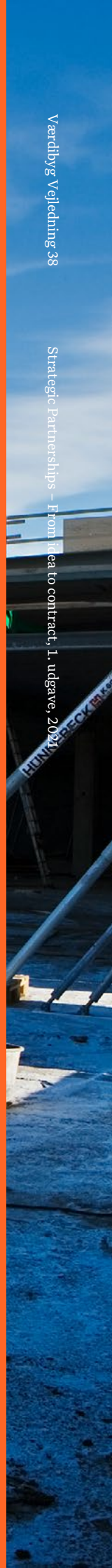


Strategic Partnerships – From idea to contract



TWO GUIDES ON STRATEGIC PARTNERSHIPS FROM VÆRDIBYG AND REBUS

STRATEGIC PARTNERSHIPS – FROM IDEA TO CONTRACT

About the early considerations, preparation, tendering and contracting. The guide is particularly aimed at the client and their advisers in the early phases, but it can also provide the delivery team with a valuable insight into the client's considerations as well as advice on how the delivery team can prepare and contribute in the early phases.

STRATEGIC PARTNERSHIPS – IMPLEMENTATION OF THE COLLABORATION

About the establishment and start-up of the partnership as well as the ongoing collaboration and implementation of projects. The guide is particularly aimed at the strategic partnership as an overall organisation, from the initial start-up to completion and evaluation of the collaboration. The guide also touches on which particular points the client and delivery team should pay attention to internally in, for example, the start-up, portfolio management and project management in the collaboration

STRATEGIC PARTNERSHIPS HAVE GREAT POTENTIAL

Strategic partnerships are a relatively new form of agreement and collaboration in construction, where a client offers a portfolio of upcoming tasks over a number of years in a single package to a delivery team. The long-term collaboration and repetition in projects and processes allows for greater budgetary security, fewer conflicts and better quality for the benefit of both the client and the delivery team. With many projects in the portfolio, there is an improvement in both the opportunities to achieve better processes and cooperation over a longer period of time – as well as the opportunity for the parties to gain a closer relationship and a deeper understanding of each other. The significant possibilities give the parties in the partnership a great incentive to invest in a development that extends beyond the individual project.

At the same time, it is a form of collaboration that places great demands on all the parties involved to have the will, robustness and competencies to build and enter into trust-based relationships and develop common business models and processes. Each party must enter into the partnership with people who can make decisions and have a genuine interest in – and holistic understanding of – the partnership's common needs. Establishing such a collaboration is an innovation and change process that involves major or minor changes in most organisations. It requires that all parties involved set aside unilateral interests and quick results for their own business and instead focus on – and work for – mutual trust and long-term benefits for all parties.

This guide is based on experiences from ongoing and planned strategic partnerships and does not present specific solutions but instead focuses on principles, opportunities, pitfalls and good advice for strategic partnerships. Clients can find a lot of inspiration in previous strategic partnerships. But there is also a need for an adaptation of the partnership model in relation to the business and culture of the specific client and the companies involved – and adaptation to the current market situation.

In this guide, we take a closer look at the considerations and the preparatory work that the parties – both the client and the delivery team – must go through up to the signing of the contract. It is about preparing and offering a large project portfolio and about putting together a team of companies that can accomplish the projects together with the client. Before tendering and entering into a contract, it can be beneficial for both the client and the delivery team to find out more about these in the guide on the implementation of the collaboration.

Establishing a strategic partnership is a big task, but the potential gains make it worth the effort.

Værdibyg and REBUS, 2021

Værdibyg is a collaboration between:



STRATEGIC PARTNERSHIPS – FROM IDEA TO CONTRACT

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STRATEGIC PARTNERSHIPS

A strategic partnership is a long-term collaboration between a client and a delivery team on a collective project portfolio. A delivery team includes at least one contractor as well as an architect and an engineering consultant, but often several companies that may have special competencies, such as a partnership developer. The legal basis for the partnership agreement between the client and the delivery team is typically based on a framework agreement, where the contractor for the entire delivery team is a developer or a consortium.

The long-term aim of the value-based collaboration is to provide the opportunity for the client and the delivery team to build an organisation across the companies involved and to work with development, innovation and the optimisation of solutions, products and not least processes as a result of many repetitions over several projects.

Among the most important procedural measures for ensuring good cooperation between the parties are:

- Establishment of common sets of values, common goals and a clear alignment of expectations
- Early involvement of all parties and relevant competencies
- Portfolio management and long-term planning
- Finding solutions instead of thinking in terms of conflicts and responsibility
- Clarification of risks and the joint management of these
- Development and innovation
- Evaluation and learning across projects and parties

THE MANY POSSIBILITIES OF STRATEGIC PARTNERSHIPS

There are many possibilities in working in a long-term strategic partnership. These include the possibility for a better construction in terms of quality as well as a more economically optimal construction. Among the most important are¹:

- Better opportunity to clarify project needs along the way with advice so that action is not taken on a limited knowledge base
- Better understanding of user needs
- Better opportunity to pursue goals such as sustainability, user experience and circular economy
- Better opportunity for ongoing involvement of the client in the project development
- Fewer tenders and transaction costs in connection with tenders
- High flexibility for the use of resources in and across projects
- Possibility for lower costs as a result of repetitions
- Possibility to achieve a reduced length of time from idea to commissioning of a building as well as shorter execution time with shorter running of the construction site and an earlier commissioning, which also generates a financial gain
- The companies in the delivery teams receive a predictable turnover over a number of years
- Economies of scale and strategic procurement of materials
- Opportunity to merge the construction phases and achieve better overall economy and lower operating costs

¹ See also Appendix 23: BUILD Report: Strategic partnerships in the City of Copenhagen (experiences and results 2017–2019)

The effects of the well-functioning strategic partnership will typically be the improvement of:

- Workflow and capacity utilisation
- Utilisation of resources across organisations and supply chains
- Openness and the building of mutual trust
- Understanding and learning across companies and projects
- Testing of solutions, better buildability and better gathering of experience
- Processes and collaboration
- Stakeholder management

Since the strategic partnership is a collaboration established on the basis of a project portfolio, this form of collaboration will only be relevant for some types of client. Housing organisations, municipalities and regions all have ongoing project portfolios that can be brought together in one tender for a strategic partnership – possibly across multiple clients who have similar projects (e.g., multiple municipalities or multiple housing associations). For many years, there have been long-term collaborations between private clients and fixed delivery teams, which in several areas are reminiscent of what public clients can now establish.

