

**Governance manifestations in Law No. 23-12 specifying
the general rules related to public procurement**

تجليات الحوكمة في القانون رقم 12-23 المحدد للقواعد العامة المتعلقة بالصفقات العمومية

Bendaas Siham

Faculty of Law and Political Sciences,

University of Mohamed Lamine Debaghine, Setif2

s.bendaas@univ-setif2.dz

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Abstract:

It has become necessary to turn to the process of proper planning and management to adopting governance principles in the administrative and financial management of various sectors and institutions, especially in the field of public transactions as they are the most important means of satisfying public needs and development tools, the process of concluding which requires pre-studied controls with legally stipulated arrangements. It cannot be bypassed, as well as the details of its implementation by specifying the rights and obligations of each party to achieve the efficiency and effectiveness in providing the public service that is expected from its conclusion.

Keywords: governance; public transactions; Contractor service; Contracted Customer; public interest.

ملخص:

أصبح من الضروري الاتجاه إلى عملية التخطيط والتدبير السليم لترشيد أداء الحكم، وإرساء قواعد الحوكمة في التسيير الإداري والمالي لمختلف الهيئات والمؤسسات العمومية، ولاسيما في مجال الصفقات العمومية باعتبارها أهم سبل إشباع الحاجات العامة وأدوات التنمية، التي تحتاج عملية إبرامها لضوابط مدروسة مسبقا بتراتب منصوص عليها قانونا لا يمكن تجاوزها، وكذا تفاصيل تنفيذها بتحديد وضبط حقوق والتزامات كل طرف فيها، لتحقيق النجاعة والفعالية في تقديم الخدمة العمومية والمرجوة من إبرامها.

الكلمات المفتاحية: الحوكمة؛ الصفقات العمومية؛ المصلحة المتعاقدة؛ المتعامل المتعاقد؛ المصلحة العامة.

Auteur correspondant : Bendaas Siham

Introduction:

Public authorities in the state, regardless of their levels and specializations, resort to public transactions contracts in order to achieve their goals and programs, to satisfy public needs, as they are an indispensable means in the process of growth and development. Therefore, it had to be surrounded by special procedures and protected by distinct legal regulation in order to ensure its effectiveness in achieving public benefit and the proper use of public money.

The public transactions system is characterized by continuous development due to its connection to several public fields and institutions. Therefore, an institutional system and an ethical and social commitment were sought to manage and organize it. The governance model is considered the best method for this and to ensure the efficiency and effectiveness of the huge development programs that various countries are working to achieve¹.

Governance, in general, works to achieve transparency, justice, and the right to accountability. It also achieves broad protection for those dealing with their interests, and by putting an end to the abuse of power. Governance rules also reflect the proven quality of service provided in line with pre-determined objectives. One of the objectives of governance arrangements is to ensure channels of communication and accountability, and encourage participation in opinion and consultation².

Taking into account Law No. 23-12, the current and new legal law for public transactions³, and the legal framework established for their validity, it has arranged most of the principles and rules related to them, and determined the methods and procedures for concluding and implementing them, as well as the role and competence of public transactions committees in organizing and monitoring them.

It was necessary for the Algerian legislator to include the principles of governance or the requirements of good governance to rationalize the spending of public money, in order to confront the various types of corruption that have spread horribly in the field of public transactions, especially in the face of the weakness of the legal systems in supervising and controlling them due to the lack of equality, integrity, transparency, and accountability.

Therefore, the following problem must be raised:

What aspects of the governance of public transactions contracts are evident in Law No. 23-12?

To address the problem at hand, reliance was placed on the descriptive approach, which allows focusing on the legal texts and provisions related to the conclusion and implementation of public transactions, and the details highlighted for establishing governance principles, as well as the analytical approach, which allows examining, analyzing and explaining the previous provisions, detailing their content and showing how the Algerian legislator devotes the principles of governance to contracts. Public transactions are a necessity to achieve many goals, the most important of which is comprehensive development.

This will be done according to the following plan:

–**The first axis:** manifestations of governance in the process of concluding public transactions,

-The second axis: Manifestations of governance in the arrangements for implementing public transactions.

