

ASG Analysis: New Saudi Procurement Regulations

December 12, 2019

Summary

- Two new laws amending the Saudi government procurement process took effect on December 1. These laws serve to centralize the procurement process and impose local content requirements for contractors.
- The Center for Spending Efficiency (CSE), housed within the Ministry of Finance, will manage the procurement of large contracts and oversee contracting by individual government entities. The newly established Local Content and Government Procurement Agency (LCGPA) will set minimum local content requirements and will determine, monitor, and catalogue the local content levels of all government contractors. Contractors who fail to meet local content requirements will be disqualified from bidding.
- We expect implementation of these laws to happen gradually as authorities learn their new roles and gain experience. In the next several months, companies should familiarize themselves with the new system and prepare plans for demonstrating their levels of local content. Foreign companies that act proactively to comply with these changes will be best placed for future contracts.

Background and Context

On December 1, Saudi Arabia's [Government Tenders and Procurement Law \(GTPL\)](#) (in Arabic)—first announced by the Saudi government in July—went into effect. On November 26, the Council of Ministers approved a [regulation](#) (in Arabic) providing detail on new local content requirements for all government contractors as part of the GTPL. Together, these laws allow for unified procurement, provide more oversight of contracting decisions by government entities, require that contractors meet certain thresholds for local content, and favor publicly listed companies and Saudi small- and medium-sized enterprises (SMEs). While it is not yet clear precisely how these laws will be implemented in practice, they signal a clear government effort to have foreign contractors contribute more to the Saudi domestic economy. Foreign contractors will need to adjust to continue to win contracts and should also expect short-term uncertainty in procurement processes, since the government will likely refine the new system through iterative reforms.

Changes to Government Procurement

The new law empowers the newly-established Center for Spending Efficiency (CSE), housed within the Ministry of Finance, to oversee nearly all government procurement. The mandates of the CSE are to ensure value for money in government purchasing and to eliminate corruption and the influence of special interests. The CSE will review contracts agreed by government entities, coordinate quality control evaluations and performance reviews of contractors, and negotiate framework agreements with contractors to serve multiple government entities. It will also issue RFPs itself when several government entities need to contract for the same service. The Ministry of Finance will manage an online portal for all procurement and produce unified templates for RFPs and vendor evaluation forms. Procurement vital to Saudi national security, including procurement managed by the General Authority for Military Industries (GAMI), is not subject to the new laws (though GAMI is undertaking its own localization initiatives).

The law also introduces several new procurement models intended to maximize spending efficiency:

- **Framework agreements:** Contractors can sign framework agreements with the CSE, reducing bureaucratic requirements for individual contracts bids.
- **Reverse bidding:** Contractors offer successively lower prices during multiple rounds of bidding.
- **Two-stage competitions:** Contractors first offer the technical details of their bid to inform the specifications of the RFP. The contracting entity will decide the required specifications based on these submissions and open price-based bidding at a later stage.
- **Limited bidding:** Bidding by invitation only. This method may be used for highly specialized projects, projects with a budget less than 500,000 SAR (\$133,330), consulting services, or services provided by universities.
- **Direct purchase:** Available only for military equipment, products offered by only one vendor, contracts important to national security, or projects with a budget less than 100,000 SAR (\$26,666).

Local Content Requirements

The new local content law provides detail on the role of the newly established Local Content and Government Procurement Authority (LCGPA). Authorities appear to have been under intense time pressure to issue the law before the December 1 implementation date. As a result, not all details of the law are yet clear. This is not uncommon for new laws in the Kingdom.

The LCGPA is mandated to set local content requirements for individual contracts, track the amount of local content used by contractors, and obtain and audit commitments by contractors to increase their reliance on local content. The law defines local content as “total spending in the Kingdom from the participation of Saudi elements in the workforce, goods, services, assets, technology, and so on.” Determining precisely what qualifies as local content will vary for each contract, and the burden will partly fall on the contractor to define its activities and resources that qualify.

The law is clear that RFPs will include a list of items that must be provided through local content for a bidder to participate. These lists will vary for each RFP, and it is likely that lists will initially include few items and expand as authorities grow accustomed to the new system. RFPs will also indicate a minimum baseline of local content that a bidder must meet—as determined by the LCGPA—in order to participate. LCGPA will also manage an online portal through which contractors register their commitments to increasing local content. Contractors who fall short of their commitments will be fined, and could be blacklisted from procurement for repeated failures to honor commitments over the long term.

In addition, the local content law establishes preferences for Saudi SMEs and publicly listed companies. SMEs in which Saudi nationals own greater than a 50% stake will receive a 10% price advantage on bidding, while publicly listed companies will receive a 5% price advantage.

Practical Implications

It will take time for the new system to get up and running as officials at the CSE and LCGPA become familiar with their roles. These laws may be amended and refined in the coming months to provide more clarity and precision around implementation. In the short term, contractors should expect uncertainty but may see limited changes to the bidding process.

However, the direction of change is clear. The Kingdom is moving toward a more centralized procurement system in which contractors will be expected to catalogue their levels of local content and increase their reliance on local content over time. Foreign companies that act proactively to comply with these changes will be best placed for future contracts. We expect personal sales-level relationships with government entities, which traditionally have been important for winning business, to gradually diminish in influence as CSE oversight of the contracting process takes hold.

About ASG

Albright Stonebridge Group (ASG) is the premier global strategy and commercial diplomacy firm. We help clients understand and successfully navigate the intersection of public, private, and social sectors in international markets. ASG's worldwide team has served clients in more than 120 countries.

ASG's [Middle East and North Africa practice](#) has extensive experience helping clients navigate markets across the Middle East and North Africa. For questions or to arrange a follow-up conversation please contact [Ben Gordon](#).