CONDITIONS AND BARRIERS

The client's opportunities for tendering for building and construction tasks are initially associated with some considerations regarding risks and forms of collaboration. When choosing a tendering strategy, there are several aspects to consider. In the following example, the aspects are complexity and portfolio. This includes an assessment of whether these are projects with conditions that include a high or low degree of complexity and uncertainty. High-complexity projects can, for instance, be ones involving many actors and decision-makers, such as in municipal and public projects (the vertical axis in Figure 1). In addition, it is a requirement for a strategic partnership that the client has a portfolio of projects with a certain scope and uniformity and that this portfolio must be completed within a shorter number of years (the horizontal axis in the figure). A well-functioning partnership requires that there is continuity and an even utilisation of capacity in the flow of work. A lack of continuity is a challenge for the success of the partnership and it can be a big problem if the client does not have the security to be able to initiate sufficient projects (e.g., as a result of the political decision-making process for public clients).

MANAGEMENT'S ANCHORING AND SUPPORT IS ESSENTIAL

For both the client and the companies in delivery teams, the managerial anchoring and support is a crucial condition. For public clients, it can be a challenge if politicians or government officials have difficulty understanding the partnership model because they have an ingrained belief that classic price competition provides assurance that the price is right. Here, the same arguments apply to strategic partnerships as in other cases; that the form of collaboration can provide greater budgetary security, fewer conflicts³ and better quality. In order for the client to provide their political support with the assurance of correct prices, several strategic partnerships have chosen that the delivery team must use Molio's Price Data as their starting point when determining the costs of trades on the individual projects.⁴

3 Experiences from the first partnerships show a very low level of conflict. For instance, in the first four years of the partnership ByK with TRUST's lifetime, no money has been spent on external lawyers. See also Appendix 23: BUILD Report: Strategic partnerships in the City of Copenhagen (Experiences and results 2017–2019)

4 Read more in the section on setting price in the chapter 'Tendering of the Partnership'.

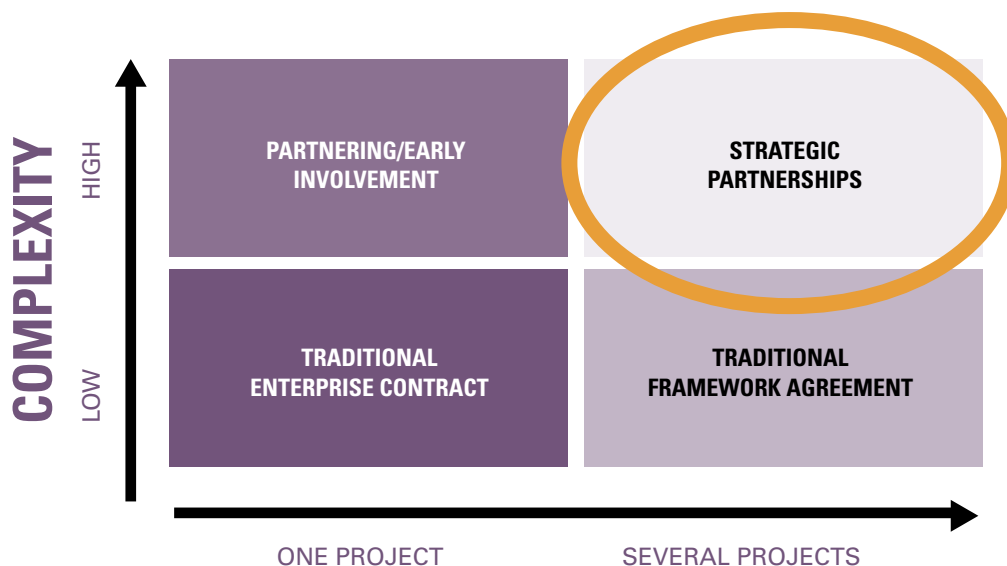


Fig 1. Example of the client's considerations and different opportunities for offering building and construction tasks².

2 The figure is adapted from Jakob Brinkø Berg's PhD dissertation: 'In the pursuit of sustainable building renovation – strategic partnerships and new business models in construction', Technical University of Denmark, 2021.

For delivery teams, it is a challenge to create a common business model, since the companies as a rule have different business models, and it can be difficult to share responsibilities and risks in a collective setup.

A long-term, close and value-based collaboration is new for many companies. The individual company must therefore make it clear what it wants to achieve and whether it is ready to enter into such a collaboration. A strategic partnership means that a separate organisation is created across the companies involved and that the individual parties must adapt their own organisation so that they can also 'accommodate' entering into the collaboration with the partnership. It can be a special challenge to create a connection between the new organisation that is part of the partnership and the companies' parent organisations. However, there are several ways to solve this challenge, and inspiration can be found in previous strategic partnerships.

STRATEGIC PARTNERSHIPS REQUIRE PREPARATION – AND TRUST!

Entering into strategic partnerships requires thorough preparation. Not only at the client but also at the companies in the delivery team. Expenses for the preparation of tendering causes significant transaction costs for the client. Although tendering costs are saved during the implementation of the individual projects in the collaboration, benefits or savings must be gained over a relatively short number of years for clients obligated to tender. With a larger project portfolio, there is a great potential for financial and time savings for the client when tenders do not have to be held for the subsequent projects in the partnership.

For previous strategic partnerships, the contract period has been four years⁵, but projects initiated within the four years can be carried out and completed subsequently, so that the partnership's tasks as a whole extend beyond four years.

Similarly, it requires a long and thorough preparation and considerable cost for the bidders to establish a delivery team, prepare tenders and be part of the negotiation process. The incentive to submit a bid is the subsequent volume of tasks that allows a steady turnover. However, in several of the previous strategic partnerships, there has been no guarantee of a minimum volume of tasks, and there is also only one consortium that wins the task. The client should therefore consider providing an appropriate bid compensation to all tenderers if it is a particularly costly tender process.

