



*Provisions for concluding public transactions in accordance with  
Law No. 23-12 Specifying the general rules related to public  
transactions*

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*Abstract*

public transactions are an essential tool for achieving economic and social development in the country, so they must be regulated with special procedures to achieve the public interest, and these procedures are carried out according to the rules specified by law. Law No. 23-12 stated that public transactions are concluded according to the procedure of requesting offers, which constitutes the general rule, or according to the negotiation procedure, which constitutes the exception, and each method was designated with an arrangement for completing the process of concluding them, to ensure their legitimacy in satisfying public needs and preserving public money.

**Keyword:** public transaction, Contractor service, Contracted Customer, requesting offers, negotiation.

## 1. INTRODUCTION

public transactions are considered one of the most important forms of administrative contracting through which public benefit is achieved and development plans are embodied in the state. They are defined as written contracts, concluded in return for consideration by the public purchaser, called the “Contractor service,” with one or more economic operators, called the “Contracted Customer.” To meet the needs of the contracting authority in the field of works, supplies, services and studies, in accordance with the conditions stipulated in this law and in the applicable legislation and regulation (law N 23-12 specifying the general rules related to public transactions, 2023, p. article 2).

Accordingly, comparative legislation, including the Algerian legislator, has stipulated the provisions for concluding them with clear texts, as the process of determining the methods for concluding public contracts is dominated by important considerations, most important of which is achieving the greatest financial savings for the public treasury, which forces the administration to choose the contractor who offers the best financial conditions, and to put in The technical interest of the administration takes first place, and therefore it can choose the most qualified applicants to perform the service, regardless of financial considerations (Suleiman Muhammad Al-Tamawi, 1991, p. 236)

Given the importance of these basic considerations, and their sometimes conflicting results, comparative legislation works to achieve reconciliation between them, and it was decided accordingly to develop several methods for selecting the party contracting with the administration. It is restricted by certain texts and must conclude their contracts according to general, unified forms. The law may also require them to include some conditions in the terms and conditions books...etc.

Accordingly, the Algerian public transactions Law specifies the methods of concluding public transactions for the Contractor service, and sets forms and procedures for each method that require their consideration and application. it also obligated it to carefully choose the appropriate method whose procedures are compatible with the good satisfaction of the public needs that are the subject of the deal to be concluded.

Which led to the following problem:

**How effective are the provisions for concluding public transactions contained in Law No. 23-12 in ensuring their effectiveness?**

To address the problem at hand, according to the following plan:

**The first axis:** methods for concluding public transactions in accordance with Law No. 23-12,

**The second axis:** procedures for concluding public transactions in accordance with Law No. 23-12.

## **2. methods for concluding public transactions in accordance with Law No. 23-12**

Law No. 23-12 specifies the methods for concluding public transactions in Article 37 thereof, which stipulates that public transactions are concluded according to the requesting offers procedure, which constitutes the general rule, or according to the negotiation procedure, which constitutes the exception. He also specified forms for each method, and identified cases of implementation that must be applied. He also obligated it to choose the appropriate method, under its exclusive responsibility, and whose procedures are consistent with the proper satisfaction of the public needs that are the subject of the transaction. (law N 23-12 specifying the general rules related to public transactions o. g., 2023, p. article 36 )

Therefore, these two methods must be detailed as follows:

### **1- The method of requesting offers as a general rule for concluding public transactions**

Article 38 of the new Public transactions Law defines the request for offers as a procedure aimed at obtaining offers from several competing contractors, while allocating the transaction, without negotiations, to the contractor who presents the best offer in terms of economic benefits, based on objective selection criteria prepared before launching the procedure.

Thus, the request for offers is somewhat similar in its applications to the the award method, but the price element is not the only criterion for awarding the transaction. In addition to the price, there are other considerations related to the qualifications and competencies of the contractor with the public administration concerned. (Brahim Boulifa, 2013, p. 45)

The legislator specified for the contracting authority, in an explicit text, multiple forms of the method of requesting offers to choose the contracting client, trying thus to give it some freedom in following the appropriate form for concluding the deal according to its activity, its capabilities to choose its contractor, as well as according to its needs that must be determined before commencing the conclusion procedure (Alain Ménéménis, 2004, p. 382).

