews will in any event require you to talk to and learn from the private sector. These discussions may help form a view that a partnership may be beneficial to the delivery of a particular service. You should however be even handed in your approach and document all discussions.

The private sector is aware of the Government's initiatives on partnerships and you may well have already received approaches. There is some truth in the suggestion that some private sector companies see partnerships as a means of obtaining work without the rigours of competition. That is not the case.

8 Is there such a thing as a free lunch?

No. It is extremely unlikely that you will be approached through purely altruistic motives and you should bear that in mind at all times. Whilst these need not be rejected out of hand, you should ask yourself whether to proceed would affect your long term strategy or lock you into some arrangement from which you could not extricate yourself, or at a cost. For example the offer of free software may limit or close off future choices. The receipt of anything free may induce a false feeling of loyalty and influence future decisions or strategies.

The personal receipt of any such offers is of course covered by the Codes of Conduct and Financial Regs.

If the private sector approaches you, you must carefully weigh the proposal against your overall strategy. If further consideration of the proposal would benefit that strategy, then do so. You should always warn any person making an approach that if the Council was to proceed then it would more than likely result in a procurement exercise. Thus they should not reveal anything which later may be interpreted as a breach of confidence (or indeed copyright).

Even handedness is important and it is always wise to document what has happened. If you are concerned that your position is becoming compromised you should discuss the issue with your line manager.

9 How will partnering differ from traditional contracts?

The whole thrust of this paper is that partnering requires a change of culture away from more traditional (or attritional) attitudes. In addition partnerships may well embrace issues like Open Book Accounting, Continuous Improvement, Price Benchmarking and Annual Performance Reviews (service and product reviews; customer satisfaction; etc.).

10 What if I choose the wrong partner?

A rigorous procurement process should enable you, with clear evaluation criteria to select a suitable partner. There may be occasions when the partnership does not work out or the costs far outweigh the benefits. Whilst mechanisms can be built into contracts, that will not always be possible especially where contractors will need significant periods to recover outlay.

Appendix B

PARTNERING CHARTER

Most partnering relationships are outlined in a non-binding partnering charter document. The purpose of the charter is to detail the mission and objectives of the arrangement and to demonstrate the commitment of the key people involved. The following is a typical example of a partnering charter.

PARTNERING CHARTER

Our Mission

To complete the project on time, within budget, to specified standards and to the satisfaction of all key stakeholders

Common Objectives

- Complete on time
- Complete on or below budget
- Fair return to the Contractors
- No adverse effects on the environment or to public amenities
- Enhance reputations
- Customer satisfaction
- Work together in the future
- No disputes
- Safe construction
- Good Working Relationships
- Minimal disruption

Supported By

Note: ***The 'Partnering Charter' will be different for every partnership arrangement. The above Charter, taken from a construction project partnership, is one example only.***