

New Qatar Public Procurement Law

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Last week the State of Qatar implemented a new public procurement law. The new law further aligns Qatar's public procurement laws with international best practice and should streamline public procurement in Qatar.

Key Changes to Qatari Public Procurement Law

Qatar Law no. 24 of 2015 on Regulation of Tenders and Auctions (the "New Procurement Law") took effect on 13 June 2016, superseding Law no. 26 of 2005. The New Procurement Law is broader in scope, applying to numerous government entities.

The overarching theme of the New Procurement Law is to promote greater efficiency in public procurement. Some of the ways in which the New Procurement Law seeks to do this include by:

- Abolishing the Central Tenders Committee, and decentralising the tendering process;
- Streamlining disputes over tenders through establishing Committees for Dispute Resolution;
- Permitting the use of two-stage tendering; and
- Exempting SMEs from being required to provide performance bonds and payment guarantees.

Overview of Key Changes

Decentralisation of Tendering Procedures

The previous public procurement laws in Qatar required the Central Tenders Committee and the Local Tenders Committee to oversee all public tenders in the country (subject to monetary thresholds). By contrast, the New Procurement Law permits each regulated government entity to create its own tender committee, whose members must include representatives from the Ministry of Finance and the Diwan Audit Bureau.

This decentralisation of the tendering process has the potential benefit of allowing each government entity to exercise greater control over its procurements. This can be particularly important where the type of procurement concerns a specialist subject matter with which the entity is primarily concerned, where the government entity may be best placed to adjudicate which tender offers best overall value for money.

Committees for Dispute Resolution

In order to resolve procurement disputes in an effective and speedy manner, the New Procurement Law allows the Ministry of Finance to set up as many committees as may be needed to decide disputes, with each committee presided over by a judge. Just as adjudging the qualitative features of tenders may be a specialist matter, resolving disputes over the assessment of tenders may require specialist knowledge. The New Procurement Law's contemplated decentralisation of dispute resolution may therefore add value by ensuring that what are often specialist disputes over matters of technical compliance are resolved by a committee with the requisite technical know-how.

Two-Stage Tendering Process

Two-stage tendering is an innovation of modern procurement, and the New Procurement Law permits government entities to apply it.

In brief, two-stage tendering involves a procuring entity seeking tenders from contractors / suppliers based on an initial scope of work that remains to be more fully defined. Once the procuring entity has received initial tenders, and has selected a preferred bidder by “awarding” the contract to it, the entity will then engage the successful bidder to perform certain pre-commencement services as a more detailed scope of works and the contractor’s / supplier’s full tender is worked up. Once this occurs, a contract will be entered into for the particular procurement.

Two perceived benefits of adopting this process are:

- by involving the contractor / supplier from an early stage in the procurement process, the contractor / supplier is better able to understand its scope of works / supply and therefore to refine its tender for the benefit of the project; and
- the contractor / supplier is also able to make an early start on its works / supply – i.e. before the full, detailed scope of its supply has been defined.

Performance Bond Waiver for SMEs

The cost of providing performance bonds and guarantees for public procurements is sometimes considerable for SMEs, and can put them at a competitive disadvantage. Recognising this, the New Procurement Law provides SMEs with the option to seek an exemption (either full or partial) from submitting performance bonds upon providing financial assurances made available for SMEs through the Qatar Development Bank.

Aligning with International Best Practice

The New Procurement Law aims to align Qatar’s procurement laws with international best practices, such as those set out in the UNCITRAL Model Law on Public Procurement. By adopting these new measures, it is envisaged that savings can be achieved in public procurements – savings which are increasingly important during the current period of depressed energy prices.

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