INVOLVEMENT OF SMALL AND MEDIUM-SIZED ENTERPRISES

Among some organisations within the construction industry, there has been a concern about whether small businesses will be kept out of the strategic partnerships. This concern has been particularly evident in the field of architecture. Small and medium-sized architectural studios have great creative potential, and it can be crucial for the success of the partnerships that the young architectural studios are involved in a binding collaboration. The client can consider whether it is possible to include this agenda through the choice of tender form and requirements for pre-qualification, in the same way that potential delivery teams should consider this involvement when putting together their team and working methods.

The strategic partnership TRUST has established an 'incubator', where small architectural studios are invited to participate in idea development and the sketching of specific projects in the partnership. TRUST consists of a total of six companies, but more than 24 different consulting companies and 81 contractors have been associated with the partnership to a greater or lesser degree.

⁵ According to the Public Procurement Act §95 para. 2, a framework agreement can at most have a term of four years and an extension can only be carried out due to extraordinary circumstances.

BYK WITH TRUST AND DSP PLUS

In 2016, Byggeri København (ByK), the City of Copenhagen's client organisation, offered the first two actual strategic partnerships in Denmark. This resulted in the establishment of the two partnerships TRUST and DSP PLUS – with a focus on renovation and extensions for schools and the construction of institutions – with framework agreements lasting four years. The agreements were entered into in November 2016:

- TRUST comprised the school and day care area, with a total expected scope of DKK 2.3 billion. The partnership established a separate project office in Nørrebro in Copenhagen.
- The partnership DSP PLUS included other types of institution construction projects (sports facilities, cultural institutions, housing, etc.) with an expected scope of DKK 0.6 billion. DSP PLUS has a joint project office in north-west Copenhagen.

One of ByK's goals with the partnerships was to achieve 10% cheaper construction. Both partnerships had a four-year duration, but ongoing construction work will be completed later.

In 2021, Byggeri København offered a new strategic partnership for an estimated DKK 2.5 billion. This was a four-year framework agreement for the period 2022–2025 'with the aim that one strategic partner must plan, design and carry out a number of construction projects for the City of Copenhagen'⁶.

⁶ See Appendix 22: Tender notice: Strategic partnership in Byggeri København 2022–2025.

In their set up, several partnerships have chosen that both the client and the delivery team can stop the collaboration at any time. This is both to keep the delivery team motivated and to not tie the parties to a long contract that they are not interested in. But this uncertainty also means that all parties should be involved in investing the necessary start-up resources in the strategic partnership. For contractors, it can be a particular challenge that it can take a long time before a turnover is generated – unless the client has projects in the beginning that can be started quickly. Against this background, the client can consider the possibility of bringing projects of different maturity into the partnership so that execution can get started faster. This is an advantage for all parties, since it accelerates the development of the common processes at all stages of the agreement.

OTHER FORMS OF LONG-TERM COLLABORATION

It is far from in all cases that it is relevant for the client to enter into a strategic partnership, and long-term collaborations can take many different forms. In addition to informal collaborations between private clients and companies, the following examples of long-term collaborations can be alternatives to a strategic partnership.

FRAMEWORK AGREEMENT/PARTNERING AGREEMENT – EXAMPLE FROM ‘VANDPARTNER’

Vandpartner is a collaboration between three municipal companies – Århus Vand A/S, Favrskov Forsyning A/S and Odder Spildevand A/S – which acts as a joint client and has entered into a long-term collaboration with a number of companies. Contractually, the collaboration is based on a joint partnering agreement and 25 framework agreements entered into following tenders divided into a number of project types. The partnership includes a total of 14 companies, and the agreement has a duration of six years starting in 2016. The collaboration includes a common vision and goals, organisation of innovation, annual development and action plans and a long-term project portfolio. The annual turnover is in the order of DKK 200–250 million.

STAGE DIVISION AND INSPIRATION FROM IPD – EXAMPLE FROM THE ‘STADIUM QUARTER’

The Stadium Quarter (Stadionkvarteret) is a social housing development and an example of a long-term collaboration on a major renovation project that was divided into stages, with learning and optimisation after each stage. The project is an example of the application of principles from integrated project delivery (IPD), where the contractor is involved in co-design. The contractor on the project was selected through an early tendering, and after co-designing the first stage, the contract was renegotiated and a conditional construction contract for all stages was agreed. In addition, a co-operation agreement was entered into between all the parties involved. A joint project office was established in the building during the renovation. The housing association’s objective was first and foremost a high degree of budgetary security in relation to the physical overall plan that was agreed with the National Building Foundation. The project period ran from 2015 to 2019 and had a total renovation sum of DKK 1.6 billion.

THE CLIENT'S PREPARATION

There is a great deal of analysis and development work in the client's preparation before the tendering of a strategic partnership. Amongst other things, the client must carefully assess the specific project portfolio and at the same time be prepared for changes in their own organisation. The client should also consider the advantages and disadvantages of having one or a few partners in both the short and long term in relation to their own business considerations and risks, as well as the impact on the market.

INITIAL CONSIDERATIONS

The client should initially analyse their own situation and clarify what challenges the organisation has and what they therefore want to achieve by entering into a new form of collaboration. Overall, there will be a desire for more efficient implementation of construction projects, but there may also be more specific challenges – for example, regarding quality or users. It must also be clarified whether you are prepared to enter into a value-based collaboration and whether you are willing to implement changes in your own organisation. Value-based collaboration requires being ready to explain your set of values in a clear and distinct way, that employees are familiar with the set of values, and that you can set goals that show whether you are fulfilling the vision.

We recommend that the client collects information about strategic partnerships and other possible forms of collaboration. This can be done by talking to other builders about their experiences with current or previous collaborations, what they wanted to achieve and to what extent their wishes have been fulfilled. It can be an advantage to find previous strategic partnerships within the same segment (e.g., the social housing or public sector).

The client can enter into a market dialogue with relevant companies (e.g., by arranging meetings and inviting contractors and consultants to seminars or similar), where the client presents their initial considerations

and receives experience and feedback from actors in the market⁷.

