

Public Transactions Governance under Law N° 23-12 as a mechanism to protect public money: case study of public transaction concluding

Kenza Ounnas ^{1*}, Assia Guemmou ²

¹ Finance, markets finance and corporate finance laboratory , University of Kasdi Merbah, Ouargla (Algeria), ounnas.kenza@univ-ouargla.dz

² University of Kasdi Merbah, Ouargla (Algeria), guemmou.assia@univ-ouargla.dz

Received: 1/7/2025

Accepted: 10/23/2025

Published: 10/11/2025

Abstract:

The study seeks to elucidate the governance method of public transactions by Law 23-12, where the descriptive analytical approach was relied on to delineate the governance principles, and to analyze the stages of concluding the public transactions embedded in provisions of this law, it also relied on a case study approach touched the steps for finalizing a public transaction by the Office of Real Estate Promotion and Management in Ouargla in order to analyze the reality of applying this law and highlight its effectiveness in protecting money. It was concluded that Law 23 -12 reflects good governance of public transactions because its foundation is based on the basic principles of governance, namely accountability, transparency and integrity, it was also concluded that adherence to the provisions of this law in concluding public contracts exists in real and this adherence has covered almost all loopholes of corruption, which makes this law an effective mechanism for protecting public money.

Keywords: Governance; public transactions; Law 23-12; public money; Office of Real Estate Promotion and Management.

JEL Classification Codes : H83 ; K15

ملخص:

تسعى هذه الدراسة إلى توضيح أسلوب حوكمة الصفقات العمومية بموجب القانون 12-23، حيث تم الاعتماد على المنهج الوصفي التحليلي لتحديد مبادئ الحوكمة وتحليل مراحل إبرام الصفقات العمومية التي تضمنتها أحكام هذا القانون، كما تم الاعتماد على منهج دراسة حالة تطرقا إلى خطوات إبرام صفقة عمومية من قبل ديوان الترقية والتسيير العقاري للتحليل واقع تطبيق هذا القانون وإبراز مدى فعاليته في حماية المال . تم التوصل إلى أن القانون 12-23 يعكس الحوكمة الجيدة للصفقات العمومية لأن أساس قيامه يعتمد على مبادئ الحوكمة الأساسية والمتمثلة في المسائلة، الشفافية والنزاهة، كما تم التوصل إلى أن الالتزام بأحكام القانون 12-23 في إبرام الصفقات العمومية موجود في الواقع وهذا الالتزام غطى بالتقريب كافة ثغرات الفساد، مما يجعل من هذا القانون آلية فعالية لحماية المال العام.

الكلمات المفتاحية: الحوكمة؛ الصفقات العمومية؛ القانون 12-23؛ المال العام، ديوان الترقية والتسيير العقاري.

تصنيفات JEL: H83 ; K15

* : Corresponding author.

1. INTRODUCTION

Public funds are fundamental resources the government employs to meet societal needs, attain sustainable development, and ensure welfare for its populace, consequently, numerous legislations have emphasized the importance of safeguarding public funds, instituting regulations and laws governing their use, and designating oversight bodies to protect them from corruption and embezzlement. Algeria, similar to other nations, has established numerous avenues to pursue this course, as exemplified in Article 10 of Law 06-01 to safeguard and administer public finances by implementing essential steps to improve transparency Accountability and prudence, especially in formulating and implementing the state budget (Radia, 2021, pp. 2337-2338), on the other hand ,the government issued law 18-15 on reforms in public accounting in order to embody Governance which is a way of implementing effective administration by authorities, particularly in preserving public funds. Governance includes initiatives to foster governance and culture, combats corruption, delivers essential technical help for the reform and modernization of public financial administration, and strengthens the efforts against money laundering (Fatma Mahboub, 2018, p. 198). Thus, the basic principles of good governance translate into good management of public funds, which includes transparency, participation, predictability and accountability (Jenny Hellen Owechi, 2012, p. 02),the principles of Governance have been developed and have come to include effective participation, the rule of regulation, transparency, providing the necessary information, equality, accountability and oversight (Bouaichaoui Morad, 2020, p. 18), where the allowing all segments of society to participate in formulating state policies and directing its expenditures contributes to reducing corruption and the waste of public money, which necessarily leads to rationalizing spending policy (Boumaaza, 2020, p. 38) This means that public spending is done within the controls of transparency and efficiency, which achieves the best results at the lowest possible costs (khaled, 2024, p. 324) .

Public transactions are considered an essential part of public money because they are the use of public funds to provide services to buy goods or complete projects, all this for the public sector, transactions can be expressed as public procurement ,it is known that public procurement is limited to purchasing and signing a contract with a supplier, while in reality it also includes creating, preparing, and managing contracts with multiple and diverse suppliers ,in this process, public value is created and protected (Jolien Grandia, 2023, p. 05).

Therefore, public transactions need to be organized, as they are carried out through organized steps and important procedures in which the pillars of governance should be evident. In this context, the Algerian legislator has updated the law regulating public transactions and adopted a new law that focuses on the governance of public transactions in its content, which is Law 23/12.