Section I: manifestations of governance in the process of concluding public transactions:

By reviewing the rules of Law No. 23-12 containing the Public transactions Law, we find that it has established the principles of governance in many of its texts related to the conclusion stage, protecting the rights of contractors and serving the Contractor service, and this is within the framework of regular satisfaction of public needs, as well as rationalizing public funds and fighting corruption.

Accordingly, governance is manifested in the process of concluding public transactions in the following aspects:

1 - Setting the general principles governing the process of concluding public transactions:

Public transactions are based on general principles that the Algerian legislator was keen to enshrine in the process of concluding public transactions and selecting the appropriate contractor, in order to ensure the effectiveness of public requests and the proper use of public money⁴.

The legislator's dedication to these principles was not only to protect the process of concluding public transactions and ensure their legitimacy, but also extends to the protection of competitors in them, and in parallel protects public money, especially since most of these principles are stipulated in the constitution.

Comparative laws for transactions have unanimously agreed that the process of concluding public contracts is based on free competition, and equality between competitors, and to achieve them, the principle of announcing deals and non-discrimination between competitors is decided as a general rule to ensure the principle of transparency of its procedures⁵.

The principles under study are as follows:

A)The principle of publicity:

Publicity is a necessary step for the governance of public transactions, and it is essentially the duty of the administration, which is committed to providing its mechanisms, and the Contractor service must adhere to them at all stages of concluding the deal.⁶

Publicity in contracting reinforces the principle of trade, work, and the equality of individuals in this regard, and puts free competition into actual practice, because it is what leads to stimulating competition within a climate of equality and transparency. Therefore, advertising is necessary so that there is a real scope for competition among those wishing to contract with the administration.⁷

The principle of publicity has been enshrined in the advertising procedure explicitly stipulated in the text of Article 46 of the Public transactions Law, which stipulates that resorting to publicity shall be mandatory through the official bulletin of public dealer transactions, and through the approved press and electronic press for all forms of request for offers and negotiation after consultation.⁸

Resorting to advertising is also obligatory through the electronic portal for public transactions, according to the conditions determined by a decision of the Minister in charge of finance regarding the above-mentioned forms of conclusion, including the consultation procedure stipulated in Article 18 of the Public transactions Law.

B) The principle of general competition:

The principle of free competition means opening the door to fair participation for everyone who wishes to participate in the process of concluding the announced deal. Accordingly, all competitors must be treated equally, and the conditions for participation must be the same for all. It is not permissible to give an advantage to one of the bidders at the expense of others⁹.

Therefore, the Public transactions Law imposes on contracting departments, when they conclude public transactions, an obligation to refrain from committing practices that restrict freedom of competition, and to uncover practices that economic agents may resort to falsify competition.

Accordingly, this principle becomes clearly evident at the stage of submitting bids and submitting pledges, where everyone who meets the announced conditions is allowed to participate in his bid with the rest of the competitors, and to enter into a fair and honorable competition with them in order to win the deal to be concluded. Especially since competition would preserve integrity in the contract-concluding processes, and prevent suspicion of favoritism from the administration and its employees who bear the burden of the concluding process. Experience and expertise have proven that opening the door to discretionary power before the administration in order to choose its contractors has led to a lot of corruption.¹⁰

C) The principle of equality between competitors:

This means that public contracts are based on a general basis, which is equality between competitors, meaning that everyone who has the legal right to apply for deals has the right to submit his offer with the rest of the bidders and to participate in it on an equal footing with them, and the contracting administration does not have the right to discriminate between competitors.¹¹

This principle is especially evident at the stage of submitting bids, as well as the stage of evaluating and examining them, as the administration must take into account equality among all applicants for the competition. It is a complementary principle to the principle of freedom of competition, and imposes the necessity of respecting the conditions and dates of the deal for all bidders and applicants without discrimination. Taking into account the exceptional cases stipulated by law in some types of public transactions.¹²

D) The principle of transparency of procedures for concluding public transactions: Transparency means the clarity of the various legal rules, and then the ease of viewing and clarifying behaviors for everyone, because the lack of the principle of transparency is an indicator of the presence of illegal actions, or a violation of the provisions of the process of concluding public transactions.

