

## Foreign Consultancies banned from Saudi Arabian Government Contracts

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A Royal Order has been issued which seeks to limit government departments and agencies from awarding contracts to foreign consultancy and advisory companies where a Saudi firm or research centre, with sufficient experience, is able to provide the required consultancy services.

The Saudi Gazette reported that the Executive Committee's report follows an earlier discussion by the Shura Council, the formal advisory body of the Kingdom, which saw Shura members call on the Saudi authorities to take measures to limit the spending on foreign consultancy firms and provide consultancy services to Saudi consultancy offices, universities and research centres.

### Potential Impact on Construction Industry

The Kingdom of Saudi Arabia is currently one of the most prosperous markets globally for design and construction related consultancy services, given the huge opportunities associated with Vision 2030 and is projected to have a cumulative construction spend of approx. USD 1,564bn over the next 10 years.

Despite a number of potential compliance and equality issues presenting concerns, many international consultancies have a strategic focus on the region.

### So what does this mean for Consultants?

Interestingly the Shura Council's recommendations were directed at spending on foreign consultancy firms which provided services focused on the formulation of strategic objectives which assisted the Kingdom by providing recommendations on how to control expenditure and how

to privatise government institutions. They do not appear to be directed at the award of contracts for design or construction related services.

Notwithstanding the above, this new Royal Order is likely to bring with it some challenges for consultants offering design and construction related services and who are considering entering the KSA market.

### Things to Consider

1. Closely review Requests for Proposals looking out for requirements which might call for engaging a locally registered firm to act as the AOR, or which require you to register locally, or form an association or enter a JV with a locally registered firm in order that a minimum number of hours, or percentage of the services, is performed locally.
2. Consider the payment mechanism and whether payment can be made to a non-Saudi bank account. This is also likely to sharpen your focus on potential withholding tax issues.
3. Ensure the appointment terms consider how a change in law might be interpreted. Consider whether such a clause should restrict an entitlement to additional time or costs where a party is required to engage a local firm as a result of this Royal Decree.
4. Ensure you consider the duty of care to be provided. We often see quite broad duty of care obligations in KSA government appointments which include licensing requirements that require local registration, or the engagement of a local firm to fulfil the necessary obligations.

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While this new Royal Order presents some concern, it may have limited effect in the construction industry, particularly as local Saudi firms will find it challenging, without international support, to provide the services required to meet the ambitious goals of Vision 2030.

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