This legislation delineates public transactions as written agreements executed for a fee between the public purchaser, referred to as the "contracting authority," and one or more economic operators, termed the "contracting customer," to fulfil the requirements of the contracting authority in the domains of works, supplies, services, and studies, under the conditions specified in this article. Law, legislation, and regulation are pertinent.

The rationale for enacting this regulation may be safeguards public funds against corruption and misappropriation, that is by controlling the provisions contained therein in a manner that ensures sound governance and rational management of public money.

Through the above, **the research question is:**

How does Law 23-12 embody the Public Transactions Governance as a mechanism to protect public money from corruption and embezzlement?

Study methodology and Objectives:

In this study ,the text of Law 23-12 was analyzed to show the principles of governance embodied in it, the descriptive analytical method was employed to examine the methodology and phases of concluding the public transaction associated with the study and monitoring of the completion of 300 public rental housing units by the Office of Real Estate Promotion and Management in Ouargla in order to assess its adherence to the governance requirements of public transactions as outlined in Law 23-12, and to show the role of this law in protecting public money.

Literature review:

This study is characterized by its novelty, so previous studies are scarce, it is among studies that dealt with this topic we have:

- Studies of Bendaas Siham (2024) the first one in the title "Provisions for concluding public transactions by Law No. 23-12 Specifying the general rules related to public transactions": The study aims to assess the efficacy of the regulations for finishing public transactions as outlined in Law No. 23-12, which specifies the general rules governing public transactions under law 23-12, to ensure the proper use of public money and its preservation , The investigation determined that Law No. 23-12 delineated the procedures for finalizing public transactions characterized by transparency and integrity, which are requesting offers (general rule) and negotiation (exception), both procedures had certain method to succeed the public transaction.
- The second study titled "Governance Manifestations in Law No. 23-12 specifies the general rules related to public procurement"(2024):The researcher concentrated on identifying the governance elements of public transaction contracts inside Law No. 23-12, and the study elucidated these governance characteristics in two sections. The initial phase involves finalizing public transactions; the subsequent phase pertains to the arrangements for executing a public transaction. Ultimately, the Algerian legislator has ratified and enshrined a series of governance principles throughout the various stages of concluding and implementing public transactions in this new legislation.
- Study of K.saihi, K.medjdoub (2024)in title "The new mechanisms for preventing

corruption in public procurement in Algeria under Law 23/12": This study aims to identify the new mechanisms in the new Law 23-12 that reduce corruption in the concluding public transactions, a case study on public transactions were undertaken in the municipality of Sidi Bouzid, determining that Law 23-12 addressed numerous loopholes that facilitated corruption and improved transparency and integrity in the execution of public agreements .

- The study of Kemal Moustefaoui (2024) in the title " Updates on public procurement law n° 23-12 (national council for public procurement, and digitization model)": This study aims to present the developments of the public procurement law and show the effectiveness and independence of the National Council for Public Deals, and highlights the role of the electronic portal to digitize the public deals, all that according to what was stipulated in Law 23/12. It has been concluded that Law 23/12 extends the concepts and procedures in the field of public deals and embodies the principles of freedom, equality and transparency, which prescribes in its content for the first time to establish a national council for public deals with a consultant control tasks.
- The study of Bilal Aouali (2024) in the title " A comparative study in the procedures for concluding public procurements Between Law No. 23-12 establishing the general rules relating to public procurements and Presidential Decree No. 15-247 regulating public procurements and public utility mandates": This study relied on the comparative approach in order to analyze the legal frameworks of Decree No 15 -247 and Law 23-12 to extract the procedures and methods of concluding public deals and show the differences between them. It has been concluded that the new law of public deals is only a shortcut to Decree No. 15-247 with some slight differences, and this is what made the organizational texts of the old decree list valid.
- The study of K. Naima, K. Khaidar (2024) in the title " Legal regulation of public contracts and control mechanisms In light of Law 23-12 relating to the general rules of public procurement" : This study dealt with the developments of Law 23/12, where the descriptive approach was relied on to inform about the various texts related to public deals and explain them , the analytical approach was also relied on through the analysis of the articles of the law 23-12 , especially those that organized the forms of control over public deals. It has been concluded that the supervisory session, which is practiced on public deals, is considered a consultative role only, and therefore proves its ineffectiveness ,the researchers recommended that the formation and creation of the regulatory authorities should be reconsidered for the sake of their independence.

Through the above, it becomes clear that all studies analyzed the law 23-12 from various aspects, the first study stopped at the procedures for concluding the public deals stipulated in the law 23-12, as for the second study, only focused on the principles of Governance contained in the various stages and procedures for concluding public deals contained in this law. The third study tended to embody a practical reality of Law

23/12 in order to inform about its role in the fight against corruption , as for the fourth study, it based on the theoretical aspect of the text of the law, especially with regard to the digitization and the establishment of the National Council for Public Deals. The fifth study focused on the comparison between the old and new legal texts related to the public transactions only, as for the last study, it focused on analyzing the articles of the law, especially those that are related to the forms of control over public transactions.

As for the similarity of our study with the previous studies, it was found that the second study is similar to our study in analyzing the principles of the rule in Law 23/12, but our study was more dismissed in these principles and cleared them in details according to the legal texts mentioned in this law. Our study is similar to the study number three that depends on the same approach, which is a case study, but our study differs from it in the way of analyzing procedures of concluding the public deals, and in the goal of this analysis.