Therefore, the principle of transparency was emphasized within the Law to Prevent and Combat Corruption, as it recognized the necessity of taking the necessary measures to enhance transparency, responsibility, and rationality in the management of public funds in accordance with the law.¹³

Therefore, the principle of transparency must be activated in the procedures for concluding a public transaction by treating all candidates in a specific manner, given the conditions related to information about the transaction to be concluded.

2- Setting the procedures for concluding public transactions:

Considering that public transactions are among the most important tools for economic development, the process of concluding them must be subject to predetermined rules. Therefore, the contracting authority is obligated to conclude its deals according to the arrangements and forms prescribed by law to achieve the principles of governance.

The governance of public transactions is not complete except by imposing special restrictions and rules on the employees of contracting departments, who supervise the process of concluding them and who are obligated to ensure the principles of transparency, competition, and equality, as a mechanism to protect them from corruption.

The principles of governance in the stages of the process of concluding public transactions can be found in the following:

A) Determine the needs of the Contractor service accurately and rationally:

Article 16 of Law No. 23-12 explicitly stated that the Contractor service must control and determine their needs accurately and in advance, before embarking on any of the procedures specified for concluding the public contract, and the amount of the contracting interests' needs must be estimated in an honest administrative estimate.

Public needs must also be prepared precisely, based on detailed technical specifications, to achieve the required efficiency. These technical specifications must not be directed towards a specific product or economic operator. It also prohibits the division of needs in order to avoid the procedures for calling for competition and the limits of the jurisdiction of the tribal external oversight bodies stipulated in this law.

B) Preparing the books of conditions for the public transaction to be concluded:

The term books mean the sum of documents prepared by the contracting authority alone in advance, under which the various conditions and controls for the process of concluding a public transaction are determined, as well as the details of its conduct and even its implementation.

The law requires both parties to follow and observe it, and if it is not adhered to and violated, the deal will be illegal. Article 17 of Law No. 23-12 stipulates that books of conditions shall be prepared before any procedure to invite competition is initiated, and shall clarify the conditions according to which public transactions shall be concluded and implemented, and they are of various types.¹⁴

Accordingly, these books must determine the appropriate method of conclusion and set the arrangements for selecting the appropriate contracting agent according to its law. The selection criteria must be precise according to the subject of the deal and non-discriminatory, and must be mentioned obligatorily in the book of conditions for the invitation to competition, and the contracting authority must adhere to them in the selection process.

C) Choosing the appropriate method for concluding a public transaction:

Article 36 of the Public transaction Law states that choosing how to conclude deals, in accordance with the provisions of this law, is the jurisdiction of the contracting authority and its exclusive responsibility, and is based on searching for the most appropriate conditions for the objectives entrusted to it.

Law No. 23-12 specifies that public transactions are concluded according to the Request for offers procedure, which constitutes the general rule, or according to the negotiation procedure, which constitutes the exception. He also specified forms and procedures for each method, and identified cases of implementation that must be observed and applied.

He also obligated it to choose the appropriate method, the procedures of which are consistent with the good satisfaction of the public needs that are the subject of the transaction to be concluded.

Although the application of governance principles appears more clear and smooth in the method of requesting offers as it is the general rule in contracting, the need to apply them in negotiation procedure appears more urgent and difficult as it is an exceptional method of concluding deals, and its choice by the contracting authority comes as a necessity imposed by responding to some exceptional cases of concern. Distinctive privacy, realistically or legally, and consensual deals are considered among the deals most susceptible to corruption, which contradicts the image of legitimacy that the legislator has drawn for them.¹⁵

D) Embodying the principles of governance when awarding a public transaction:

After the contracting authority examines and evaluates the offers submitted to it, it must choose the best one to grant it the deal, because it is not free to contract with any individual it wants. Rather, it must follow special procedures governed by the law and detailed in the terms and conditions books, which will select the best offers in accordance with the conditions and specifications that it determines in advance.

Accordingly, the legal controls and measures that must be taken at the stage of awarding the deal must be clarified, as follows:

-It is necessary to adhere to the pre-determined criteria for selecting the Contracted Customer: The Public transactions Law requires that the contracting administration determine in advance precise and precise criteria for selecting the competent contractor, and they must be mentioned in the book of conditions for the deal to be concluded, which are often related to economic benefits, quality and price, and this depends on the subject and importance of this deal¹⁶.

