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GOVERNMENT PROCUREMENT AND ECONOMIC REGULATION

The new Government Tenders and Procurement Law: towards turning public spending into sustainable economic value



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27/2/1448H
ISSUED BY ROYAL DECREE (M/76)

120 days
FROM PUBLICATION TO ENTRY INTO FORCE

SAR 1 million
DIRECT PURCHASE THRESHOLD

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Executive summary

The new Government Tenders and Procurement Law is an important step in developing the legislative framework for managing public spending in the Kingdom, in line with the drive to raise the efficiency of government performance and strengthen the contribution of public resources to economic development. Its importance lies in giving government entities more advanced tools to achieve value from their procurement, by developing evaluation criteria, strengthening advance planning, expanding certain contracting powers, improving contract management and supporting local content and national businesses.

KEY PROVISIONS

What changes under the new law

Article 2 (2)	Best value for public money, taking into account life-cycle cost, quality of performance, operational efficiency and risk management	7
Article 9	Priority for local content, local SMEs and companies listed on the capital market	11
Article 12	Advance planning of works and procurement and publication of annual plans	8
Article 32	Direct purchase threshold raised to SAR 1 million	12
Article 51	Delegation of contract signing; delegation threshold raised to SAR 50 million	12
Article 57	Ministry's review of contracts shortened to four working days	12
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Entry into force	120 days after publication in the Official Gazette, with transitional provisions for works and procurement tendered under the previous law	19

KEY NUMBERS IN THE NEW LAW

SAR 1m
Direct purchase threshold

SAR 50m
Delegation threshold

4 working days
Ministry's review of contracts

120 days
From publication to entry into force

INTRODUCTION

A new stage in the economic role of government procurement

In modern economies, government procurement is no longer simply an administrative means of meeting public bodies' needs for works, goods and services. It has become one of the tools that states can use to achieve broader economic and development goals, which go beyond the contractual relationship between the government entity and its contractor to include stimulating investment, developing markets, strengthening productive capacity and using economic resources more efficiently.

The importance of this shift lies in the fact that government spending is not merely a cost borne by the public budget. It is at the same time an influential source of economic demand which, when well directed and managed, can help create new investment opportunities, develop economic sectors, encourage businesses to expand and innovate, and strengthen the competitiveness of the national economy.

In this context, the new Government Tenders and Procurement Law, issued by Royal Decree No. (M/76) dated 27/2/1448H, lays the foundation for a more advanced stage in the regulation of government procurement. It does so by developing the concept of value for public money, expanding some of the powers and contractual flexibility of government entities, and strengthening governance and accountability tools, so that government spending can be deployed more efficiently and effectively.

The importance of the new law lies not only in the amendments it has made to tendering and contracting procedures, but also in the opportunities it offers to rethink how government entities plan their procurement, the criteria on which they base their contracting decisions, and the economic and development outcomes they seek to achieve from those decisions.

The most important question raised by the new law is therefore not limited to how far it succeeds in speeding up purchasing procedures or improving spending efficiency. It extends to how far government entities are able to use its tools to turn their procurement into a means of developing markets, stimulating economic activity and creating sustainable value for the national economy.

01

How the legislative framework for government procurement has evolved

The regulation of government tenders and procurement in the Kingdom of Saudi Arabia has evolved gradually, in step with the economic and administrative changes the State has undergone and with the ongoing need to balance the protection of public funds with efficient spending and effective government performance.

The Government Tenders and Procurement Law issued in 1427H by Royal Decree No. (M/58) established a unified regulatory framework for government contracting procedures, based on the principles of competition, fairness and transparency, and limiting the influence of personal interests on contracting decisions. At that stage, the focus was primarily on regulating purchasing procedures and ensuring their integrity, and on subjecting them to controls that safeguard public funds and equal opportunity among bidders.

The Government Tenders and Procurement Law issued in 1440H by Royal Decree No. (M/128) then strengthened the economic and regulatory dimension of government procurement, by providing for the achievement of best value for public money and the promotion of economic development, and by introducing more advanced tools for planning, unified procurement, framework agreements and the evaluation of contractor performance.