2. Theoretical Framework

To elucidate the principles and regulations of public transaction governance as delineated in Law 23-12, we have opted to establish a theoretical framework as a component of this study, encompassing the governance principles of public transactions and the procedural governance for executing such transactions.

2.1 Tenets of Public Transactions Legal Governance 23-12

Ensuring effective Governance of public contracts necessitates adherence to fundamental governance principles. Law 23/12 delineates these principles in Article 05, which are essential for the success of public transactions and the prudent utilization of public funds. These principles include equitable access to public requests, equal treatment of candidates, and procedural transparency (23-12, 2023, p. article 05).

Furthermore, the Law encompasses the concepts of Governance articulated through legal provisions as follows:

2. 1.1 The concept of the rule of Law

The statutory regulations about this idea are:

- Services and works shall not be implemented until the public contract is concluded (23-12, 2023, p. article 06).
- Public transactions are not valid and final unless approved by the competent authority (23-12, 2023, p. article 10) .
- The legislator has identified the bodies that apply the provisions of this law, as well as the Contracts executed that are exempt from it.
- The subject matter and format of the public transaction have been established, potentially encompassing the execution of works, procurement of supplies, completion of studies, and supply of services.

2. 1.2 The tenet of equality

The legislative stipulations regarding this principle are:

- Considering the public interest, adhering to environmental standards, and aligning with sustainable development objectives while assessing the contracting authority's requirements.
- Benefiting from training courses are available to all public employees and servants responsible for preparing, concluding and implementing public contracts. (23-12, 2023, pp. articles 7,8)
- Maintaining equality among candidates by saving information that may affect the principle of competition (23-12, 2023, p. article 71) .

2. 1.3 The principle of integrity

The articles from 65 to 70 in Law 23-12 spoke about integrity in concluding public contracts, that is in the following:

- Any deterrent measure shall be taken, including the termination or cancellation of the public contract upon the discovery of corruption or bias at any stage of its conclusion, even after it.
- Any economic operator convicted of corruption or bias shall be registered on the list of economic operators prohibited from participating in public contracts.
- Mandatory writing of an integrity declaration for the contracting economic operator.
- Every employee or public servant whose private interest conflict with the individual shall notify his authority in writing of the public interest and refrain from executing the work of finalizing the public transaction if it impedes the proper execution of his responsibilities.
- Participants of the arbitral commission and the public procurement committee is incompatible with membership in the envelope opening and bid evaluation committee when it concerns the same file.
- Public contracts shall not be granted to former employees for a period of five years in any way.
- The economic player engaged in the public transaction cannot be in a state that conflicts with other interests about the transaction at hand.

2. 1.4 The tenet of transparency

The legal stipulations regarding this principle are:

- Public contracts must be advertised on the electronic portal for public contracts or through the press.
- The tender file comprises the requisite information and documentation that allows contractors to submit compliant proposals.
- The envelopes are unsealed, and the proposals pertaining to the transaction are assessed by the Envelope Opening and Offers Evaluation Committee. (23-12, 2023, pp. articles 46-48)

- The existence of an electronic portal for public contracts, that constitutes a database containing a set of paperwork and data, including the files of prospective contractors.
- The announcement of the contest for the public transaction agreement is conducted digitally in accordance with a specific timetable, and the candidates will respond in the same manner. (23-12, 2023, pp. articles 106,107)
- Preparing at the beginning of each year a list of all previously concluded public transactions and the estimated program for projects for the current fiscal year, this information is mandatory to be publicized on the contracting authority's website and the digital platform for public agreements (23-12, 2023, p. article 95) .

2. 1.5 The principle of accountability:

Referring to Law 23-12 from Articles 96 to 103 we find that:

- The internal control task is undertaken by a permanent committee called the Committee of Opening Envelopes and Evaluation Offers, and external oversight is carried out by a regulatory body called the Public Transactions Committee.
- The Public Transactions Council assesses the legitimacy and compliance of public contracts with relevant legislation, as well as the degree of adherence by the contracting authority to the scheduled work.
- Public contracts of the People's Assembly and the Council of the Nation shall be evaluated according to the internal regulations of each body, while considering the implementation of this law.
- Examining the projects of condition books, transactions, and appendices, and also appeals are processed, when necessary, all those by the Public Transactions Committee of the contracting authority.
- Public transactions are under parental oversight to guarantee that the agreements established by the contracting authority align with the principles of productivity and the economy, which are vital for the sector.

The law also addressed in some articles the financial penalties as punishment for transgressions, as well as the methods of settling disputes.

2. 2. Governance of procedures for concluding public transactions

Public works sometimes require huge sums of money for the government; hence, the lawmaker enacted the public transactions law to safeguard public funds. and its proper spending and to avoid corruption and embezzlement in all its forms.

Article 13 of Presidential Decree 15-447 set the financial ceiling for concluding a public deal to exceed 12.000.000 DA, which is a huge sum of money that must be spent carefully by following the steps and procedures of the public transaction provided for

by Law and adhering to all requirements of good governance to ensure the successful protection of public money. (Larbi, 2024, p. 112)

Law 23-12 sets out several important steps for concluding a public transaction, that must be respected to plan well for the transaction and direct it to the right economic operator, this is what we will show in the following items.