The client must also assess whether the project portfolio is of sufficient scope and composition to establish a strategic partnership, and whether the client has the opportunity to finance the projects over a shorter number of years. Based on the above, a strategy and a basis for decision-making can be prepared for a development process prior to starting a tender. The client should also consider the advantages and disadvantages of having one or a few partners in both the short and long term in relation to their own business considerations and risks as well as the impact of the market.

It is crucial that managerial support and commitment is ensured, and for politically led organisations there is also a need for political support. There must be agreement regarding the values, goals and the development process and change that it will take to achieve those goals. At the same time, it must be ensured that there is the necessary managerial decision-making power and willingness to implement the projects at a pace that makes it attractive for companies to enter into a long-term collaboration.

THE CLIENT'S OWN ORGANISATION MUST ALSO BE DEVELOPED

The client's management must understand that in strategic partnerships it is also necessary to change their own organisation and processes. As part of the development process, the client must therefore plan how its own organisation can be adapted in relation to the upcoming collaboration. The client must have clarity about their own processes, templates and business procedures so that these can be described in the tender documentation. The better the client describes their own business procedures, the easier it is for the delivery team to be part of them and become a close and valuable sparring partner for the client. If the client does not describe their own organisation properly, it is

⁷ Read more in Værdibyg's guide 'Dialogue in the Tendering Process'.

perceived as a risk by the tenderers. The same applies if the tenderers sense that the client's organisation is not properly supported in the client's 'parent organisation' in relation to the partnership. For example, the person at the client who is managing the collaboration with the partnership must be strongly rooted in the parent organisation and have full support for the work with the strategic collaboration.

Of course, the client cannot prepare for everything, and some of the changes will only come when the winning delivery team is in place and the collaboration starts. Here, both parties become wiser on how best to adapt to each other and make the collaboration and the projects work in the best possible way.

ASSESSMENT OF ONE'S OWN COMPETENCES AND EMPLOYEES

The client must analyse the need for new competencies in their own organisation and assess whether new employees should be hired, or to what extent current employees should be retrained. The client's project managers must have a sense of the collaboration model and a holistic understanding of the needs of the entire partnership. It may be relevant to appoint or hire employees who can act as change agents, who together with the management are at the forefront of the change process with a special focus on the cultural change.

At the professional level, new requirements are also placed on the client's organisation and competencies. This applies to, amongst others, the financial area. In traditional tendering, the client can to a large extent rely on comparing tender prices from tenderers. In the case of strategic partnerships, there is a need for the client organisation to be able to prepare estimates, define target prices, benchmark construction costs, assess financial figures in open books and be an equal dialogue partner with the delivery team's calculation specialists.

In addition, the idea of a strategic partnership must be sold to other parts of the organisation's staff, support base and customers/users. It must be clarified how the collaboration between the client organisation and the other parts of the company should be organised both at the decision-making level and in relation to user involvement.

It is important to understand that the participating organisations in partnerships also carry out 'traditional' construction cases at the same time. Typically, it is not possible for the client to realise all projects through partnerships, which means that the client organisation must be organised so that both traditional and partnership projects can be carried out successfully. Due to different working methods, it may be appropriate to divide the client organisation into different teams or departments that handle the different forms of collaboration.

THE PROJECT PORTFOLIO IS ESSENTIAL

It must be assessed how large a volume and which types of projects should be included in the collaboration, and whether parallel collaborations on different categories of projects should be entered into.

As a starting point, a large volume will make a collaboration attractive for large companies or for smaller companies that have joined forces in teams. The first tenders for strategic partnerships in Denmark have included portfolios of several billion kroner. On the other hand, a smaller volume may mean that the collaboration becomes attractive to smaller companies. Egedal Municipality has, for example, completed a tender for a strategic partnership in 2020 for the renovation of four schools and the construction of themed houses at two of the schools. The total portfolio is expected to be in the order of DKK 250–400 million.⁸

⁸ See appendices 9–12 for material from Egedal Municipality's tendering of their strategic partnership.

FRAMEWORK FOR THE PORTFOLIO

A ruling by the European Court of Justice in December 2018 has stated that the maximum volume must be stated in a tender. In light of the opinions of the European Court of Justice, when setting the maximum quantity the contracting party must be aware that the framework agreement can only be used until the specified quantity has been used up, after which it is considered 'void' in the same way as if the framework agreement had expired. Thus, the contracting party should carefully consider what the maximum quantity of goods or services should be in order to ensure that the contract is not 'used up' at an early stage in its lifetime.

The Danish Building and Property Agency had difficulty in determining a future maximum volume of the task in their tendering for a strategic partnership. In order to comply with the EU ruling, they have therefore inserted a margin on the volume in the tender notice, as well as inserted a contract change clause on extension of the contract volume in the framework agreement (change pursuant to contract). This solution has sought to provide greater transparency to tenderers. However, the specified maximum volume, incl. options and amendment clauses, continues to appear in the tender notice.

FSBHJEM

fsbHJEM is a strategic partnership between the social housing company fsb and the delivery team HJEM. The partnership was entered into in 2019 and a project office was established for the partnership in fsb's head office at Rådhuspladsen in Copenhagen. The partnership included the renovation of social housing. fsb's motivation for establishing the partnership was, amongst other things, to achieve a new form of collaboration where the contractor is involved from the start. The total scope is estimated at DKK 2.4 billion.

A certain uniformity in the projects can be an advantage for achieving specialisation and optimising the learning and repetition effects. The City of Copenhagen put two strategic partnerships out to tender in parallel divided into different construction categories – the extension and renovation of schools (relatively uniform) and other types of institutional constructions (can be very different tasks).

It is not certain that there are any 'savings' organisationally and resource-wise for the client in implementing several parallel partnerships. The City of Copenhagen's experience has been that it was correct in terms of portfolio to separate their tasks into two strategic partnerships, but that these are – and must be – two different partnerships with two different managements, personnel compositions, etc. The client must always carefully consider and make thorough analyses of whether the overall scope of the project portfolio is commensurate with the establishment and resource costs required by a strategic partnership.

Finally, it is important that there is also continuity in the collaboration from the client side. If the partnership is used as a simple framework agreement, which is used ad hoc by different parts of the client organisation, the benefits of repetition and large-scale operation are lost. Therefore, the strategic collaboration should have a large volume and be gathered in a few hands, since the client is a unifying force. If the collaboration develops as 'growth' that is not anchored in one place with the client, the ongoing collaboration is not gained, which is the prerequisite for success.