This marked an important development in how government procurement is viewed. The soundness of procedures alone was no longer the governing measure of efficient contracting; spending efficiency and value creation also became objectives to be taken into account in managing public procurement.

EXHIBIT 1

From sound procedure to value creation

1427H · Royal Decree (M/58)

Regulating purchasing procedures and ensuring their integrity

A unified framework for government contracting, based on competition, fairness and transparency

1440H · Royal Decree (M/128)

The economic and regulatory dimension

Best value for public money and economic development; planning, unified procurement, framework agreements and contractor performance evaluation

1448H · Royal Decree (M/76)

Value over the whole life of the contract

Life-cycle cost, quality of performance, operational efficiency and risk management, alongside fair competitive prices

The new law extends and deepens this development. It takes the concept of best value for public money to a more specific level by expressly providing for **life-cycle cost**, quality of performance, operational efficiency and risk management to be taken into account, alongside fair competitive prices.

This development reflects a legislative trend away from focusing on the cost of a contract at the time of award towards assessing cost and value over the whole life of the contract, and away from measuring procurement efficiency by direct financial savings towards considering the operational and economic outcomes it can deliver.

This shift does not, however, mean abandoning the core principles on which the previous laws were built. Fair competition, equal treatment of bidders, transparency and the protection of public funds remain the foundation of the government procurement system. The development lies rather in widening the tools available to achieve these objectives and in strengthening the ability of government entities to manage their contracts more efficiently and with greater flexibility.



02

From reducing procurement costs to maximising economic value

Developing the concept of best value for public money is one of the most significant changes introduced by the new law.

Paragraph 2 of Article 2 provides for achieving best value for public money when contracting for and carrying out works and procurement at fair competitive prices, taking into account **life-cycle cost**, quality of performance, operational efficiency and risk management.

EXHIBIT 2

Best value for public money under Article 2(2)

ASSESSMENT ON PRICE

The price the entity pays when the contract is concluded

→

ASSESSMENT ON VALUE

The costs and benefits of performing the contract and of operating and sustaining its outputs

- **Life-cycle cost**
- **Quality of performance**
- **Operational efficiency**
- **Risk management**

These considerations apply when contracting for and carrying out works and procurement **at fair competitive prices**.

The economic significance of this provision is that it widens the considerations that should enter into assessing the efficiency of government contracting, so that they are not limited to the price the entity pays when the contract is concluded but extend to the costs and benefits associated with performing it and with operating and sustaining its outputs.

In many government projects, the initial cost is only part of the project's real economic cost. The cost of building a facility or buying a technology system may be low at the time of contracting, while the costs of operating, maintaining and upgrading it rise in later years, or its operational efficiency declines to a point that requires additional spending to remedy the shortcomings.

Conversely, a contract with a higher initial cost may be more economically viable if it reduces future operating expenses, extends the useful life of assets, improves the quality of services or lowers the risk of disruption and delay.

Economic value is therefore not measured simply by the difference between the estimated cost and the award price, but by the results a contract achieves relative to the total resources it consumes over its life cycle.

This can be illustrated by a government project to build and operate a public facility: choosing the cheapest solution at the construction stage may lead to higher energy, maintenance and operating costs for many years, while another solution that costs more at the outset delivers cumulative operational savings, better service quality and greater sustainability for the facility.

This does not mean favouring higher-priced bids. It means developing the evaluation methodology so that it can distinguish between a low price and better value, using objective and published criteria suited to the nature of the procurement, and within the controls set by the law and its Implementing Regulations.

The effect of this shift extends to the management of public resources more broadly. Every improvement in spending efficiency or reduction in the total cost of projects allows government entities to redirect their resources to other needs, improve existing services, or increase their capacity to deliver new projects within the resources available.

Maximising value for public money is therefore not merely a financial objective. It is one of the economic enablers for improving the productivity of government spending and increasing the return achieved from public resources.

03

Government procurement as a tool for developing markets and stimulating investment

The potential economic impact of the new law is not limited to improving spending efficiency within government entities. It extends to the markets those entities deal with and to the investment decisions that businesses make in response to government demand.