2. 2.1 Identify needs

Before starting any procedure to conclude a public transaction, the contracting authorities must determine the needs to be met, this is what Article 16 of Law 23/12 mandates that the nature of the needs, namely the sort of service required, and the value of those needs must be precisely ascertained; this includes the financial estimation of the need, which is the paramount aspect that must be prioritized, so that this amount is not exaggerated, which may lead to a waste of money.

The procedures for determining needs are based on specific criteria that take into account priorities considering the project's economic viability while upholding the principle of competitiveness and the transaction is not directed to a single economic operator.

It is also necessary to take into consideration what is stated in Article 07 of the same law, which requires taking into account the public interest, respect for the environment, and sustainable development goals when determining needs.

2. 2.2 Preparing the conditions books

The condition book is a document prepared in advance. The contracting authority delineates the terms and circumstances for finalizing the public contract and includes additional details such as the implementation procedures and the criteria for selecting the contracting operator... (Bendaas, 2024, p. 238)

According to Article 17 in Law No 23-12, the state of the books must be created prior to initiating any process to solicit competition. the implemented public transactions must include:

- Books containing broad administration items relevant to public transactions including works, supplies, studies, and services, sanctioned by presidential decree.
- Official joint technical instruction manuals delineating the methodologies employed in all public transactions pertaining to a specific category of work, supplies, studies, or services, sanctioned by a resolution of a public authority or the pertinent ministry.
- Instruction manuals delineating specific conditions for each public transaction.

2. 2.3 Identify the suitable techniques for finalizing public transactions

The public transactions law delineates two fundamental procedures for executing a public transaction, the first method is to conduct a request for offers, which in general cases, these offers are obtained from several competing candidates by this method, and

in the end, the public agreement is awarded without talks to the candidate that submits the most advantageous economic proposal. The other approach is the negotiation process, which is in exceptional cases, this method is based on allocating the public contract to one economic operator without calling for competition, the negotiation procedure may be "direct negotiation" and that is only in the cases stipulated in Article 41 of the same law, or it may be "negotiation after consultation" that is the type two.

The concepts of governance are implemented in the process of soliciting bids, which is regarded as the standard practice in contracting. However, greater governance is required in the negotiation process, as it is deemed an exceptional and more complex method necessitated by certain unique circumstances, whether practical or legal. Additionally, consensual agreements are among the transactions most vulnerable to corruption, undermining the legitimacy envisioned by the legislator (Bendaas, 2024, p. 117) .

2. 2.4 Competencies of Applicants and Contractors

To guarantee that the agreement is assigned to the correct contractual operator, the Opening Committee Envelopes and Evaluation Offers must take into consideration the following elements: (Aouali, 2024, pp. 365-366)

- Checking abilities entails that the agreement is exclusively assigned to an institution proficient in its execution, irrespective of the method of finalizing the agreement, since the contracting authority must assess the technical, professional, and financial competencies of the contracting candidates.
- Assessing candidates based on non-discriminatory criteria pertinent to the contract's subject matter and commensurate with its extent.
- Qualification may take the form of a qualification certificate or a mandatory accreditation if provided in regulatory texts.
- Inquire about the contractors' capabilities to use legal means during offer evaluation when necessary.
- The applicant may solicit help from other institutions, contingent upon adherence to the stipulated conditions.
- Maintain a national card for economic operators, a sector-specific card and identification card for each contracting authority.

2. 2.5 Choosing the agreement entity

At this juncture, the definitive contracting operator is chosen, enabling the contracting authority to award the contract to one or more competent economic operators capable of implementing it, provided that he is not among the persons who were legally excluded.

We mentioned that the contractor selection from the contenders is predicated on specified criteria; however, the ultimate choice of the winning bid will depend on the best combination of quality and price offered.

If the public transaction is finalized through the request for bids procedure, the

contracting authority is prohibited from negotiating with the contractors, it can just request clarification and details about their offers in writing, and they are not allowed to modify their offers or impact on competition. (23-12, 2023, pp. articles 52-54)

3. RESULTS AND DISCUSSION

On this axis of the study, we present case study of concluding a real public transaction, this involves analyzing each method within the steps of ending the transaction against the stipulations of Law 23-12, and verifying that these procedures manage public funds and safeguard them from corruption and misappropriation.

The analyzed transaction included the subsequent information:

- **Contracting authority:** The Office of Real Estate Promotion and Management -Ouargla State-
- **The topic of the deal:** study and follow up on the construction works of 300 public rental housing units, including roads and various networks, in the municipality of Rouissat, Ouargla province (program for the year 2023)
- **Type of deal:** Studies deal.
- **Method of concluding the deal:** By conducting a request for proposals (National competition).
- **Contracting operator:** Al-Omari Muhammad Al-Fateh Studies Office.
- **The study period:** three months.
- **The deal amount:** 38.122.031,85 DA

By providing basic information related to the deal, we find that Articles 37, 38 and 39 of Law 23-12 have been complied with on the method of concluding the deal.

This public deal is prepared according to several stages and certain procedures, commencing with the Ministry's correspondence with the contracting authority and the allocation of the financial sum for the agreement, culminating in the finalization of the deal and its assignment to the designated contractor.

