

Sub-contractors versus Consortiums and Joint Ventures

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The Preferential Procurement Regulations, 2017 states that, if it is feasible, 30% of all Government Contracts above R30 million must be sub-contracted to specific categories of SMME's. These SMME's include, but are not limited to, black female owned and black youth owned businesses.

To help with the confusion that arises from whether one must form a Joint Venture, Consortium or sub-contractor/contractor relationship when responding to a tender it is always good to understand the definition of these types of business relationships:

- A **sub-contractor**/contractor relationship arises when a main contractor hires or employs additional businesses or persons outside of the main contractors own business to do work or to deliver services as part of a larger project. The important thing to remember is that the main contractor is in charge and must ensure that the project is executed and completed as stipulated in the contract.
- A **consortium** is an association of two or more individuals, companies, or organisations with the objective of participating in a common activity, such as responding to a tender, or pooling their resources to achieve a common goal. Within the consortium, each participant retains their separate legal status and the consortium's control over each participant is limited to activities involving the joint endeavour, particularly the division of profits. A consortium is formed by contract.
- A **Joint Venture** can be described as a business enterprise where two or more participants come together to share their expertise to win a specific contract for a set period. A Joint Venture is a separate entity and is not part of the individual participant's own enterprise. Therefore a Joint Venture must have its own set of rules by which it is managed, and this is called a Joint Venture Agreement.

To become a sub-contractor, you will have to have a running business. Main contractors will only use dependable sub-contractors with a proven track record.

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Contact us at estelle@howtotender.co.za should you require more information.

You can also purchase a Tender Manual (Handbook) on our website <https://howtotender.co.za/> which is a step by step guide how to respond to a South African Tender. It includes examples of completed SBD forms.