PROJECTS READY FROM THE START

It should also be considered whether there is a need to prepare the project portfolio before tendering. In particular, the flexibility in initiating the projects is important, since it is crucial for capacity utilisation and learning in the partnership. It is a good idea for the client to have projects ready from the beginning that the delivery team can get started on. It will also be attractive for contractors if some of these projects can get started quickly in terms of execution so that they quickly get a turnover and start learning from the collaboration. However, it must be made clear that the advantages of early involvement are not fully realised in these early projects.

It can be an opportunity to involve separate advisers in preparing the portfolio. For instance, Egedal Municipality has employed an architectural firm to prepare scenarios for the development of the schools, and the municipal council has decided which scenarios the construction partnership must work on realising.

THE CAPITAL REGION OF DENMARK'S STRATEGIC PARTNERSHIP

The Capital Region of Denmark's partnership offer from 2020⁹ included primarily renovation and conversion/extension tasks at the region's hospitals. The individual projects are – in comparison with other tenders in strategic partnerships – of a smaller size, but there are many with a high technical complexity. Therefore, it made sense for the Capital Region of Denmark to gather knowledge and competence when entering a partnership agreement. The total scope of the partnership agreement was estimated at DKK 2.2 billion.

⁹ See Appendix 21: Tender notice from the Capital Region of Denmark: Framework agreement for strategic partnership

CSP – CIVICA'S STRATEGIC PARTNERSHIP

The Funen housing company Civica's strategic partnership tender¹⁰ was based on a framework agreement that included planning, design, implementation and commissioning of a portfolio of renovation projects as well as demolition and new construction. The total scope of the partnership agreement was estimated at DKK 3.0 billion.

¹⁰ See Appendix 20: Tender notice from Civica: Framework agreement for strategic partnership

TENDERING OF THE PARTNERSHIP

Tendering a strategic partnership is a major task that requires a lot of resources from both the client and the bidding delivery teams. The client must clarify the objectives of the collaboration and be thorough in uncovering their own competencies and resources already before the tendering process. Topics such as selection and award criteria can also have a major impact on the success of the partnership. In this phase, the client should also consider how much the delivery team should be involved in the client's business processes, portfolio management and decision-making process. Creating a robust connection between the delivery team and the client around these issues can lead to greater gains for all parties.

THE CHOICE OF TENDER FORM MUST FIT THE CLIENT'S GOALS AND WISHES

The legal basis for strategic partnerships is a framework agreement, which means that as a general rule agreements can be entered into without separate tenders on an ongoing basis over the contract period.

The form of tender may vary, but typically a limited tender with pre-qualification will be used as well as tendering with negotiation according to the award criterion of the best relationship between price and quality. Often, the client will conduct a market dialogue in advance to ensure that there is a market for a tender for a partnership. This can also be an early warning to companies, who can then begin getting together with those they will submit a bid with.

If there are special conditions that require the delivery team's input before the tender documentation can be completed, the client may also be able to clarify this through an early market dialogue – or by tendering with a competitive dialogue¹¹.

¹¹ Read more in Værdibyg's guide 'Dialogue in the Tendering Process'.

PROCESS FOR TENDERING WITH NEGOTIATION

Based on tendering with negotiation¹², the process can be carried out with the following steps:

1. Announcement of the tender stating the time when the tender documentation will be available.
2. The tender documentation is published with the possibility of applying for pre-qualification.
3. A Q&A session is held for all interested applicants and the opportunity to submit written questions. All interested applicants receive written answers to all questions and any addendums to the tender documentation.
4. Pre-qualification applications are assessed on the basis of the selection criteria set out in the tender documentation. It is recommended to pre-qualify only three tenderers (a minimum of three applicants must be pre-qualified), since this helps to improve the bids in the competition. At the same time, the tenderers for a strategic partnership have made thorough considerations before applying for pre-qualification, and therefore it is unlikely that tenderers will pull out along the way.
5. A Q&A session is held for the pre-qualified tenderers and the opportunity to submit written questions. All tenderers receive written answers to all questions and any addendums to the tender documentation.
6. Negotiation meetings are held with each tenderer in continuation of each other in one or more rounds. Here, each tenderer is given the opportunity to present their tender to the client, and the parties can have a dialogue about the task, the tender documentation and the tender.
7. After the negotiation meeting, the tenderers can continue working on and adjusting their tenders. Similarly, the tender documentation can be adjusted, in which case addendums are sent to all tenderers.
8. Final tenders are evaluated on the basis of the award criteria set out in the tender documentation, and the most economically advantageous tender is selected. Tenderers are informed in writing of the assessment of their tenders.
9. Entering into contracts and agreements in connection with start-up.

¹² Read more in Værdibyg's guide 'Tendering with Negotiation'.

The client should identify their own competencies and resources in relation to tenders and clarify whether there is a need to involve external advisors in choosing the form of tender, preparation of tender documentation and carrying out tendering, negotiation and contracting. The form of tender must suit the wishes of the client for the collaboration, while at the same time taking into account that the tendering does not become too complicated.

PREPARATION OF TENDER DOCUMENTATION

As a basis for preparing the tender documentation, the client must be clear on how to act as a strategic partner. The tender documentation must be presented so that the collaboration appears attractive to potential partners. At the same time, there can be great value for the client in the future partners seeing the client as strategically important. It can be an advantage for the client to enter into a dialogue with the market in order to obtain knowledge about the market and hear the market's thoughts in relation to the specific tender¹³.

The tender documentation must contain a description of the client's organisation, decision-making processes and business processes, including user involvement. However, a certain degree of flexibility should also be allowed for so that the client's business processes can be adapted to the delivery team's business processes. At the same time, the partnership should as much as possible use the construction industry's standard documents such as AB18/ABR18 and the Description of Services as a basis for the projects. This increases the recognisability for the tenderers and reduces the risk of a complex, specialised project charter.