3. 1. chose the project to be completed

The initial step to start any residential project is that the state sends its request for public rental housing to the Ministry of Housing and Urbanism and the City, which evaluates the approval or denial of this proposal, this is what state of Ouargla has done to get the residential program, which was approved by Ministry on 06 /08/2023 when it was sent a notification letter including a program for 300 public rental housing units for the benefit of the state of Ouargla, part 2023, that is it.

It has been assigned supervision and the management of public rental housing projects under the 2023 program has been delegated to the Office of Real Estate Promotion and Management in Ouargla State by an agreement established between the Ministry of Housing and Urbanism and the City on October 5, 2023. Subsequently, the Office

initiated the procedures, commencing with selecting the land and going out to inspect it whether it was qualified for construction and whether it required large costs or not. It evaluated the achievement process and studied the needs to implement the program to prepare a technical card for the project, based on which the appropriate amount is granted to cover the project costs, as the Ministry of Housing sent a decision on 08/01/2024, which included the financial amount granted to cover "the follow-up and study of the project", and an amount of 73.672.031,85 DA was granted, this amount was divided into the engineering study of the project and associated expenses pertaining to the study and subsequent follow-up of its completion.

3. 2. Setting the Conditions Books

When the contracting obtained the deal, it must prepared a project of the Condition Book, which includes details about the transaction and the candidates qualifications, the technical offer and the financial offer because the condition book presents a general guide and a miniature law for the deal, the Public Transactions Committee met to review it and approve what was stated in it, in which a social report was prepared containing a set of reservations which were lifted, and the final Condition Book was prepared on 12/10/2023, under number 08/2023. It was approved by the Public Procurement Committee and the Office of Real Estate Promotion and Management, and it became ready for sale.

The condition book for this deal contains the following basic information:

3. 2.1. Condition of eligibility and required file

The candidate is requested to bring all this documents:

- declaration of candidacy, declaration of integrity, declaration of subscribe (signed and stamped).
- A copy of the accreditation granted by the Syndicate of Architects for the current year.
- A copy of the assembly agreement for the Study Office Groups.
- The basic law of the companies.
- The condition book (signed and stamped).
- Technical note according to the methodology shown in the condition book.
- As professional references and financial capabilities, the candidates were requested the following:
 - The document of professional references must include certificates of good implementation issued by the holder of a public project, including the amount and category of the project, along with any other proof document from a study and follow-up contract, a service order, or a report on receiving a study and follow-up project requires that they have practiced study and follow-up in the last 15 years for a residential project Consisting of 200 housing or more.

- Regarding financial capabilities, proof of the candidate's total business number is more than or equal to 5.000.000,00 DA in the last three years (2020/2021/2022).

3. 2.2. Technical offer (20 points)

The technical offer contains tools and materials for complete the project of the deal successfully, so the operator must provide:

- Technical note: (04 points)
- Obstacles and proposal solutions: (02 points)
- Human means: (10 points)
 - Engineer /Master in Civil Engineering or equivalent (2 years' experience).....(06 points)
 - technician in roads and various networks (one year experience)(02 points)
 - Metric technician with at least one year experience(02 points)

Justifying the experience with a CNAS/CASNOS certificate.

- Material means: (04 points)
 - Topographic equipment justified by purchase invoice (1.5 points)
 - Concrete measuring device(0.5 points)
 - Drawing device (0.5 points)
 - A car justified by the grey card and a valid insurance certificate(1.5 points)

Every contractor who gets points greater than or equal to 10/20 will be qualified for the next stage of evaluation.

3. 2.3. Engineering offer (80 points)

As for the engineering offer, the candidate is required to submit engineering documents and written documents, as he will be evaluated based on these documents.

- Engineering documents are: number of panels, location plan, exterior layout plan, block plan, Interior plans, sections and facades, telescopes, Axonometric view, Completed network plan
- Written documents are explanatory notes for the architectural part, area table, project presentation report, area comparison table, and organization during completion.

Every contractor who gets points greater than or equal to 50/80 will be qualified for the next stage of evaluation.

3. 2.4. Financial offer (20 points)

The candidates are evaluated according to two points are:

- Proposed amount (14 points)
- Primary point (06 points)

The contract will be granted to the contractor who presents the most advantageous

financial proposal and achieves the highest score among those eligible for the final stage.

3. 3. Adverting the National Competition

This public transaction was announced in two national newspapers in Arabic and French under the title Announcement of a Limited National Competition in Architecture No. 2 2023 for the Study and Follow-up of the construction works of 300 public rental housing units, including roads and various networks, in the municipality of Rouissat, Ouargla province (program for the year 2023)

This advertisement was published in "Al-Tahrir" newspaper on 24/10/2023 and in "Supporters" newspaper on 29/10/2023, which included in brief some basic conditions for participation in this national competition, such as professional, technical and financial capabilities. The announcement also indicated where the conditions books selling, required file, the way of submitting the offers, and their specified deadlines.