This is for the purpose of obtaining the best offers in all financial, artistic, technical, economic and even aesthetic aspects. Because the diversity of needs creates a diversity of forms and methods of conclusion. Therefore, Article 39 enumerates the forms of requesting offers, which may be national or international according to what is required by the subject matter of the deal being contracted.

It must be noted that Law No. 23-12 did not define the forms of requesting offers, as did the previous legal regulation of public transactions, Presidential Decree No. 15-247, so it must be used to clarify these forms, and this is as follows:

- **Open requesting offers:** A procedure through which any qualified candidate can submit a pledge (Presidential Decree No. 15-247 of September 16, 2015, p. Article 43 ).

- **Open Request for Proposals with Minimum Abilities Requirement:** It is a procedure in which all candidates who meet certain minimum qualifying conditions determined by the contracting authority in advance before launching the procedure are

allowed to submit a pledge, and the candidates are not pre-selected by the contracting authority. Provided that the qualifying conditions relate to the technical, financial and professional capabilities necessary to implement the transaction, and are commensurate with the nature, complexity and importance of the project (Presidential Decree No. 15-247 of September 16, 2015, p. Article 44).

- **Limited Request for Proposals:** A selective consultation procedure in which only pre-selected candidates are invited to submit a pledge. The contracting authority can specify in the book of conditions the maximum number of candidates who will be invited to submit a pledge, after an initial selection of five (5) of them. The contracting authority shall carry out preliminary selection to select candidates for the competition when it comes to studies or operations that are complex and/or of special importance. (That is, the initial exclusion is carried out by the contracting authority pursuant to a consultation invitation whose terms are specified in the conditions book, so it is the one who chooses first).

- **Competition:** It is a procedure that puts artistic people in competition to choose a plan or project designed in response to a program prepared by the project owner, with the aim of completing a process that includes special technical, economic, aesthetic or artistic aspects, and this is after taking the opinion of the legally specified arbitration committee, and the transaction is awarded after negotiations to the winner of the competition who Make the best offer from an economic standpoint. The contracting authority resorts to this procedure, especially in the field of territorial preparation, reconstruction, architecture, engineering, or information processing.

The law authorizes the contracting authority to resort to this method if technical, financial or aesthetic considerations require it to carry out prior studies before contracting. This is in order to obtain the best offers presented by competing men of art and creativity in the beauty that it desires to achieve. This type of competition relates

to things that cannot be determined in advance with precise specifications, and aims for the contracting authority to determine its needs that it wishes to achieve through the exhibitors Competitors (Presidential Decree No. 15-247 of September 16, 2015, p. article 48).

## **2- Negotiation as an exceptional method for concluding public transactions:**

The negotiation method is one of the methods of concluding public contracts and one of the methods of selecting a contractor with the administration. It is a method known in comparative legislation. In Egypt, it is known as agreement and direct order (Suleiman Muhammad Al-Tamawi, 1991, p. 328).

As for France, the term “agreement” remained in circulation until the issuance of a decree on January 21, 1976, when it was replaced by the term “les marches négociés,” meaning negotiated deals, whereby the administration negotiates and discusses freely to choose its contracting partner (Peiser, 1998, p. 63). In previous legal regulations for public contracts in Algeria, it was known as mutual consent.

It is an exceptional method of contracting carried out by the competent authority without adhering to the formalities of requesting offers, in open discussion with candidates for contracting, while maintaining complete freedom in choosing the appropriate contractor, provided that the rules regulating this method are adhered to. This is evidenced by the fact that the legislator, in every legal regulation of public transactions, focused on defining them and specifying their forms and cases of implementation only.

