

## The Effectiveness of the Pre-approval System in Protecting Public Transactions against the Risks of Corruption

Said Naidji

Faculty of Law and Political Sciences, University of M'sila, Algeria

said.naidji@univ-msila.dz

 <https://orcid.org/0009-0008-6242-4059>

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### Abstract:

Public contracts are subject to several types of oversight during their formation and execution stages. The most prominent is ex-ante oversight, which is divided into internal and external oversight. Internal oversight is conducted by the contracting authority through the opening of bids and their evaluation, which involves examining, analyzing, and monitoring the implementation of offers. External oversight is entrusted to public procurement committees, which are established within each contracting authority. Their purpose is to ensure that public contracts comply with the applicable legislation and regulations.

**Keywords:** Ex-ante control; public contracts; public procurement committees; corruption; contracting authority.

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## 1. INTRODUCTION

Public procurement contracts are written contracts between a contracting authority and one or more contractors, defining the rights and obligations of each contracting party, in accordance with the definition of public procurement given by the Algerian legislator in Article 2 of Presidential Decree 12/23, as follows: "Public procurement contracts are written contracts, entered into for consideration by the public purchaser known as the 'contracting authority' with one or more economic operators known as 'contractors' to meet the needs of the contracting authority in terms of works, supplies, services, and studies, in accordance with the conditions laid down in this law and the regulations and rules in force<sup>1</sup> .

It aims to meet the multiple and diverse needs of the contracting authority based on established objectives and priorities, the execution of which is entrusted to the contractor in return for payment of the fees due for the provision of such services by the contracting authority. In order to preserve the integrity of these operations<sup>2</sup> , the Algerian legislature has adopted preventive measures aimed at limiting crimes in the field of public procurement, as indicated in Presidential Decree No. 23/12 of 18 Muhamarram 1445, corresponding to August 5, 2023, which establishes the general rules relating to public procurement, in addition to Law No. 06-01 of 20-02-2006 on the prevention and fight against corruption, which provided for the creation of control bodies responsible for combating this phenomenon. It also reactivated the tasks and roles of numerous other control bodies and strengthened confidence in many institutions within the state, all with the sole aim of combating the phenomenon in all its forms.

- Research question:

Based on the above, the research question can be formulated as follows:

To what extent do the multiplicity and sequential nature of preventive control procedures in public procurement contribute to the fight against corruption? This question raises a number of secondary questions:

- What is meant by public procurement?
- What is meant by internal and external preventive control of public procurement and what mechanisms have been introduced in this area?

- What is the effect of preventive control mechanisms on public procurement in reducing corruption?

- Research hypotheses:

To answer the central question, the following hypotheses have been formulated:

- Internal preventive control plays an effective role in supervising public procurement procedures.

- External preventive control is a fundamental tool for ensuring the fairness and efficiency of public procurement.

- Importance of the research:

The essence of the research is manifested through the clarification of the importance of public procurement in the implementation of various development programs in Algeria, which the legislator has therefore surrounded with a series of regulations and laws in force that contain various control mechanisms, both internal and external, in order to ensure compliance with the fundamental principles established by the decree mentioned above.

- Research objectives:

From an economic point of view, the study focuses on achieving the following objectives:

- Highlighting the effective role of public procurement control as one of the fundamental means of ensuring the supervision of public money.

- To highlight the main internal and external control commissions responsible for regulating public procurement control in terms of composition, scope of intervention, and role.

- To emphasize the role played by preventive control of public procurement in ensuring.

## **2. Oversight**

This term refers to guidance, inspection, review, supervision, guarding, and monitoring. Administratively, it refers to management oversight to ensure that work is carried out in accordance with the law.

### **2.1. The Conceptual Definition of Oversight**

It is difficult to find a unified conventional definition of supervision due to its many types, mechanisms, and legal sources, but it can be considered a basic administrative function that aims to ensure that performance is in line with planned objectives and applicable laws and regulations. Supervision is defined as measuring and correcting the performance of subordinates to ensure the achievement of set objectives and plans. It is also considered a process of monitoring performance and adjusting organisational activities in line with the achievement of these objectives.

### **2.2. Definition of Public Transaction Language**

The term “transaction” refers to a contract or sale, and in technical terms, it is the transfer of goods or services between parties in a purely commercial context<sup>3</sup>.

#### **a. Definition of a Public Contract**

A public contract is an administrative contract between a public purchaser and an economic operator to meet its needs in terms of works, supplies, services and studies, in return for consideration and under legal conditions. It is an important type of administrative contract that is subject to specific legislation<sup>4</sup>.