3. 4. Preparing and submitting offers

In this public tender, offers files were received twice:

- The first time, it was requested to submit only the candidacy file, which contains certain documents, and a period of 10 days was given to compile the file, commencing from the initial day of the announcement's publication in the national newspapers.
- On the second occasion, the technical file, financial file and engineering file of the candidates were requested to be deposited, as a period of 25 days was granted to prepare the offers commence from the inaugural day of the "Announcement of the Initial Selection" for the second phase in national media, along with invitation letters to the qualifying study offices.

3. 5. Unsealing Envelopes and Assessing Proposals

This process went through several stages, it is arranged as follows:

3. 5.1 The stage of opening offers containing the nomination file

After submitting the candidacy file by contractors on 11/2/2023, 22 offers were received, and the Envelope Opening and Offers Evaluation Committee opened out these offers on the same day and checked the presence of this documents: declaration of candidacy, declaration of integrity, documents proving professional practice (accreditation certificate, the gathering agreement), documents proving technical capabilities according to the conditions stipulated (human and material means).

After the meeting was adjourned, it became clear that some candidates had missing documents, so a summons was sent to each of them to complete these files within 10 days beginning from the day of the opening the offers.

On 11/13/2023, the evaluation process of the offers was completed in a final manner, and the results of the initial selection were announced on 11/22/2023 in Sport newspaper

and on 11/27/2023 in Tahrir newspaper.

3. 5.2 Technical offers evaluation

In this stage 15 technical offers were received; these offers were opened on 17/12/ 2023 to ensure that the documents contained in the envelopes are complete.

On 19/12/2023, the technical proposal was assessed based on its existence and content of these documents (technical note, subscribe declaration, condition book, obstacles and solutions, human means, material means), these documents were assessed according to a criterion specified in the condition book.

The assessment concluded with the elimination of two candidates. The first candidate was excluded owing to the absence of technical notes, while the second candidate did not obtain the necessary points to qualify for the next stage of evaluation.

3. 5.3 Engineering offers evaluation

13 candidates were qualified for this stage, the engineering envelopes were opened on 19/12/2023 to ensure that all the required documents in the engineering offer were available.

In the evaluation process that was on 21/12/2023, the Committee awards points based on engineering documents and written documents required in the condition book. To get the best mark, the candidates must prepare well all these documents and give a good presentation to study and follow- up on the completion project.

After the evaluation process was completed, the committee prepared a decryption report containing the final results, seven offers were disqualified for not obtaining the appropriate mark to move to the financial evaluation stage.

3. 5.4 Financial offers evaluation

Financial offers (06 offers) were opened on 24/12/2023 and evaluated on the same day, the committee verified the existence of the offer letter and the burden proposal document and studied them. The financial offer was evaluated through the agreed upon point in the condition book, estimated at 14 points, in addition to the bonus point, estimated at 06 points. This evaluation ended with the acceptance of all offers.

3. 5.5 Final evaluation report

After it is found that all the financial offers of the candidates are acceptable, the final evaluation will be conducted to select one winner of this national competition.

The points obtained by each qualified candidate are collected (the technical point, the engineering point, and the financial point) to compare the total points obtained by the bidders who were evaluated based on the cash amounts and the length of the proposed completion, ultimately awarding the contract to the one with the highest score and best financial offer, who is Al-Omari Muhammad Al-Fateh Studies Office (obtained 95 points, lowest financial amount)..

3. 6. Temporary Attribution Announcement

Following the completion of all steps in the evaluation of public deal offers and subsequent to the assessment by the offers assessment commission which finally selected the winning candidate to study and follow up on the project. The temporary attribution was announced in "Al-Tahrir" and "Supporters» newspapers on 11/01/2024. This announcement contained the name of the successful study office, the amount proposed, the evaluation score achieved, and a designation of "Best Offer." Candidates seeking to enquire about the specifics of their offer evaluations were encouraged to contact the Public Transactions Service of the Real Estate Promotion and Management Office within three days from the initial publication date of this announcement.

3. 7. Processing appeals

At this phase, appeals were submitted by any candidate contesting the contracting authority's decision, thereby allowing them to present an objection to the appropriate Public Transactions Commission within 10 days of the announcement for the provisional award.

3. 8. Finalizing the outstanding procedure to officially contract

After the estimated period for submitting appeals has passed and it has become clear that the Real Estate Promotion and Management Office has not received any object regarding the attribution decision, then the winning contractor was contacted to complete the administrative documentation and processes required for the commencement of operations.

By disclosing the public transaction concluded by the Office of Real Estate Development and Management of Ouargla State, we find that the procedures for concluding the public transaction stipulated in Law 23-12 have been adhered to, but Decree 1547 is referred to only in ambiguous cases did not address by Law 23-12, finally, we were reached the following:

- The contracting authority does not determine its need except after doing detailed technical studies, but this does not guarantee that the financial amounts will not be inflated, the technical cards of the project will not be prepared based on high costs because Law 23/12 does not specify a specific method for determining the need and thus it remains a loophole and a place for wasting public money.
- The condition book for this deal has been carefully and accurately prepared. It was approved by a special Committee. This guarantees the selection of a suitable contractor to execute the project efficiently and effectively, hence preventing the waste of public funds.
- Sufficient time and effort to evaluate the offers submitted in this transaction was allocated as each offer (technical/engineering/ financial) was conducted independently and in accordance with the standards outlined in the condition

book, ensuring complete transparency and impartiality throughout the process.