Given the size, diversity and continuity of their needs, government entities are a major source of demand for goods, services and works. This demand can play an influential role in developing markets if it is combined with clear planning, fair competition, technical requirements that reflect actual needs, and contracting mechanisms that allow businesses to compete and invest on a stable footing.

> “ The law provides a supportive regulatory framework, but it does not by itself guarantee that investment will follow or that markets will expand.

In this respect, **Article 12** of the law is particularly important. It requires government entities to plan their works and procurement in advance and to publish annual plans consistent with their budgets that include the key information about their needs, subject to the confidentiality required by national security.

EXHIBIT 3

How advance planning can help develop markets

1

Published annual plans

Including the key information about the entity's needs (Article 12)

2

Clearer government demand

Reduces some of the risks associated with investment

3

Informed investment decisions

Expanding production capacity, attracting talent, developing new products and services

4

Developing supply chains

Contractual and commercial relationships with other businesses

These effects depend on **the quality of planning and the clarity of the information published**, and on the market's ability to make use of it.

The importance of this provision is not confined to improving the financial and administrative planning of the government entity; it can also extend to improving the market's ability to prepare for expected contracting opportunities.

The clearer the needs of government entities and the direction of their future demand, the better able businesses are to make informed investment decisions, whether by expanding their production capacity, attracting talent, developing new products and services, or building partnerships with other businesses to meet those needs.

Clearer government demand may also help reduce some of the risks associated with investment, particularly in sectors that require high capital investment or long periods to develop productive capacity.

For example, clarity about future government needs in technology, infrastructure or specialised services can encourage businesses to invest early in the human and technical capabilities needed to compete for those projects.

Advance planning can also help develop supply chains, by enabling suppliers and contractors to build contractual and commercial relationships with other businesses, secure the materials and services required, and develop their ability to meet the technical and operational requirements of government projects.

Whether these effects materialise, however, remains dependent on the quality of planning, the clarity of the information published and the market's ability to make use of it. The law provides a supportive regulatory framework, but it does not by itself guarantee that investment will follow or that markets will expand.

This presents an important opportunity for government entities to move from treating procurement planning as an internal, budget-related procedure to approaching it as an institutional activity with economic impact, one that requires an understanding of the nature of the market, the capabilities of suppliers, and the opportunities available to improve competition and develop the contractor base.



04

Strengthening local content and developing national productive capacity

Local content is one of the areas in which the economic impact of the new law may be seen most directly, through using government demand to increase the participation of national businesses and develop their capabilities.

The law maintains the priority given to local content and local small and medium enterprises (SMEs), and **Article 9** provides for priority in dealing with them and with companies listed on the capital market, in accordance with the mechanisms set out in the Preference Regulations.

The law reinforces this approach by linking advance procurement planning to coordination with the Local Content and Government Procurement Authority, and by giving priority to local SMEs in direct purchases whose estimated cost does not exceed **SAR 1 million**, in accordance with the relevant statutory provisions.

EXHIBIT 4

The law's tools for strengthening local content and national businesses

Priority in dealing

Article 9

With local content, local SMEs and companies listed on the capital market, under the Preference Regulations

Advance planning

Article 12

In coordination with the Local Content and Government Procurement Authority

Direct purchase

Up to SAR 1 million

Priority for local SMEs, under the relevant statutory provisions

The economic value of this approach goes beyond increasing the number of contracts awarded to national businesses. Government procurement can help create sustained demand for local products and services, encouraging businesses to expand production, develop their technical capabilities, raise the quality of their products and become more competitive.

Greater participation by SMEs in the government procurement market can also help diversify the supplier base, reduce reliance on a limited number of contractors and broaden economic participation.

More broadly, government spending can become a catalyst for developing local value chains, so that the impact of a contract is not limited to the business that wins it but extends to the suppliers, manufacturers and service providers connected to it.

When a national business expands to perform government contracts, this may increase its demand for local materials and services and lead it to hire additional staff, invest in equipment and technology, and develop new commercial relationships within the national economy.

These effects can accumulate over time, strengthening the ability of national businesses to compete in other markets and reducing their reliance on government demand alone.

Maximising this value, however, requires that the focus not be confined to local content percentages as formal indicators, but extend to the quality of the economic participation achieved by national businesses and how far it contributes to developing productive capacity, transferring knowledge and improving competitiveness.