According to Article 54 of the Public transactions Law, no negotiation with contractors is permitted in the request for proposals procedure, except in legally prescribed cases.

-Ensure the capabilities of contractors : The Public transactions Law obliges the contracting authority to allocate the deal to the institution that it believes is capable of implementing it, according to the set conditions, and this is after verifying the technical, professional, financial and commercial capabilities of the contractors, before evaluating the technical offers.

For this purpose, the contracting authority uses any legal means, including inquiring about the various contractors' capabilities, especially technical and financial ones. Therefore, it maintains a national card for economic operators, and sectoral cards at the level of each contracting authority, which are updated regularly, and whose details, including contents and conditions, are determined by a decision of the Minister in charge of Finance.¹⁷

-Provisional award procedure for the transaction : After completing the procedures for examining and selecting bids through the bid opening and bid evaluation committee, and selecting the best contractor, a temporary award decision for this deal will be issued against him, pending the completion of the ratification, accreditation and external control procedures by presenting the deal to the relevant bid committee¹⁸.

Section II: Manifestations of governance in the arrangements for implementing public transactions:

After completing the process of concluding a public transaction, this has certain effects on its parties, which are embodied in the rights and obligations stipulated by this contract concluded between them.

It is clear from the applications of governance on the public transaction that the terms and conditions book is an essential factor linked to all transactions that are related to the legality of the concluded deal, because the contractual relationship emerging between the contracting authority and the Contracted Customer creates mutual obligations, and any breach or negligence creates responsibility for the person responsible for not implementing the contract.

Which is evident in the following manifestations:

1- Setting the authorities and obligations of the Contractor service in implementing public transaction:

In public transactions contracts, the contracting authority is granted powers and rights vis-à-vis the customer contracting with it, because it works to achieve the public benefit. The idea of protecting the public interest is what gave the legal system for public transactions its originality, and led to the creation of a group of distinct rights and obligations that the law worked to control and protect in application of the principles of governance, and we present them as follows:

A) Statement of the Contractor service authorities:

In the field of implementing public transactions, the Contractor service enjoys broad authorities, even if they are not stipulated in the contract, because they relate to public order, because the nature of contract transactions, their connection to the public interest, and their exploitation of public money make these aspects an inherent right of the contracting administration, which it enjoys without the need for a text.

The most important of which are the following authorities:

- The authority of the Contractor service to supervise and control the implementation of the public transaction : Supervision authority means that the administration verifies that the contracting party is implementing his contractual obligations according to what was agreed upon. As for the oversight authority, it is represented by the administration's right to intervene in the

process of implementing the contract, direct the work and choose the appropriate methods for implementing it according to the conditions specified in advance in the contract.¹⁹

This privilege is granted to the Contractor service as it is a public authority responsible for the management of public facilities and public funds, so the legislator allocated Chapter Five of Law No. 23-12 to monitor public transactions.

Therefore, in order to avoid making a mistake and in anticipation of any violation or change to the terms of the deal, the contracting authority shall ensure that the work is progressing properly, and in doing so it may issue verbal orders and written instructions through which it embodies the conclusion of its inspections by highlighting the shortcomings and correcting everything it deems appropriate and that best serves the project²⁰.

It must be clarified that this authority is not absolute, because its absolute authority may lead to the contracting authority being arbitrary and exaggerating in its use of this privilege, which may harm the contracting customer. If the administration has the right to supervise and control, it is required that this be done in accordance with certain controls. If it becomes clear to the contracting customer If she abused this power, he has the right to object to that.

- The authority to amend the terms of the concluded transaction: It is decided that this authority is focused on the terms of the contract related to the agreed-upon implementation requirements, in terms of the quantity and type of things subject to the contract, the duration of implementation, and the method of implementation. The authority to amend is required not to lead to permanently amending the subject matter of the contract, or to overwhelming all of the contractor's technical or economic capabilities.²¹

This authority is exercised pursuant to an annex, which constitutes a contractual document affiliated with the public transaction, and is concluded in all cases if its goal is to increase or decrease services and/or amend one or several contractual clauses in the public transaction. The services, subject of the annex, may cover complementary services that are included in the overall subject of the public contract.²²

- The authority of the Contractor service to impose penalties on the contracting customer: If the contracting customer violates his contractual obligations specified in the terms and conditions of the concluded deal in any way, the contracting authority has the right to resort to imposing the legally prescribed penalties on him, in accordance with a decision it issues in this regard without resorting to the judiciary.