According to Article 40 of Law No. 23-12, negotiation is the procedure of allocating a deal to a single economic dealer without a formal invitation to competition. The negotiation procedure can take the form of direct negotiation or negotiation after consultation. He specified the instances of implementing each of them, because this

type of deal requires strict monitoring, because freedom of contract may sometimes lead to choosing a specific contractor at the expense of the public interest.

**The two forms are detailed as follows:**

- **Direct Negotiation:** The direct negotiation procedure is an exceptional rule for concluding contracts that can only be adopted in certain cases, specified exclusively in Article 41 of the Public transactions Law. It is a method that the administration resorts to contract with the Contracted Customer that it freely chooses, and this without using competition procedures and formalities. Not even prior consultation is conducted, but rather the agreement is made directly between the two parties to the deal, and thus it is freed from formal restrictions (Brahim Boulifa, 2013, p. 53), and It is restricted provided that one of **the following conditions is met:**

1/ the monopolistic position of the economic operator is the case when services are implemented by a single economic operator who monopolizes their performance, or to protect exclusive rights or for technical, cultural and artistic considerations, provided that the services concerned with these considerations are clarified in accordance with a joint ministerial decision between the concerned minister and the minister in charge of finance.

2/ The case for promoting start-ups bearing the mark, knowledgeable under applicable legislation and regulation, that offer services in the field of digitalization and innovation, provided that the solutions provided are unique and innovative.

3/ A state of urgency that is justified by the presence of a danger threatening an investment or property of the contracting authority, or public security, or an imminent danger to which property or investment is exposed in the field, or in a state of emergency related to health crises or technological or natural disasters, and it cannot adapt to the deadlines for procedures for concluding public transactions. Provided that

the contracting authority could not have anticipated the circumstances causing the state of urgency, and that it was not the result of procrastination maneuvers on its part.

4/ The case of urgent supply allocated to ensure the provision of the basic needs of the population, and this is to provide the market with a necessary material for the population that has become scarce, and its shortage affects its prices and the economic and living situation necessitates its availability, or to provide the basic needs of the population, and the Public transactions Law stipulated that the contracting authority should not anticipate these circumstances that necessitated urgency. Nor was it the result of stalling maneuvers on its part.

5/ The situation related to a priority project of national importance that is of an urgent nature and cannot adapt to the deadlines for the procedures for concluding public transactions, provided that the circumstances that necessitated this urgency were not expected by the contracting authority, and were not the result of procrastination maneuvers on its part. Resorting to this exceptional type of concluding public transactions is also restricted by the fact that it must be subject to the prior approval of the Council of Ministers, if the amount of the deal is equal to or greater than 10 billion dinars (10,000,000,000 Algerian dinars), but if the amount of the deal is less than that, it is subject to prior approval during the government meeting. This is due to the importance of these projects.

6/ In the case of upgrading production and/or the national public instrument of production, direct negotiation is resorted to, but on the condition that resorting to this method must be subject to prior approval by the Council of Ministers if the amount of the deal equals or exceeds 10 billion Algerian dinars, and to prior approval during the government meeting if the amount is less than that.



7/ The case of exclusive legal granting to carry out the public service mission. This is when a legislative or regulatory text grants a public institution of an industrial and commercial nature an exclusive right to carry out the public service mission, or when this institution carries out all its activities with public bodies, departments, and public institutions of an administrative nature.

8/ The case of public transactions concluded by departments contracting with a public institution subject to commercial rules, regarding the completion of an operation financed directly, in whole or in part, from the state budget or the budget of local authorities, when a legislative or regulatory text grants this institution an exclusive right to carry out the public service mission.

- **Negotiation after consultation:** It is the other form of negotiation and is defined as the procedure that allows a deal to be concluded under simple, limited consultation, using written means designated and prepared for that, without other formalities (Brahim Boulifa, 2013, p. 55).

It is a method that requires the contracting authority to follow the path of consultation, which is organized by all appropriate written means without any other formalities. This initial consultation is represented by previous procedures that are simple and uncomplicated, such as the law requiring the contracting administration to consult a specific party before concluding the contract.