Accordingly, the success of government entities in applying the local content provisions should be measured, in addition to compliance with statutory requirements, by how far their procurement contributes to building a more efficient and sustainable national productive base.

05

Contractual flexibility and a more efficient government response

One of the most prominent features of the new law is the revision of certain financial thresholds, powers and procedures relating to government contracting, giving government entities greater flexibility in meeting their needs, while that flexibility remains subject to requirements for reasoning, documentation and oversight.

The law raises the financial threshold for direct purchase to **SAR 1 million** under **Article 32**, raises the delegation threshold to **SAR 50 million**, permits the delegation of contract signing under **Article 51**, and shortens the period for the Ministry's review of contracts to **four working days** under **Article 57**.

> "The real value of regulatory flexibility therefore lies in combining speed of decision-making with the quality of decisions, not in speeding up procedures at the expense of competition or the protection of public funds.

EXHIBIT 5

Key tools of contractual flexibility in the new law

SAR 1m
Direct purchase threshold (Article 32)

SAR 50m
Delegation threshold

4 working days
Ministry's review of contracts (Article 57)

Delegation of contract signing (Article 51)

Public tendering remains the general rule for government works and procurement, and flexibility remains subject to reasoning, documentation and oversight.

These amendments should not be seen merely as a means of shortening administrative procedures, but as tools that can help make the government's response more efficient and reduce the time and cost involved in contracting.

In many cases, the time taken by purchasing procedures is an indirect economic cost, both for the government entity waiting for its works to be carried out and for the businesses that commit human and financial resources to taking part in tenders.

Delays in contracting may hold up projects or delay the provision of services, and may increase implementation costs as prices or market conditions change.

Improving the efficiency of procedures while preserving statutory safeguards can therefore help reduce these costs, speed up project delivery and improve the ability of government entities to respond to their actual needs.

The economic impact of flexibility does not, however, come simply from widening powers. It depends on the ability of government entities to exercise those powers in a disciplined way, by defining levels of responsibility, developing delegation of authority matrices, setting clear criteria for choosing contracting methods, and documenting the reasons on which decisions are based.

Public tendering also remains the general rule for tendering government works and procurement, and the higher direct purchase threshold must not be treated as a general licence to bypass competition or split purchases.

The real value of regulatory flexibility therefore lies in combining speed of decision-making with the quality of decisions, not in speeding up procedures at the expense of competition or the protection of public funds.

06

Improving the government contracting environment and strengthening private sector confidence

The efficiency of the government procurement market depends not only on fair tendering procedures or clear contract terms, but also on how consistently contractual obligations are performed, how clearly risks are allocated, and how efficiently payments due are managed.

From this perspective, the provisions of the new law on contract management, payment of contractors' dues and dealings with subcontractors are particularly important.

Article 91 contains a provision restricting the ability of a government entity that is late in paying contractors' dues to issue new award decisions, after it has been notified by the Ministry of Finance, in accordance with the controls and exceptions set out in the law.

This provision is economically significant because late payment is not merely a breach of a financial obligation; it can have a lasting effect on businesses' cash flow, their ability to meet their own obligations, the continuity of their operations and their ability to finance new projects.

Regular payment is all the more important for SMEs, which may be less able than larger businesses to absorb delays in collecting what they are owed.

The law also allows a government entity to make payments directly to a subcontractor under **Article 69**, providing a tool that can help improve the flow of payments through the contracting chain and limit some of the risks that subcontractors may face.

EXHIBIT 6

Two provisions for regular payment through the contracting chain

Article 91

Award restriction for entities late in paying

A government entity that is late in paying contractors' dues may not issue new award decisions after notice from the Ministry of Finance, subject to the controls and exceptions in the law

Article 69

Direct payment to subcontractors

A government entity may make payments directly to a subcontractor, improving the flow of payments through the contracting chain

In economic terms, improving contractual and financial discipline can help reduce the risks that bidders factor in when pricing their bids, make the government procurement market more attractive, and strengthen businesses' ability to plan and expand.

The clearer and more stable the contracting environment, the better able businesses are to estimate their costs and risks and to decide whether to take part in tenders on a more accurate economic basis.