- In disclosing the agreement and the associated outcomes, the office chose to publish in national newspapers and on his official Facebook page. Therefore, the office did not implement what was stipulated in Law 23/12 regarding the adoption of the electronic portal for public contracts because it is considered more transparent and ensures the easy transfer of information.
- The participants in this national competition were given sufficient time to prepare their presentations well, which enhanced the transparency of competition in this public transaction.
- Sufficient time was given to submit the appeals and each candidate was granted the ability to observe the evaluation process of her/his offer, this is what law 23-12 called for to gain the confidence of competitors.

4. CONCLUSION

Law 23/12, which determines the general rules related to public transactions, is considered a new mechanism for protecting public money from corruption and embezzlement because the stipulations and regulations of this law were established within the context of governance principles, alongside the protocols for executing public transactions, which the legislator has arranged in several stages, as each stage or procedure is carried out with complete transparency and in Adherence with the provisions of this law indicates that Law 23-12 governs public transactions and serves as the optimal guidance to directing public money expenditure and ensuring its efficiency and effectiveness.

Results of the study

Through what we have discussed in this study, we have reached the following results:

- Law 23-12 encompasses the governance concepts of rule of law, equality, integrity, transparency and accountability, which collectively ensures the effective governance of public transactions and these principles are the basis in which the legal provisions of this law were built.
- The conclusion of public transactions under this law is encompassed within the framework of procedures whose primary objective is to protect public money from corruption and spend it wisely and that what it was found through analyzing the procedures for concluding the public transaction theoretically and practically.
- Transparency of public transactions is considered one of the most important mechanisms to ensure that there is no fraud in choosing the final economic operator, and this was stipulated in law 23-12 where its support for the digitization through the adoption of an electronic portal considers the first indication of that.

- Respect the criteria for selecting members of each public transaction committee or opening envelopes and evaluating offers to ensure the success of public transaction control, and these committees are considered as the basis for the control of the public transaction, whether the internal or external control , what ensures resurrection of the principle of accountability in a successful way.
- Law 23-12 lacks some rules related to organizing and preparing the public deal, which always requires referring to the previous decree 15-247, this is what was stipulated in law 23-12 in its last article to keep the previous organizational texts valid even the issuance of other new texts.

Recommendation

- In assessing the requirements of the contracting authority, the legislator must put a unified standards applied by everyone to ensure that the technical card for the project is not prepared in exaggerated amounts.
- As for the period given to preparing the offer or to submitting appeals, the legislator must specify that in a legal rule, so as not to be exploited as outlet of corruption.
- Accelerating the implementation of the regulatory texts associated with Law 23-12 to ensure the effective execution of its provisions.

5. Bibliography List :

1. Journal article

- Aouali, B. (2024). A comparative study in the procedures for concluding public procurements Between Law No. 23-12 establishing the general rules relating to public procurements and Presidential Decree No. 15-247 regulating public procurements and public utility mandates. *Industrial Economics Journal –Khezzartech*, 14(01);
- Bendaas, S. (2024). Governance manifestations in Law No. 23-12 specifying the general rules related to public procurement. *Algerian Journal of Legal and Political Sciences*, 61(02);
- Bendaas, S. (2024). Provisions for concluding public transactions in accordance with Law No. 23-12 Specifying the general rules related to public transactions. *Management et Economics Research journal*, 06(01);
- Bouaichaoui Morad, R. I. (2020). Governance of The National Budget of Algeria in light of The Provisions of The New Organic Law No. 18/15 Related to Financial laws. *Algerian Journal of Public Finance*, 10(01);
- Boumaaza, A. (2020). Public expenditure governance: it's reality and requirements for it's establishment in algeria. *Annals of the University of Bechar in Economic Sciences*, 07(02);
- Fatma Mahboub, O. S. (2018). Financial oversight as a mechanism for governance of the state's public budget. *Journal of Fund and Business Economics*, 02(01);
- Jenny Hellen Owechi, R. B. (2012). Good Governance Practices and the Management of Public Funds in the Public Sector of Uganda. *International Journal of Policy Studies*, 03(02);
- Jolien Grandia, L. V. (2023). *Public Procurement Theory, Practices and Tools*. Springer Nature Switzerland . Récupéré sur <https://doi.org/10.1007/978-3-031-18490-1>

khaled, B. r. (2024). Public Accounting in Algeria and Its Role in Rationalizing Public Spending in Light of Law 23/07. Journal of Contemporary Economic Research, 07(02);

Larbi, M. (2024). Dedication of the Environmental Dimension in the Public Works Contract - Pre-Contract Phase - A Study in Light of the Latest Amendment to the Public Procurement Law (Law 23/12), which defines the General Rules regarding Public Procurement. Journal of Research in Law and Political Science, 10(01);

Radia, A. (2021). The scope of public funds subject to legal protection in Algeria. Professor Researcher Journal for Legal and Political Studies , 06(02);

2. Laws:

23-12, L. (2023, Aout 5). Law No 23-12 determining the general rules related to public transactions. Official Gazette No. 51.