Therefore, the Public transactions Law restricts resorting to the method of negotiation after consultation to the availability of one of **the cases specified exclusively in Article 42 thereof**, which are as follows:

1/ When announcing the futility of requesting offers for the second time, this is because the contracting authority resorts to negotiation after consultation after resorting to the method of requesting offers twice, both of which were fruitless, either due to

insufficient recruitment of candidates, or lack of the required conditions in the advanced bidders...

2/ in the case of transactions for studies, supplies and special services whose nature does not require resorting to requesting offers, the special nature of these deals is what requires the contracting authority to implement this method. (Presidential Decree No. 15-247 of September 16, 2015, p. article 52)

3/ The case of works transactions related to the exercise of the sovereign functions of state institutions. This case was stated in a general and absolute manner without clarification or explanation of the nature and type of these works.

4/ The case of awarded deals that were subject to cancellation, and whose nature does not fit the deadlines for a new requesting offers

5/ The status of operations completed within the framework of the government cooperation strategy, or within the framework of bilateral agreements related to concessional financing and the transfer of debts into development projects or donations, and this is when the financing agreements stipulate this, with the possibility of restricting the consulting contracting interest to the institutions of the country concerned only in the first status, or the providing country. Or the money lender in other status. This is in deference and respect to the state's external obligations (Brahim Boulifa, 2013, p. 55)

The first subtitle opens with an introduction that presents the specific problem under study and describes the research strategy. The first subtitle opens with an introduction that presents the specific problem under study and describes the research strategy. The first subtitle opens with an introduction that presents the specific problem under study and describes the research strategy.

### **3. procedures for concluding public transactions in accordance with Law No. 23-12**

To ensure the effectiveness of public requests and the proper use of public funds, the conclusion of public transactions is subject to the principle of freedom of access to public requests, the principle of equal treatment of candidates, and the principle of transparency of procedures, which are the principles devoted to competition and the basis of the process of concluding public contracts (law N 23-12 specifying the general rules related to public transactions o. g., 2023, p. article N 5).

These principles appear in the procedures for concluding a public deal, which enable the contracting authority to choose the appropriate Contracted Customer to implement the deal being concluded, which can be divided into preparatory procedures for the conclusion process and others related to choosing the Contracted Customer, which we detail as follows:

#### **1-Preparatory procedures for the process of concluding the public transactions:**

The preparatory stage for the process of concluding public contracts means the totality of procedures taken in preparation for concluding a deal in accordance with legal specifications, in order to satisfy public needs in a good manner, Which requires pre-studied controls to achieve its effectiveness in providing public service, the most important of which are **the following preparations:**

##### **- Determine the needs of the contracting authority:**

Article 7 of the Public transactions Law stipulates: “When determining the needs that must be met for the Contractor service, the public interest, respect for the environment, and the goals of sustainable development must be taken into account.” In application of this, the law stipulates that the needs of the Contractor service must be

determined in advance, before embarking on any procedure to conclude a public deal, regardless of their amounts. the Contractor service the total amount of the needs to determine the limits of the transactions committees, and this is based on an honest and rational administrative estimate.

It is prohibited to segment needs to avoid competition invitation procedures and limits the jurisdiction of tribal external oversight bodies stipulated in the Public transactions Law. Needs must also be precisely prepared in terms of their nature and extent, based on detailed technical specifications prepared on the basis of standards and/or efficiency that must be achieved, or functional requirements. These technical specifications must not be directed towards a specific product or economic operator (law N 23-12 specifying the general rules related to public transactions o. g., 2023, p. article 16).

**- Preparing a book of conditions for the public transaction to be concluded:**

Books of conditions are a set of documents prepared by the Contractor service in advance, under which the conditions and controls for the process of concluding a public transaction are determined, such as the method of conclusion, details of its procedure and even its implementation, and criteria for selecting the Contracted Customer.