This does not mean that the law removes all the risks associated with government contracting, but that it provides regulatory tools that can help manage them and limit some of their effects.

07

From buying products and services to stimulating innovation and raising productivity

Developing the concept of value for public money opens an important opportunity to rethink how government entities design their requirements and their tenders.

Traditional government contracting may focus on setting detailed specifications for the product or service required, and then comparing bids against the prescribed criteria. A focus on economic value, by contrast, allows entities, within the limits permitted by the law, to give greater attention to the operational and functional outcomes sought from the procurement.

> The law opens the way to better purchasing practices, but turning that opportunity into economic results requires institutional capabilities able to connect government needs with the opportunities that markets offer.

For example, the aim of contracting for a technology system may not simply be to obtain software with specific specifications, but to make a government service more efficient, shorten transaction times, improve the reliability of data or reduce operating costs.

EXHIBIT 7

From specifications to outcomes: contracting for a technology system

TRADITIONAL CONTRACTING

Obtaining software with specific specifications

A FOCUS ON ECONOMIC VALUE

The operational and functional outcomes sought from the procurement

- A more efficient government service
- Shorter transaction times
- More reliable data
- Lower operating costs

Where the evaluation criteria can measure these outcomes objectively, competition can open up to different solutions that achieve the intended purpose more efficiently.

This may encourage businesses to develop innovative products and services, invest in research and development and improve their operations, rather than competing on price alone.

It can also help develop the relationship between government entities and the market, so that procurement becomes a means of encouraging more efficient and productive solutions, not merely a channel for supplying existing products and services.

This approach must, however, respect the principles of competition, transparency and equal opportunity, and specifications or evaluation criteria must not be designed in a way that favours a particular business or restricts competition without statutory justification.

This highlights the importance of developing the technical and contracting capabilities of government entities, so that they can define their needs precisely, set measurable performance indicators and assess the different alternatives fairly and objectively.

The law opens the way to better purchasing practices, but turning that opportunity into economic results requires institutional capabilities able to connect government needs with the opportunities that markets offer.

08

The shift required to achieve economic value

Important as the amendments introduced by the new law are, achieving their economic impact cannot rely on the statutory provisions alone.

Government procurement is an integrated institutional process that begins with identifying needs, passes through planning, preparing specifications, studying the market and evaluating bids, and extends to contract management and measuring the results of performance.

EXHIBIT 8

Government procurement is an integrated institutional process



Each of these stages can directly affect the final economic value that a contract delivers.

Poorly identified needs may lead to buying products or services that do not match actual requirements, imprecise specifications may limit competition or raise prices, and weak contract management may increase costs or lower the quality of outputs.

Making the most of the new law therefore requires developing the procurement function within government entities, so that it is not merely a procedural function concerned with completing statutory requirements, but an institutional function that combines legal, financial, technical and economic expertise.

This calls for closer integration between the user departments and the finance, legal and procurement departments, better mechanisms for market research and cost estimation, improved evaluation criteria, and more efficient contract management and performance monitoring.

It also requires developing tools to measure value, so that government entities can assess the results of their procurement not only in terms of compliance with budgets and procedures, but also in terms of the quality of outputs, operating costs, the sustainability of assets and the achievement of the objectives linked to the procurement.

This shift is particularly important given the powers and flexibility the new law provides, since the wider range of options available to a government entity calls, in return, for a higher level of accountability for the quality of the decisions it takes.

One of the most important potential effects of the law is therefore that it pushes government entities to develop their internal capabilities in managing spending and contracting, and to move from a culture focused on sound procedure to one that combines sound procedure with sound decisions and effective results.

09

How can the economic success of the new law be measured?

Measuring the speed of tendering procedures, the number of contracts concluded or the size of the direct financial savings achieved by government entities is not enough, on its own, to judge the success of the new law.

These indicators, important as they are, do not on their own reflect the full economic value of government procurement.

Measuring success can draw on a wider set of indicators, including the actual **life-cycle cost** of projects compared with initial estimates, the quality of services and outputs, rates of compliance with performance levels, the extent of reductions in operating costs, and the regularity of payments to contractors.