OBJECTIVES FOR THE COLLABORATION

Objectives, including value goals, for the collaboration should be defined, as well as how objectives and results are followed up on so that corrections can be made on an ongoing basis. Expectations for how to work with innovation and development of both the collaboration and the construction-related solutions should also be

clarified. Furthermore, a task description must be prepared for the project portfolio that is expected to be included in the collaboration. The degree of detail of this will depend strongly on the nature and composition of the portfolio, including the margin in expected facilities financing, renovation/new construction and the type of users/residents. However, very detailed requirements that limit creativity and the possibility of developing new solutions together should be avoided. Instead of requirements, the client's and projects' needs should be described (e.g., by preparing a detailed description of the first projects). The involvement and influence of users and other key stakeholders must also be described in the tender documentation. For instance, this can be the operating organisation, municipal authorities with special interfaces to the partnership and/or housing department boards. The above objectives and values are revisited together with the delivery team when this is selected.

REBUS' TENDER CONCEPT

Based on the experiences from the City of Copenhagen's tender of two strategic partnerships, the social partnership REBUS together with a law firm has developed a tender concept for strategic partnerships that has formed the basis for the subsequent tenders for strategic partnerships from the social housing organisations fsb and KAB. The tender concept includes a guide, a standard framework agreement and a set of standard tender conditions for use in strategic partnerships on building and construction projects. The concept is based on the tender form tendering with negotiation and that a framework agreement of four years is entered into. The concept can be used for new builds, renovation and construction work¹⁴.

¹⁴ The tender concept has been prepared by the social partnership REBUS in collaboration with the law firm DLA Piper. The tender concept can be found at www.rebus.nu/viden-og-vaerktoejer/udbudskoncept/

¹³ Read more about market dialogue in Værdiby's guide 'Dialogue in the Tendering Process'.

The tender documentation must contain a description of the tendering process – including how the negotiation process is planned. In addition, the documentation must contain a schedule for the tendering process, the expected start-up time and the contract period, as well as a plan for the process of completing started projects after the end of the contract period.

The client must seek to optimise the tendering process and avoid unnecessary transaction costs. It is customary to provide a bid compensation, which compensates the tenderer's direct costs.

PORTFOLIO MANAGEMENT

The tender documentation should also describe how the delivery team should be involved in the work with portfolio management and the decision-making process for the initiating of specific projects. In this, the client must clarify requirements for the delivery team's base organisation in connection with the partnership, and whether the delivery team will receive separate payment for the base organisation or must include the costs for this as part of an overhead.

SELECTION CRITERIA AND AWARD CRITERIA

Selection criteria and award criteria should be carefully considered, including amongst other things possible target prices, how quality and budgetary security are included as assessment criteria and how the tenderers' approach to the collaboration is assessed. The client should not just use 'generic award criteria', but rather ones that reflect the client's needs and wishes and that have a good interplay with the specific project portfolio. This applies to both the use of references in the pre-qualification and in the specific qualitative sub-criteria when awarding contracts¹⁵. There are examples of clients asking tenderers to solve a simple case that contains issues from the project portfolio. This can be a good way to evaluate the tenderers, but it must be done with care, since it can be a big task to solve a case as part of the tender.

¹⁵ Read more in Værdibyg's guide 'Quality as an Award Criterion'.

SUB-CRITERIA, PART-CRITERIA AND WEIGHTING

Table 1 shows sub-criteria, part-criteria and weighting in fsb's tender conditions for tenders for a strategic partnership from 2018¹⁶. The tender conditions are based on REBUS' paradigm for tender conditions from 2017.

Under the part-criterion 'Understanding', it is typically assessed to what extent the tenderer demonstrates an understanding of the form of collaboration in the tendered strategic partnership as well as any understanding of the political agenda of which the client may be a part. If the client is, for example, a social housing organisation, the assessment may apply to the understanding of general building matters, including the general context, the general processes and resident management. The part-criterion 'Cohesion' includes an assessment of the extent to which the delivery team demonstrates an optimal interaction between the companies and the individuals, showing that they have an overall good cohesion to support the processes in the strategic partnership.

When using the sub-criterion 'Optimisation', it should be clarified whether the criterion is perceived in a broad sense as the use of tools that optimise the daily life of the partnership or whether it is optimisation in the projects' solutions or process.

¹⁶ See Appendix 8 and 15 with fsb's and Byggeri København's tender conditions for tendering for strategic partnerships, respectively.

REBUS' paradigm for tender conditions also includes the sub-criterion 'Technical construction solutions'. Here, it is assessed to what extent the tenderer offers appropriate technical construction solutions that, in an innovative way, can contribute to creating better construction, cheaper construction and for the contracting party less risky construction than traditional solutions. The tenderer must provide concrete examples of how the submitted technical construction solutions create advantages for the contracting party.

The tender documentation can contain a risk model that defines the distribution of risk between the parties.

HANDLING OF CONFLICTS AND RISK

A conflict resolution model should also be included for how any conflicts are handled at the different organisational levels. As a result of the AB rules, mediation or conciliation must be used as part of the conflict resolution. This makes particularly good sense in a long-term partnership, where parties must be able to continue working in a good relationship. It can be an option to appoint a set mediator/conciliator already at the start of the project¹⁷.

The tender documentation can contain a risk model that defines the distribution of risk between the parties¹⁸.

MODEL FOR SETTING PRICE ON THE INDIVIDUAL PROJECTS

In connection with the individual projects, the delivery team will typically determine its costs for craftsman according to or on the basis of 1) Molio Prisdats prices or equivalent and/or 2) offer prices obtained from subcontractors. In the first partnerships, a combination of the two models has been the best solution. The delivery team obtains and calculates an offer price, which is

verified with Molio's prices. It gives the client an assurance that the prices are not a long way from the market level.

The contract sum is determined as the sum of:

- Craftsman costs and the construction site
- Contribution margin
- Internal technical advice
- Weather-specific winter measures

The establishment of a joint project office sends a clear signal. The client must explain whether a project office is made available to the delivery team and what conditions the delivery team must be responsible for in connection with the establishment and operation of any potential project office. For the delivery team, it will reduce start-up and operating costs when the client makes the project office available, and since the delivery team's turnover in the partnership is uncertain it will send a clear signal that the client is committed to the partnership. Read more about joint project offices and arguments for and against in the guide 'Strategic Partnerships – Implementation of the Collaboration'.