6. Appendices : some administrative documents related to the concluding of the public deal

Decision of financial allocations for the public transaction

ANNEXE

A LA DECISION N° 002 /MHUV/DGL/DLPU/2024
du 08 JAN 2024 portant
INSCRIPTION EN "ETUDES" D'UN PROGRAMME D

300 LOGEMENTS PUBLICS LOCATIFS
AU PROFIT DE LA WILAYA "D'OUARGLA"

Programme 20 000 Logements Publics Locatifs/ Tranche 2023

Liste des projets concernés

COMMUNES	Nbre Logts	Sect. Pub. (m²)	Coût des différentes rubriques (DA)			
			Etudes architecturale, technique et assistance dans le choix de FSTB	Autres prestations d'études	Mission "audit"	Total (DA)
ADJESAT	300	20 100.00	8 042 431.85	15 560 000.00	32 076 600.00	73 672 031.85
TOTAL GENERAL	300	20 100.00	8 042 431.85	15 560 000.00	32 076 600.00	73 672 031.85

Financial offers and the final evaluation

التقييم المالي للمتعهدين المتأهلين:							
الملاحظات	المجموع / 20	النقطة / 6	النقطة / 14	المبلغ بعد التصحيح	المبلغ المقترح	رقم الطر	ملاحظات الدراسات
عرض مقبول	18.14	5.00	13.14	40.626.069.75	40.626.069.75	4	مكتبة الدراسات
عرض مقبول	18.00	4.00	14.00	38.122.031.85	38.122.031.85	7	مكتبة الدراسات
عرض مقبول	18.66	5.00	13.66	39.055.330.12	39.055.330.13	9	مكتبة الدراسات
عرض مقبول	19.74	6.00	13.74	38.839.953.60	38.839.953.60	10	مكتبة الدراسات
عرض مقبول	16.66	3.00	13.66	39.055.330.12	39.055.330.13	12	مكتبة الدراسات
عرض مقبول	18.89	5.00	13.89	38.409.200.55	38.409.200.55	13	مكتبة الدراسات
التقييم النهائي:							
الملاحظات	مدة الدراسة	المبلغ بعد التصحيح	المجموع / 120	النقطة / المالي	النقطة / الهندسية	النقطة / التقنية	رقم الطر
/	3 أشهر	40.626.069.75	85.68	18.14	51.54	16.00	4
أحسن عرض	3 أشهر	38.122.031.85	95.00	18.00	61.50	15.50	7
/	3 أشهر	39.055.330.12	87.29	18.66	50.13	18.50	9
/	3 أشهر	38.839.953.60	81.62	19.74	50.88	11.00	10
/	4 أشهر	39.055.330.12	87.24	16.66	53.08	17.50	12
/	3 أشهر	38.409.200.55	91.52	18.89	56.63	16.00	13
وبناء على النتائج المتوصل إليها ، اقترحت اللجنة ما يلي:							
اد هذه الصفقة لمكتب الدراسات العمري محمد الفاتح (طرف الترشيحات رقم 22							
رف التقني والمالي رقم 7) بمبلغ أتعاب بكل الرسوم يقدر بـ 38.122.031.85 د.							
عملية التصحيح و بمدة دراسة تقدر بثلاثة (3) أشهر.							

the announcement for the temporary attribution:

SUPPORTERS
JEUDI 11 JANVIER 2024

www.supporters

الجمهورية الجزائرية الديمقراطية الشعبية
REPUBLIQUE ALGERIENNE DEMOCRATIQUE ET POPULAIRE

WILAYA D'OUARGLA
OFFICE DE PROMOTION ET DE
GESTION IMMOBILIERE DE OUARGLA

بureau
بureau

AVIS D'ATTRIBUTION PROVISOIRE
NIF 099130019120629

Conformément aux dispositions de l'article 82 du décret présidentiel n°15/247 du 16/09/2015 portant réglementation des marchés publics et des délégations de service publics, il est porté à la connaissance de l'ensemble des soumissionnaires ayant participé à un concours national d'architecture n°02/2023 paru dans les quotidiens «التحرير» le 24/10/2023 et «Supporters» le 29/10/2023 Relatif à :

- l'étude et suivi de la réalisation de 300 Logements publics locatifs y compris VRD à la commune de Rouissat - Wilaya de Ouargla (programme de l'année 2023).

Qu'à l'issue de l'analyse et l'évaluation des offres, le marché est attribué provisoirement au soumissionnaire indiquée dans le tableau ci-dessous :

LE BUREAU D'ETUDE	Montant proposé en TTC (D.A)	Montant corrigé en TTC (D.A)	PoinU120	Observation
LAMRI MOHAMED FATEH / NIF 15930010155016703000	38 122 031,85	38 122 031,85	95.00	Mieux Disant

Les soumissionnaires souhaitant s'informer sur les détails de l'opération d'analyse des offres techniques et financières, sont priés de contacter le service des marchés de l'Office dans un délai de trois (03) jours à partir de la date de la première parution du présent avis dans les quotidiens nationaux ou sur le bulletin officiel (BOMOP).

Les soumissionnaires ayant participé à l'appel, peuvent introduire leurs recours par écrit auprès de la commission des marchés compétente dans un délai de dix (10) jours à partir de la date de la première parution du présent avis dans les quotidiens nationaux ou sur le bulletin officiel (BOMOP).

Supporters du 11/01/2024 ANEP N° 2430000150