#### **2.3. Types of Control over Public Contracts**

Article 94 of Presidential Decree No. 23/12 stipulates that the control of public contracts covers three stages: before conclusion, during implementation, and after implementation. The article classifies control as internal, external, and supervisory. These types are exercised within certain limits without prejudice to other legal provisions. The oversight established by the decree is supported by other types of oversight carried out by bodies affiliated with the Ministry of Finance, such as oversight by the financial controller (before implementation), oversight by the public accountant

(during implementation), and oversight by the General Inspectorate of Finance and the Accounting Council (after implementation).

### **3. Internal Control**

#### **3.1. Concept of Internal Control**

Internal control is defined as self-control by management, as a preventive measure for concluding transactions, aimed at ensuring control over procedures, preserving the interests of financial management, and embodying transparency<sup>5</sup>, as stipulated in Article 96 of Algerian law. Added to this are external control and supervisory control, all of which seek to achieve the principle of legality and protect public funds<sup>6</sup>.

#### **3.2.1. Composition of the Committee for Opening Envelopes and Evaluating Bids<sup>7</sup>**

The composition of the committee is as specified in Article 96, paragraph 2, of Presidential Decree 23/12, namely that it shall comprise qualified employees of the contracting authority. The method of appointing its members, the conditions for their selection, their number and the duration of their membership shall be determined at the discretion of the contracting authority within the framework of the applicable regulations.

#### **3.2.2. Composition of the Bid Opening and Evaluation Committee<sup>8</sup>**

The committee shall comprise qualified personnel, and the method of appointing its members, their number and the duration of their membership shall be determined at the discretion of the contracting authority.

#### **3.2.3. Powers and Duties of the Committee During the Bid Opening Phase**

The powers of the committee during the bid opening phase consist of the physical preparation and receipt of bid files, while protecting the rights of bidders and ensuring transparency until the bids are delivered to the committee for examination<sup>9</sup>.

#### **3.3.3. Powers and Duties of the Committee During the Bid evaluation phase<sup>10</sup>**

The task of evaluating bids is a difficult technical one that requires the bids to comply with the tender system and the specifications, and involves

difficult assessments based on selection criteria. The choice of contractor remains with the contracting authority.

### **3.3.4. Legal nature of the Committee's Work**

The committee's work is administrative and technical in nature, and it submits its recommendations to the contracting authority, which retains the power to make the final decision on awarding the contract and issuing a reasoned opinion in accordance with Article 161 of Decree 15/247. The committee's work is considered preliminary, and any legal challenge is brought against the contracting authority's decision<sup>11</sup>, not the committee's. The law emphasises that the committee 'proposes', while the final decision and the power to justify it rest with the contracting authority, even when the committee's proposals are rejected (such as rejecting an excessive financial offer). Therefore, the responsibility lies with the contracting authority, which must justify its decisions to facilitate oversight. The committee is an internal oversight mechanism that contributes to the consultative process to support sound decision<sup>12</sup> -making.

## **4. External ex ante oversight of the implementation of transactions**

### **4.1. Purpose of External Oversight**

Ex ante external oversight aims to present the transaction project file to various specialised committees, according to financial and membership criteria. These bodies must verify the compliance of the proposed transaction with the applicable legislation and regulations, in accordance with Article 97 of Presidential Decree 23-12 of 5 August 2023, which sets out the general rules relating to public transactions in issue 51 of the Official Gazette of 6 August 2023.

Given that public contracts involve substantial financial commitments, it is logical to tighten control procedures. To this end, specialised committees have been set up to monitor public procurement at the local, regional and national levels. Once the contracting authority has selected a qualified contractor, the draft contract is prepared and submitted for prior external control before it enters into force.

Detailed legal texts address the powers and roles of the contracting authority's public procurement committees to ensure that legislation and

regulations are applied accurately and transparently to protect public funds and promote fair competition.

## **4.2. External Tribal Oversight Committees for Contracting Authorities**

### **4.2.1. Regional Public Procurement Committee**

This committee is new in terms of its name and was referred to in Article 171 of the previous presidential decree, announcing its composition and functions<sup>13</sup>:

#### **4.2.1.1 Composition of the Committee**

The committee is composed of:

- ° The relevant minister or his representative as chair.
- ° A representative of the contracting authority.
- ° Two representatives of the Minister of Finance (Budget Authority and Accounting Authority).
- ° A representative of the minister responsible for the service, depending on the subject of the transaction (public works, irrigation), where applicable.
- ° A representative of the minister responsible for trade.

The list of structures eligible to establish this committee shall be determined by a decision of the minister concerned.