These penalties vary between financial such as compensation and delay fines²³, and pressure penalties to force the contracting customer to implement the contract in response to the requirements of the public interest, and to meet the needs of the public, the most important of which is the cancellation penalty stipulated under Article 90 of the Public transactions Law, in which it is assumed that a huge error occurred on the part of the contracting customer.²⁴

-The authority to cancel the transaction: The legislator granted the Contractor service the authority to terminate the contract unilaterally, even if the contracting party did not commit any contractual error. It is sufficient only for resorting to this procedure to be justified due to the public interest, as stipulated in Article 91 of the Public transactions Law.

B) Determine the obligations of the Contractor service:

In order to establish the principles of governance, it was necessary to define the obligations of the Contractor service in the field of implementing public transactions. They are imposed by law and detailed in the book of conditions of the concluded deal. In return, they are rights of the contracting customer that must be guaranteed to him, the most important of which are:

- **Financial sponsorship of the public transaction:** The implementation of public transactions requires the availability of significant financial capabilities, so the legislator stipulates that the Contractor service must be committed to providing financial assistance to the contracting customer. Therefore, the Public transaction Law stipulates that the financial settlement of the transaction shall be made by paying advances and/or payment on the account, and by settlements on the account balance.²⁵

- **Paying the price of the public transaction after its implementation:** This depends on the completion of the work for which the contract was made, so that the Contractor service inspects the completed work, the commodity supplied, or the required service, and ensures that that work conforms to the terms of the deal, and thus writes a final receipt report. The deal ends and the contracting customer receives its final price.

Therefore, the Public transaction Law was keen to regulate the price of the transaction, and the arrangements for its payment are detailed in the book of conditions to guarantee the right of the contracting customer ²⁶.

2- Setting the rights and obligations of the Contracted Customer in public transactions :

The requirements of modernization brought by the Public transaction Law and the requirements of governance and economic openness require the availability of a robust system that takes into account the consolidation of transparency, equality and integrity while preserving the interests of the public sector and the private sector within the framework of a parallel partnership, which aims to complete projects with superior skills, high quality and an appropriate cost to reduce From the interest conflict between each of the Contractor services and the Contracted Customer, since if they use it well, it is compatible with their interests and not contradictory, and it creates profit for both of them within the framework of the continuity of the public facility in all its aspects²⁷.

The contracting customer enjoys a number of rights and is bound by specific obligations according to the Conditions book of the deal concluded between them. Other rights are also decided for the contracting party other than those specified in the contract, on the basis of achieving fairness in implementation. He may also be subject to new obligations imposed by the process of implementing the deal.

Accordingly, the rights and obligations of the contracting customer will be studied as follows:

A) Determine the rights of the contracting customer:

The contracting customer has multiple rights at the stage of implementing the public deal, including what is stipulated and detailed in the book of conditions, such as the right to finance the deal and its final price, and rights estimated by the administrative judiciary of the contracting party

with the public administration, in exchange for the exceptional privileges that the administration enjoys in confronting him. Such as his right to request the financial rebalancing of the contract.

Accordingly, the most important rights of the contracting customer will be detailed as follows:

-The right of the contracting customer to obtain the price of the transaction: The right of the contracting customer to collect the price of the transaction is considered the most important of the rights he enjoys, because the contracting customer with the administration was aiming to profit from his contract with the management, and to achieve a profitable financial return, through the financial gains he obtains from implementing Contract.

This right is enshrined in the text of the law and detailed in the book of conditions of the concluded transaction. The Public Transactions Law gave it great importance in terms of explaining the mechanisms for its payment and methods of collecting it, along with explaining the payment and clearance procedures, because it is considered the primary purpose of concluding the public transaction for it.²⁸

It must be clarified in this regard that the price is an essential criterion in order to complete the concept of the public transaction itself, and it is also one of the most important criteria for selecting the contracting dealer. Therefore, the legislator set controls to fulfill it, which the administration must adhere to, thus establishing the principles of governance in controlling it.

