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Strategic Imperatives Under the 2026 Bangladesh Public Procurement Ordinance

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The public procurement landscape in Bangladesh has undergone a significant structural transformation. Promulgated in September 2026, the Public Procurement (Amendment) Ordinance, 2026 (Ordinance No. 37 of 2026) has brought fundamental changes in the rules of engagement for government contracts. This amendment alters market entry strategies, compliance requirements, and liability frameworks for both domestic and international contractors. Here is a technical breakdown of how these statutory shifts will impact your business.

1. Public Procurement Market Entry & Structural Changes

1.1. Mandatory Joint Ventures for Foreign Bidders

The Ordinance fundamentally rewrites the rules for foreign market entry. The amended Section 27(2) makes it legally mandatory for any foreign individual or corporate entity to form a Joint Venture (JV) with a Bangladeshi entity to participate in Expressions of Interest (EOI), pre-qualifications, tenders, or proposal submissions.

Now Standalone foreign bidding is effectively banned. Multinational infrastructure and energy firms must now legally integrate local partners into their bidding architecture. Foreign contractors must immediately initiate corporate matchmaking and rigorous Anti-Bribery and Corruption (ABC) due diligence on prospective local partners before structuring Joint Venture Agreements (JVAs).

1.2. Erasing Barriers for Domestic SMEs

Sections 25(2) and (3) prohibits procuring entities from imposing baseline qualification criteria that *unnecessarily restrict* newly registered entities and novice entrepreneurs. Procuring entities are legally barred from mandating extensive long-term operational experience, exceptionally high annual financial turnover, or the completion of single large-scale public contracts as baseline criteria, unless explicitly justified by project complexity. The amendment is brought to dismantle the oligopoly of legacy contractors.

1.3. Statutory Preference for Domestic Goods

The newly inserted Section 25A grants the government statutory authority to mandate preference—or compulsory procurement of certain categories—for products manufactured in Bangladesh. This provides a massive protective shield for local manufacturers competing against cheaper foreign imports.

2. Tender Evaluation & Bidding Mechanics

2.1. The "Sustainability Factor" in Bid Evaluation

While the Open Tendering Method (OTM) remains the primary baseline method, the amendment reinforces a two-envelope system (Technical and Financial). Furthermore, for procurements exceeding specific financial thresholds set by rules, evaluations must utilize a Quality and Cost Based Selection (QCBS) scoring ratio.

According to the amended provision, lowest-price bidding will no longer guarantee an award. The QCBS ratio must now incorporate a **"Sustainability Factor"**, evaluating environmental and social sustainability metrics alongside technical quality and financial pricing. Corporate bidders must immediately integrate ESG (Environmental, Social, and Governance) data and sustainability credentials into their standard technical bidding documents.

2.2. Pricing Compliance in Limited Tendering

In domestic procurements designated for local or disadvantaged enlistees under the Limited Tendering Method (LTM), Section 31A(3) mandates the **automatic legal rejection** of any bid quoting a price that deviates beyond the set percentage limit above or below the official cost estimate.

2.3. Expanded Global Visibility

Under Section 40(5), procuring entities must advertise international tenders across global channels, explicitly including the United Nations Global Marketplace (UNGM), international trade portals, and diplomatic missions, vastly expanding visibility for international firms.

3. Contract Execution, Liability & Due Process

3.1. Strict Accountability for Contract Variations

The replacement of Section 22 mandates that any change in contract scope, including Variation Orders, additional supplies, or time extensions must be approved by competent authorities and formalized exclusively via an amended contract. Section 22(3) establishes strict statutory liability for procuring

entities, project managers, and implementation teams for negligence of duty or failure to enforce execution per agreed terms.

3.2. Due Process in Debarment and the "Right to Rectify"

The amended Section 64 overhauls the debarment regime by mandating strict administrative due process. The government must issue a written show-cause notice detailing specific charges and provide a reasonable defense opportunity prior to any debarment. For rectifiable procedural errors (explicitly excluding fraud, corruption, collusion, coercion, or obstruction), procuring entities are now legally required to grant bidders a reasonable opportunity to correct the error before imposing a debarment.

3.3. Absolute Transparency in Beneficial Ownership

Replacing Sections 53 and 63, the Ordinance mandates that all public execution notices must contain the **full beneficial ownership information** of successful bidders and consultants. Bidders will not be permitted to obscure true ownership behind nominee directors or shell companies.

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