Market-related indicators can also be considered, such as the number of businesses taking part in tenders, the level of actual competition, SME participation, the local content percentages achieved, and how far the national supplier base has developed.

It is also important to measure how far government procurement contributes to stimulating investment and developing productive capacity, wherever objective and measurable indicators can be identified and results linked to the relevant contracts.

EXHIBIT 9

A wider set of indicators for measuring economic success

Indicators linked to contract results

- Actual life-cycle cost against initial estimates
- Quality of services and outputs
- Rates of compliance with performance levels
- Reductions in operating costs
- Regularity of payments to contractors

Indicators linked to the market

- Number of businesses taking part in tenders
- Level of actual competition
- SME participation
- Local content percentages achieved
- Development of the national supplier base

These indicators are not necessarily separate statutory obligations; they are analytical tools that can guide the assessment of the economic impact of government procurement and the improvement of its performance.

Most importantly, measuring success should distinguish between the direct results of a contract, such as quality of performance and operating cost, and the wider economic effects, such as market development and increased investment, which may be influenced by many factors beyond the law alone.

10

Preparing for the new law and turning legislative opportunities into practical results

The new law provides that its provisions come into force **120 days** after its publication in the Official Gazette, with transitional provisions governing works and procurement tendered under the previous law.

The transitional period is an opportunity for government entities to review their procurement and contracting systems and identify the policies, procedures, powers and contract templates that need to be developed to ensure consistency with the new provisions.

Real preparation, however, should not be limited to updating documents and procedures or training staff on the new provisions. It should extend to reviewing the methodology that government entities follow in planning their procurement, evaluating contracting alternatives and measuring the value achieved from their spending.

The new law offers opportunities to improve economic efficiency, but making use of them requires government entities to have a clear view of the results they seek to achieve, and the ability to turn those results into contractual requirements that can be implemented and measured.

It also requires following the issuance of the related regulations, decisions and regulatory guides, and ensuring that internal procedures are consistent with them, so that the flexibility available is exercised within a sound legal framework.

For the private sector, it is important to prepare for the new requirements, develop technical and operational capabilities, strengthen compliance with local content requirements, and improve the ability to submit competitive bids that reflect value, quality and efficiency, not price alone.

EXHIBIT 10

Preparing for the new law during the transitional period

120 days

From publication in the Official Gazette until the law comes into force

GOVERNMENT ENTITIES

- Review procurement and contracting systems and identify what needs developing in policies, procedures, powers and contract templates
- Review how procurement is planned, alternatives are evaluated and value is measured
- Follow the related regulations, decisions and regulatory guides as they are issued

PRIVATE SECTOR

- Prepare for the new requirements and develop technical and operational capabilities
- Strengthen compliance with local content requirements
- Submit competitive bids that reflect value, quality and efficiency, not price alone

CONCLUSION

Towards an economy in which government procurement creates value beyond the contract

The new Government Tenders and Procurement Law is an important step in developing the legislative framework for managing public spending in the Kingdom, in line with the drive to raise the efficiency of government performance and strengthen the contribution of public resources to economic development.

Its importance lies in giving government entities more advanced tools to achieve value from their procurement, by developing evaluation criteria, strengthening advance planning, expanding certain contracting powers, improving contract management and supporting local content and national businesses.

The law's greatest value, however, may lie not in how much it saves, but in how many new economic opportunities it can create.

Every government tender can be an opportunity to develop a market, every contract can help build productive capacity, and every project can be an opportunity to improve productivity or stimulate innovation, provided that procurement is designed and managed in a way that balances economic efficiency with the requirements of fair competition and the protection of public funds.

The real challenge, therefore, lies not only in applying the new provisions, but in the ability of government entities to use them in a way that turns spending from a mere means of meeting needs into a tool for producing sustainable economic and development value.

> The most efficient government procurement is not necessarily the one that spends the least, but the one that achieves the best value from what it spends and uses the impact of that spending to develop markets, strengthen national capabilities and raise the productivity of the economy.

This is the broader economic horizon that the new law opens up, and one that could make the development of the government tenders and procurement system a lever for economic growth, not merely a reform of contracting procedures.

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