-The right of the contracting customer to restore the financial balance of the public transaction :

During the initiation of the process of implementing the deal, circumstances may occur that are beyond the control of the contracting parties and were not expected when concluding the contract, hindering good and continuous implementation, and leading to an increase in the contractor's burdens to a burdensome degree.

This consideration leads to recognition of the right to the financial balance of the contract, meaning that the administration bears the increased burdens resulting from the implementation of the contract. It is assumed in every contract concluded by the administration and its powers are evident in it, including the right of the customer contracting with the administration to be compensated pursuant to it without the need for a stipulation of that in the contract

In this case, the public interest requires the need to assist the contractor with the administration in bearing the new burdens resulting from these circumstances, and to compensate him for his losses resulting from them, so that the financial balance of the contract is not disturbed.

Therefore, the Algerian legislator referred to this right in Article 87 of the Public transactions Law. Where did he try to guarantee this guarantee to the contracting customer in a friendly manner with the Contractor services , in order to ensure the proper and complete implementation of the deal. This is within the framework of an amicable settlement of disputes related to this issue.

- **The right of the contracting customer to other rights:** As the Transactions Law recognizes other important rights for the contracting customer, try to arrange them for him in a way that ensures the implementation of governance principles, the most important of which is handling, according to which the implementation of part of the deal is granted to a handler through a handling contract, according to the conditions stipulated in the law, the most important of which is The handling price should not exceed 40% of the total amount of the Transaction²⁹.

In order to facilitate the financing of Transactions, contractors were allowed the right to mortgage the contracted Transaction by arranging possessory mortgages on their deals with banking institutions, in accordance with Article 85 of the Public Transactions Law.

B) Determine the obligations of the contracting customer in the concluded transaction:

The contracting customer is responsible for a number of important obligations that he must perform, with all dedication and sincerity, including those stipulated by the law in all public transactions in general, which are general obligations, and including those that must be specified, and detailed in the book of conditions of the concluded transaction, according to the type and nature of the need satisfied under it. This is a Consecration on the principles of governance of its implementation process.

The obligations of the contracting customer are many and varied according to the type of transaction, and they can be classified and classified as follows:

- **Commitment to provide financial guarantees:** The Contractor service is keen to award the deal to the financially capable contracting customer, and this is in order to ensure good implementation of its contract, as the contractor with the administration must provide financial guarantees, protecting it from the financial risks that it may face in the event of its breach of its obligations.³⁰

Therefore, the Public transactions Law stipulates that the Contractor service must be careful to find the necessary guarantees that provide the best conditions for selecting its clients and/or the best conditions for executing the deal, as the books of terms of the concluded deal specify these guarantees as well as the methods of retrieving them³¹.

Among the most important of them are financial guarantees represented in various guarantees, the most important of which are the pledge guarantee, the deposit return guarantee, the performance guarantee³², and even the deductions for good performance, and this control is considered one of the most important aspects of the governance of the implementation of public transactions.

-**Commitment to implement the transaction:** This is when the contracting customer carries out the obligations imposed on him according to the book of conditions of the concluded transaction, and this obligation will not be paid for except by force majeure, considering that this obligation is the general and basic effect of the contract, and reflects the binding force of the transaction, to achieve the public benefit desired from its conclusion...

The contracting customer is obligated to implement the conditions of the contracted transaction as specified in its conditions book, with great care, and to commit to implementation personally and at his own responsibility, given the personal consideration in the process of selecting

the contractor and implementing the contract. He is responsible for any defects that may be included in the implementation, and he must comply with the administration's orders and prohibitions during this stage.

The contracting customer must also commit to respecting the deadlines specified for executing the transaction, as it is one of the most important obligations that must be controlled in this field, which varies according to the nature of the contract and the type of the concluded transaction, taking into account its size and the requirements for speed in delivery³³.

Therefore, the contracting administration is keen to set the deadlines for implementing the transaction and specifies them in the texts of the book of conditions. It also sets the last deadline for delivery. This is in response to considerations of the public interest and to protect the public money allocated for the implementation of this transaction.