Article 17 of the Public transactions Law clarifies that books of conditions are prepared before any procedure to invite competition is initiated, and they include books of general administrative terms applicable to public transactions for works, supplies, studies, and services, and approved by executive decree. And joint technical instruction books that specify the technical arrangements applied to all transactions related to only one type of works, supplies, studies or services, and approved by a decision of a public body official or by a decision of the relevant minister. And special instruction books

that specify the conditions for each public transaction. (Ammar Boudiaf, 2011, p. 143)

**- Announcing the transaction to be concluded:**

The announcement is intended to convey knowledge to all those wishing to contract and inform them of how to obtain its conditions, the type of specifications required, and the place and time of conducting any form of request for offers, as well as negotiation after consultation. Announcing the terms of the deal is the first step of the contracting authority in the contracting process.

The importance of advertising in the process of concluding public contracts is that it is obligatory to embody the principle of publicity, as it constitutes a real opportunity for competition among those wishing to contract with the administration, achieves the principle of equal treatment and equal opportunities before the law, and provides the largest possible amount of good offers, whether in price or technical and artistic offers. Therefore, its conditions are regulated by the Law of Transactions, and are primarily established in order to achieve the effectiveness of public demand and ensure equality between candidates (Alfonsi Jean, 3-2003, p. 59).

Article 46 of the Public Transactions Law stipulates that resorting to publicity shall be mandatory through the official bulletin of the public dealer's transactions, and through the approved press and electronic press for all forms of requesting offers and negotiation after consultation. Resorting to advertising is also mandatory through the electronic portal for public Transactions, according to the conditions determined by decision of the Minister in charge of Finance with regard to the above-mentioned forms of conclusion. (ministerial decision dated November 17, 2014)

The details of the announcement, including its forms, mandatory data, method of implementation, and deadlines, can be referred to the provisions of Presidential Decree No. 15-247, which decided on the issue. (Presidential Decree No. 15-247 of September 16, 2015, pp. articles 61-62-65).

## **2- Procedures for selecting the appropriate Contracted Customer:**

After the contracting authority determines the general needs and sets their specifications in the deal's terms and conditions books, and announces them by the legally prescribed means, other procedures begin related to selecting the appropriate Contracted Customer to implement the deal, which takes place according to **the following stages:**

### **- Bid submission stage:**

After announcing the public deal, the contracting authority places it at the disposal of any institution or candidate, allowing them to submit offers of all documents related to the deal, the most important of which is the book of conditions, with the possibility of sending them to the candidate who requests them. These documents contain all the necessary information that enables them to provide acceptable pledges and in accordance with the required specifications, so that the candidate can submit an appropriate offer in accordance with what the conditions require and according to his capabilities (Brahim Boulifa, 2013, pp. 78-79).

The Public transactions Law stipulates that no candidate, alone or within the framework of a group, may submit more than one offer in each procedure to conclude a public transaction, and the same person cannot represent more than one candidate in the same public transaction (law N 23-12 specifying the general rules related to public transactions o. g., 2023, p. article 44).

The process of depositing bids and submitting to the competition takes place according to the arrangements specified by the Public transactions Law, within the period specified for submitting bids in the book of conditions. The bids submitted by the candidates must include the candidacy file, a technical offer and a financial offer, the details and contents of which are specified in accordance with Presidential Decree

No. 15-247. (Presidential Decree No. 15-247 of September 16, 2015, p. article 67)

**- Bid screening stage:**

After submitting the offers according to the conditions previously presented and including all the data required by the Public transactions Law, the contracting authority carefully examines all the submitted bids, each one separately, in order to ensure its conformity with the announced conditions. Accordingly, it is bound by a set of restrictions and acts within their limits to achieve the public interest.

Accordingly, this important stage of concluding public transactions includes two necessary procedures carried out by the committee, which are opening the envelopes and evaluating the offers. The beginning of the envelopes is opened by this committee and the validity of the registration of the offers is verified. Then the list of candidates is prepared according to the order of the date on which the envelopes of their candidacy files arrived. Explaining the content and amounts of the proposals and possible reductions, and preparing a list of the documents that make up each offer, in addition to other tasks that I detailed in Article 71 of Presidential Decree No. 15-247.