KAB AND THE CONSTRUCTION PARTNERSHIP & OS

The construction partnership & os is a strategic partnership between the housing administration company KAB and the delivery team & os. The partnership was entered into in 2019 with a project office on Havneholmen in Copenhagen. The partnership included the renovation of social housing. KAB's primary goal with the partnership was to ensure better collaboration in complex construction cases. The total scope is estimated at around DKK 6 billion.

¹⁷ Read more in Værdibyg's guide 'Mediation and Conciliation'.

¹⁸ Read more in Værdibyg's guide 'Establishing Risk Management'.

SUB-CRITERIA	WEIGHTING	PART-CRITERIA	WEIGHTING
Finances	25%	Work performed by external subcontractors	22.5%
		Work performed by DSP	22.5%
		Joint construction site and seasonal winter measures	9%
		Hourly rates for consultants and craftsmen	9%
		Internal technical advice	15%
		Cost and profit rate	22.5%
Base organisation as well as other organisation and staffing	25%		
Understanding and cohesion	25%	Understanding	50%
		Cohesion	50%
Optimisation	25%		

Table 1. Example of sub-criteria, part criteria and weighting from fsb's tendering of a strategic partnership in 2018.

THE DELIVERY TEAM'S PREPARATION

The partners in a delivery team must ensure that together they cover the professional competencies required in the tender. The individual company must be willing to enter into a value-based collaboration, and the parties must have collaborative and cultural competencies that match each other. It is absolutely crucial that all parties have strong managerial support for entering into a strategic collaboration.

ENTERING INTO A PARTNERSHIP REQUIRES SUPPORT AND ANCHORING

The individual company must clarify whether a strategic partnership is attractive to it and fits into the company's strategy. This involves an assessment of one's own maturity and whether one has the right competencies. One must think through the goals and expectations for such a collaboration. A crucial prerequisite for moving forward with a strategic partnership is that there is internal support and strategic anchoring in the company's top management.

As part of this clarification process, one should examine what opportunities there are in the market for a being part of delivery teams and assessing whether the other companies in the team match one's own values, strategy, competencies and capacity. It takes time to find and build the right team for a partnership that will work for many years. Therefore, one should look to get involved early on when a tender is announced and enter into a dialogue with the client on the framework for a future tender in order to be able to prepare for it as best possible. One must also start a dialogue with other interested companies in order to be able to decide whether to form a team and submit an offer together.

CRITERIA FOR THE SELECTION OF PARTNERS

With the strategic partnerships so far, there are variations in how teams are put together and how many parties are included in a delivery team. TRUST includes six companies, and &os includes seven companies, while HJEM includes four companies. At the core is a contractor, an architect, a consulting engineer and a possible partnership developer¹⁹ who has a special focus on facilitating and developing the collaboration.

When selecting partners, one should set parameters for what one wants to achieve in a delivery team:

- The partners must have complementary competencies and together must cover all the professional specialities needed in connection with a specific tender.
- The parties must have collaborative and cultural competencies that match each other and are suitable for a value-based collaboration.
- All parties must have strong managerial support for being part of the delivery team.
- It must be possible to agree on a common business model for the partnership that integrates and coordinates the companies' existing business models.

The composition of delivery teams is not just a question of which companies are included. Value-based collaboration is highly dependent on the specific people involved. In connection with the establishment of teams, one should therefore designate each party's key people who will take on the central roles in the collaboration and together ensure that these key people have good 'chemistry'. This can be done, for example, through tests or 'job interviews' with everyone who is going to be part of the partnership.

ESTABLISHMENT OF THE DELIVERY TEAM

When establishing a delivery team, it should be considered from the outset how the change towards a common culture based on openness and trust can begin. This is about, among other things, breaking down prejudices between the various parties (e.g., between consultants and contractors). In this connection, one can appoint some change agents who are upskilled in relation to developing the partnership or drawing on external consultants in process facilitation. You must also develop a common understanding of how you want to be perceived and considered so that you appear as a common and close-knit team. A well-thought-out 'onboarding' programme for employees in the strategic partnership can help to ensure the joint team.

In addition, a major task lies in achieving a basic understanding of and respect for each other's business conditions and areas of responsibility. A common business model must be developed (see text box), which is

¹⁹ Read more about this role in the guide '[Strategic Partnerships – Implementation of the Collaboration](#)'.

a prerequisite for reaching an agreement on a financial model for joint pricing in connection with the preparation of offers and the subsequent settlement of accounts of the individual parties.

It is crucial to clarify how the delivery team as a whole should be managed and organised, and also how the projects in the partnership should be managed and organised. It must be ensured that there are the right managerial resources and support from all parties as well as representatives who have their company's mandate in the partnership. It is essential that all leaders have a holistic understanding of the entire consortium and partnership's needs. The individual parties must prepare their own organisations and appoint the right profiles, who must be involved from the start and participate in tender preparation and negotiation meetings.

PHYSICAL AND GEOGRAPHICAL LOCATION

It must also be clarified where the delivery team is to be located physically and geographically. It is essential for a strong collaboration and development of a common culture that the employees who form the core of the delivery team are located together in a joint office and preferably together with or close to the client's representatives. On the other hand, it usually involves a geographical distance to the parent companies' offices, and it thus creates a challenge in maintaining the relations between the delivery team and their parent organisations. It is up to the individual companies to consider how to handle this. One can, for example, prioritise the employees' participation in social events both in the parent company and in the partnership, a fixed working day at home in the parent company every one or two weeks and participation in continuing professional development under the auspices of the parent company. Some of these considerations need to be made early in the process, and already while preparing a joint offer.²⁰

PREPARATION OF TENDERS

Once a delivery team has decided to enter as a tenderer, it is crucial to understand the client's motivation and needs as well as the framework conditions the client has. The team must also understand the client's organisation, decision-making processes and business

processes. One should consider the extent to which the organisation of the delivery team should mirror the organisation of the client.

The design of the tender is very dependent on the tender documentation. It is important to clarify all questions of doubt in the tender documentation. One should therefore ask questions about the tender documentation and what lies behind the requirements. There may also be a need to clarify political issues, such as the risk that funding and the number of projects are reduced. It is of course crucial that the client answers the tenderers' questions adequately in order to create the best possible basis on which to make the tender.