Conclusion:

This study concluded that the Algerian legislator, under the new Public transactions law, approved and enshrined a set of governance principles or requirements of good governance to rationalize the spending of public money, in the various stages of the process of concluding and implementing public transactions, as is evident from the aspects that have been detailed.

This is necessary for the good satisfaction of public needs, preserving public money, and ensuring the continuity of public facilities in achieving the public benefit. However, this inclusion is not sufficient and requires activating these principles with a set of guarantees that will strengthen the establishment of the established governance principles, and work to respect them and enforce adherence to them.

These guarantees are mainly represented in the various oversight mechanisms for the process of concluding and implementing public transactions, which occupy an important and vital place, as they ensure the embodiment of good management and fair management of public funds, in addition to protecting and preventing it from any corruption, as well as confronting the various forms of violations that affect this process.

The features of good governance, represented by integrity, transparency, accountability, and the rule of law, are the pillars upon which public transactions are based in their conclusion and implementation. However, these pillars are not sufficient to address all types of corruption, as it is not enough to merely establish laws, but there must be a real will to implement and activate these laws. And continuous work to achieve the goals of good governance.

In order to strengthen aspects of governance in the field of public transactions and enhance its consolidation, the following recommendations must be made:

- The Public transactions law must be adapted to the provisions and philosophy of good governance, in order to develop a comprehensive and integrated policy to protect it, by adjusting its provisions and rules for concluding, and implementing it, and determining the penalties for violating it.
- Preparing the terms and conditions books for the transactions to be concluded by including the rules of transparency and fair competition between bidders, and strengthening them with the principles of governance in all their arrangements during the conclusion and implementation stage.

- The contracting administrations are keen to assign the task of concluding public transactions and supervising their procedures, to qualified employees with sufficient scientific and practical experience.
- Paying attention to the employees responsible for arranging public transactions by emphasizing the objective criteria for their appointment, and ensuring their training in this field.
- Urging employees in charge of public transactions to exercise caution, be loyal to their job, and perform their duties with full transparency and credibility.
- Motivating those in charge of the process of concluding public transactions and those supervising their implementation and oversight, financially and morally, and reviewing their wage system regularly.
- Activating the mechanisms of working according to the codes of public service ethics and respecting their rules, and following the periodic and regular evaluation of public employees, especially those in charge of the process of concluding and implementing public transactions,
- Organizing training and awareness-raising courses in the field of public transactions and its role in protecting public money, and establishing the rules of good governance.
- Collect and analyze data on the governance of public transactions, and examine the extent of its effectiveness with the requirements of the public procurement market, in order to rationally exploit the public funds allocated to it.

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¹⁶ According to Article 53 of Law No. 23-12.

¹⁷ See Articles 43, 44 and 45 of Law No. 23-12.

¹⁸ For more details, see: Ben Slimane Faiza, Governance of Public Transactions, a memorandum submitted for the Majister's degree in Law, Law Division, Public Bodies and Governance Branch, Faculty of Law and Political Sciences, Abderrahmane Mira University of Bejaia, 2015-2016, p. 55.

¹⁹ For more details about this authority, see: Dr. Suleiman Muhammad Al-Tamawi, previous reference, p. 454 et seq.

²⁰ Ben Suleiman Fayza, previous reference, p. 63.

²¹ Dr. Ammar Boudiaf, previous reference, p. 203 et seq.

²² Article 81 of Law No. 23-12.

²³ stipulated under Article 84 of Law No. 23-12

²⁴ Brahim Boulifa , op.cit , p 207.

²⁵ Article 80 of Law No. 23-12.

²⁶ See Articles 73 to 79 of Law No. 23-12.

²⁷ Ben Suleiman Fayza, previous reference, p. 76 et seq.

²⁸ As stated in Articles 73-80 of Law No. 23-12.

²⁹ According to Article 82 of Law No. 23-12.

³⁰ Brahim Boulifa , op.cit , p 119 .

³¹ Article 83 of Law No. 23-12.

³² Brahim Boulifa , op.cit , p 88 .

³³ Brahim Boulifa , op.cit , pp 191 -194.

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