This is followed by a bid evaluation procedure. In this context, the bid opening and bid evaluation committee carries out tasks specified in Article 72 of Presidential Decree No. 15-247 as follows:

1/ Excluding offers that do not conform to the content of the book of conditions prepared in accordance with the provisions of this decree, and/or the subject of the deal, and in the case of procedures that do not contain a preliminary selection stage, the envelopes of technical and financial offers and services related to the excluded nominations are not opened.

2/ It analyzes the remaining offers in two stages on the basis of the criteria and methodology stipulated in the book of conditions. In the first stage, the technical arrangement of the offers is carried out, while excluding the offers that did not obtain the necessary minimum score specified in the book of conditions. Then, in a second stage, it studies the financial offers of the contractors who have been initially technically qualified, taking into account possible reductions in their offers.

3/ In accordance with the terms and conditions book, it selects the best offer in terms of economic advantages, **which is represented in the offer:**

- The lowest price among the financial offers for selected candidates when the subject of the deal allows for this. In this case, the evaluation of offers is based on the price criterion only.
- The lowest price among the technically qualified offers if it comes to regular services. In this case, the evaluation of offers is based on several criteria, including the price criterion.
- Which gets the highest point based on the weighting of several criteria, including the price criterion, if the choice is based mainly on the technical aspect of the services.

4/ It is proposed to the contracting authority to reject the accepted offer if it is proven that some of the practices of the contractor concerned constitute an arbitrary position of dominance in the market, or have caused an imbalance in competition in the sector concerned in any way, and this provision must be stated in the book of conditions.

5/ If the total financial offer of the selected economic operator is provisional, or if the price of one or more of his financial offer appears unusually low in relation to a price reference, the Committee shall request from him, through the contracting



authority, in writing, justifications and clarifications that it deems appropriate. After verifying it, it proposes to the contracting authority to reject this offer if it acknowledges that the contractor's answer is not justified from an economic perspective, and it may reject this offer with a reasoned decision.

6/ If it determines that the financial offer of the temporarily selected economic operator is excessive in relation to a price reference, it shall propose to the contracting authority to reject this offer by a reasoned decision. When necessary, the financial envelopes related to technical offers that were excluded shall be returned to their owners without being opened.

This committee records its work related to opening envelopes and evaluating offers in two special records, which are numbered by the disbursing officer and marked with initials (Presidential Decree No. 15-247 of September 16, 2015, p. article 162).

**- The stage of establishing the public transaction:**

At this stage, the contracting administration chooses the best bidder to complete the announced project. This is after examining and evaluating the submitted offers. The administration does not always have the freedom to contract with any individual it wants, **but must follow special procedures that we explain in the following elements:**

1/ Determine the criteria for selecting the Contracted Customer: The contracting administration does not have absolute freedom in the selection process and final decision on offers, as it must adhere at this stage to a set of pre-determined controls and announce them, in order to choose the best one. The public person is obliged to rely on several criteria that differ according to the subject and purpose of the deal (Alfonsi Jean, 3-2003, p. 61).

Accordingly, the criteria for selecting the Contracted Customer and the weight of each of them must be related to the subject of the deal and non-discriminatory, and must be mentioned in the book of conditions for the invitation to competition, and the contracting administration must be based on choosing the best offer in terms of economic advantages, including quality, deadlines for implementation or delivery, price and the total cost of selection and use. The aesthetic and functional character, the effectiveness related to the social aspect of promoting the professional integration of people deprived of the labor market and the disabled, and the effectiveness related to sustainable development, the technical value, after-sales service and technical assistance, financing conditions when necessary and reducing the transferable share granted by foreign institutions... (Presidential Decree No. 15-247 of September 16, 2015, p. article 78).

The method and form of negotiation are subject to the freedom of the contracting authority to choose the Contracted Customer with it. After the contracting authority collects the offers whose owners were previously invited to contract, and verifies their compliance with the approved book of conditions, it works to conduct direct negotiations with them with the aim of reaching the best terms and lowest price.