BUSINESS MODEL

A business model is a model that shows what value a company provides its customers, how the value is created and how it generates income for the company. The business model can be described by four coherent elements:

- Value proposition
- Financial model
- Resources
- Processes

Typically, it can be stated as: Advisors and contractors have different business models. For architects, the value proposition is to design buildings of high architectural quality, while for consulting engineers it is to advise and propose credible technical solutions. For both, the financial model is based on the sale of employee hours. For contractors, the value proposition is to transform project material into finished buildings, and the financial model is to build without stopping the flow and tasks. A delivery team must design a common business model that ensures the participants have a robust business foundation throughout the duration of the framework agreement.

²⁰ Other considerations can wait until the job is won and the delivery team has to be established. Read more about this process in the guide 'Strategic Partnerships – Implementation of the Collaboration'.

NEGOTIATION AND CONTRACTING

Critical questions and openness in the negotiation phase must create an understanding of the primary challenges, values and cost drivers that apply to the other party.

THE PARTIES MUST SHOW COURAGE AND OPENNESS IN THE NEGOTIATION

Prior to the negotiations, the client must clarify which themes are to be the starting point for the negotiations and inform the tenderers about this as part of a plan for the meetings. Important themes can be the project model, financial/pricing model, risks, change management, cohesion in the delivery team and conflict management, but testing the parties' mutual understanding of each other's organisations, business models and processes is also essential. It is agreed how and when the tenderers will have the opportunity to present their tenders orally during the negotiation phase. Both parties must have the courage to ask critical questions and open up so that the one party has the opportunity to understand what the primary challenges and cost drivers are for the other party.

MEETINGS BETWEEN THE CLIENT AND DELIVERY TEAM

The number of meetings can vary, and there must be a good amount of time between meeting rounds. For fsb, two rounds of meetings were appropriate. These meetings were attended by four representatives from fsb as well as a lawyer and an administrative office as an advisor, and from the winning delivery team HJEM there were five participants from three companies and no lawyers. All participants were chosen as having a leading responsibility in the future partnership from both the client and the delivery team.



CONTRACTING IN A JOINT PROCESS

In connection with contracting, a plan must be agreed for the preparation of the contract appendices and common paradigms to be developed jointly in connection with start-up. This will typically take place in joint working groups established by the operational management. It is important that all parties devote the necessary resources to this. It can, for instance, be about appendices on finances, projects, measurement and evaluation or conflict management. A prioritisation must be made and a schedule drawn up for when the individual appendices must be completed.

A plan for mobilising employees for the organisation for both the client and the delivery team must also be agreed. The plan must decide where the employees are to be located, and a joint meeting plan must be prepared for fixed meetings. There may be a need to create a common forum, such as for IT support in relation to common IT infrastructure – both if the parties are located together in a project office and if they are located in different places. The coordinated dissemination of news about the signing of the contract, both externally and internally with the individual parties, should also be agreed. It may be relevant to carry out joint stakeholder analysis and prepare a communication plan for ongoing joint information (e.g., in the form of websites and newsletters). These issues are addressed in more detail in the guide on implementing strategic partnerships.

RELATED PUBLICATIONS FROM VÆRDIBYG

This guide contains concrete recommendations for the early considerations, preparation, tendering and contracting in connection with strategic partnerships. In the guide 'Strategic Partnerships – Implementation of the Collaboration', you can find recommendations for the establishment and start-up of the partnership as well as the ongoing collaboration and implementation of projects. For guides on good collaboration in construction projects, please see the other guides from Værdibyg.

All of Værdibyg's publications can be downloaded at www.vaerdibyg.dk/vejledninger/

RELATED PUBLICATIONS FROM REBUS

The following publications can be downloaded at www.rebus.nu/viden-og-vaerktoejer/

1. Guide on tendering and partnerships. REBUS tender concept, 2017
2. Paradigm for tender conditions. REBUS tender concept, 2017
3. Framework agreement for strategic partnerships. REBUS tender concept, 2017
4. Report on prerequisites for strategic partnerships. REBUS report, 2017
5. Knowledge sharing and collaboration across the construction industry – A guide to strategic partnerships. REBUS pamphlet, 2017
6. Knowledge catalogue: Minor loss of value in the renovation process. REBUS pamphlet, 2018
7. Pixie book for business models and strategic partnerships

APPENDICES

The appendices can be found at www.værdibyg.dk

1. Illustration of the 'Contract Process' (Agreement steps 0–3) from the construction partnership &os
2. Illustration of the 'Risk Process' (Agreement steps 0–3) from the construction partnership &os
3. Illustration of the 'Process | Calculation' (Agreement steps 0–3) from the construction partnership &os
4. Illustration of the 'Settlement Model' (Agreement steps 0–3) from the construction partnership &os
5. Illustration of the 'Organisation Delivery Team' from the construction partnership &os
6. Illustration of the 'Process Diagram | Economy' (Agreement steps 0–3) from ByK with TRUST
7. Draft framework agreement for strategic partnership, fsb
8. Tender conditions for tenders for strategic partnership, fsb
9. Illustration of financial model, Egedal Municipality
10. Template for Agreement regarding Commissioning, Egedal Municipality
11. Brief regarding risk distribution (Agreement step 3), Egedal Municipality

12. Schedule for ON-Boarding, Egedal Municipality
13. Agreement step model (Agreement steps 0–3), Værdibyg
14. Framework Agreement for Strategic Partnership, Byggeri København
15. Tender conditions for tenders for strategic partnership, Byggeri København
16. Template for offer list with part-criteria, Byggeri København
17. The evaluation model, fsbHJEM / Smith
18. Ongoing evaluation – seven measurement criteria for the projects, fsbHJEM / Smith
19. Ongoing evaluation – six measurement criteria for the partnership, fsbHJEM / Smith
20. Tender notice from Civica: Framework agreement for strategic partnership
21. Tender notice from the Capital Region of Denmark: Framework agreement for strategic partnership
22. Tender notice: Strategic partnership in Byggeri København 2022–2025
23. BUILD Report 2020:26: Strategic partnerships in the City of Copenhagen (Experiences and results 20