2/ Ensuring the capabilities of contractors: The contracting authority must allocate the deal to the institution that it believes is capable of implementing it, whatever the prescribed method of conclusion, and this is done by ensuring the technical, professional, financial and commercial capabilities of the contractors, before evaluating the technical offers, with the nominations having to be evaluated according to non-discriminatory criteria, related to the subject of the deal and proportionate to its scope. (Presidential Decree No. 15-247 of September 16, 2015, p. article 54)

For this purpose, the contracting authority uses any legal means, such as inquiring about the capabilities of the contractors so that their selection is correct, with

other contracting authorities with whom it has previously dealt, and with departments and bodies charged with the task of public utility, and with banks and Algerian representations abroad, so it holds a national card for economic operators, and Sector cards and a card at the level of each contracting department, which are updated regularly, and whose details, including contents and conditions, are determined by a decision of the Minister in charge of Finance. (decision of the Minister of Finance dated March 28, 2011)

3/ Provisional award procedure for the deal: After completing the procedures for examining and selecting offers through the envelope opening committee, evaluating offers, 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 transaction committee.

This procedure shall be announced in the press in the same newspapers in which the deal announcement was previously published, specifying the price, completion deadlines and all factors that allowed its selection, including the selection points followed according to the nature of each deal and clarifying the selection criteria accurately, as the contracting authority must inform the Announcing the temporary award of the deal on the results of the evaluation of the technical and financial offers of the temporary holder of the deal and his tax identification number, and referring to the procurements committee responsible for studying the appeal and the tax identification number of the contracting authority (Brahim Boulifa, 2013, pp. 129-130)

4/ Approval of the public transaction: The temporary granting of the deal is considered a temporary choice by the contracting authority, and it is not final until a decision is issued approving it by the competent authority. The Public transaction Law stipulates that public contracts are not valid and are not final except after their approval

by the competent authority mentioned below, as the case may be Public body official, minister, governor, president of the municipal popular council, general director or director of the public institution (law N 23-12 specifying the general rules related to public transactions o. g., 2023, p. article 10).

#### 4. CONCLUSION

A study of the provisions of the process of concluding public transactions in accordance with the new law related to public transactions concluded that they are provisions of a special nature commensurate with the characteristics of these distinctive contracts, and as an essential tool for achieving economic and social development in the country, so they must be surrounded by special procedures.

It has become clear that the contracting authority is not free to choose the Contracted Customer, but rather the Public transactions Law obliges it to adhere to the established legal provisions, by choosing the appropriate method and adhering to its procedures with all transparency and integrity, in order to seek the public interest and protect the public money allocated for its implementation.

The law considered requesting offers to be the standard method in the process of concluding public transactions, as it is the ideal method for selecting the Contracted Customer in a transparent manner, and the legislator restricted it to a set of procedures and controls that the contracting authority was obligated to follow, despite the ambiguity surrounding it, especially in some of its forms that need clarification.

This study also showed that negotiation, as the exceptional method in the process of concluding public transactions, is a flexible way to choose the Contracted Customer as it is not restricted by competition rules and formal procedures, but the contracting authority is obligated to adhere to its implementation cases, which are widely stated and need to be controlled.

**These results led to the following recommendations:**

- Preparing the conditions books for the deals to be concluded by including the rules of transparency, fair competition between bidders and equality between them, and determining the appropriate method of conclusion.
- The contracting authority accurately determines its needs, to facilitate the appropriate method of concluding with it, and the exploitation of the money allocated for its implementation.
- It is necessary to adhere to the cases of implementing the negotiation method and its form in order to preserve its exceptional character in the conclusion process, and to seek the public interest in the process of awarding the public contract to the worthiest contractor.
- The contracting administrations are keen to assign the task of concluding public transactions and supervising their procedures to qualified employees with sufficient experience in this field.
- Paying attention to the employees responsible for arranging public transactions by emphasizing the objective criteria for their appointment, ensuring their training in the field of public transactions periodically, and protecting them from corruption by motivating them financially and morally.

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