#### **4.2.1.2. Competence of the Committee**

The committee's jurisdiction is limited to the supervisory function within the limits set out in Articles 184 and 139, paragraphs 1 and 4, of the aforementioned decree, as applicable, by examining draft specifications, contracts and annexes relating to the regional external interests of central administrations within the following limits:

- Terms and conditions or works contracts whose administrative estimate or transaction exceeds one billion dinars (1,000,000,000 DZD).
- Terms and conditions or supply contracts whose administrative estimate or transaction exceeds three hundred million dinars (300,000,000 DZD)
- Terms and conditions or contract for services exceeding the administrative estimate for the requirements or contract, two hundred million dinars (200,000,000 DZD). Terms and conditions or contract for

studies exceeding the administrative estimate for the requirements or contract, one hundred million dinars (100,000,000 DZD).

#### **4.2.1.3. Powers of the Committee**

The committee is responsible for prior oversight of projects and their extensions exceeding 10% of the base amount, granting or refusing approval within 20 days. It also examines appeals against provisional approvals within 10 days and issues its opinion 15 days after the expiry of the appeal period. The project shall not be submitted to the committee before 30 days from the date of the appeal. The committee may cancel provisional approvals with the approval of the governor in the event of irregularities.

#### **4.2.2. Provincial Transactions Committee**

This committee is regulated by Article 173 of Presidential Decree 15/247, which will be analysed below and which clearly refers to the composition and functions of the Provincial Transactions Committee.

##### **4.2.2.1. Composition of the Committee: Membership includes**

- \* The governor or his representative as chair.
- \* A representative of the contracting authority.
- \* Three (3) representatives of the Provincial People's Council.
- \* Two (2) representatives of the Minister of Finance (Finance Department and Accounting Department.)
- \* The director of the technical department concerned with the service in the province.
- \* The provincial director of trade.

##### **4.2.2.2. Powers**

The powers of this committee are focused on examining draft contracts in accordance with membership criteria and financial value, whether through a tender process or a direct negotiated contract after consultation, provided that the minimum financial threshold is met, and within a period of 45 days, a visa decision is issued that is valid for three months. After this period has expired, the file is resubmitted by the contracting authority to the Transactions Committee, which is concluded by:

#### **4.2.3. The province, Decentralised State Agencies and External Agencies of Central Administrations**

The committee shall review the specifications, contracts and appendices concluded by the province, decentralised state agencies and external agencies of central administrations other than those mentioned in Article 172, in accordance with the following:

- Specifications or contracts for works exceeding the administrative estimate of requirements or the contract amount of one billion Algerian dinars
- Specifications or contracts for supplies exceeding the administrative estimate of requirements or the contract amount of three hundred million dinars.
- Terms and conditions or service contracts exceeding the administrative estimate of requirements or the contract amount of two hundred million dinars.

\* Terms and conditions or study contracts exceeding the administrative estimate of requirements or the contract amount of one hundred million dinars.

The same applies to any project attached to these contracts that exceeds or falls short of 10% of the original contract amount.

#### **4.2.4. Transactions Concluded by the Municipality and Local Public Institutions**

The committee is responsible for examining transactions whose amount exceeds the following:

- Two hundred million dinars for works and supplies transactions.
- Fifty million dinars for service contracts.
- Twenty million dinars for studies contracts.

Its responsibilities also include reviewing the appendices related to these contracts within the limits specified in Article 139 of this decree.

#### **4.2.5. Committee for Contracts Concluded by Local Public Institutions and Decentralised Structures of National Public Institutions of an Administrative Nature**

This committee is responsible for examining the specifications, contracts and appendices and following up on appeals falling within its

jurisdiction. The value of the contracts is the same as that of the contracts falling within the jurisdiction of the provincial contracts committee. This committee is composed of:

- A representative of the supervisory authority as chair.
- The director general or director of the institution concerned or a representative of either.
- An elected representative of the relevant regional council.
- Two representatives of the Minister of Finance, one from the Directorate General of the Budget and the other from the Directorate General of Accounting.

\* A representative of the minister responsible for the service covered by the transaction (public works, irrigation), as necessary.

## 5. Central Public Procurement Committees

There are two types of central public procurement committees:

### 1.5. Sectoral Public Procurement Committee

Article 102 of Presidential Decree 23/12 states that 'a sectoral public procurement committee shall be established within each ministerial department'.

#### 5.1.1. Composition of the Sectoral Committee: In Accordance with Article 185 of the Presidential Decree, the Committee Shall Comprise<sup>14</sup>

- The competent minister or his representative as chair.
- A representative of the minister concerned as vice-chair.
- A representative of the contracting authority.
- Two (2) representatives of the relevant sector.
- Two (2) representatives of the Minister of Finance (Directorate General of the Budget and Directorate General of Accounting).
- A representative of the Minister responsible for trade.

#### 5.1.2. Powers of the Committee

The powers of the committee include specifications and contracts exceeding the following amounts:

- One billion dinars (1,000,000,000) for public works contracts.
- Three hundred million dinars (300,000,000) for supply contracts.
- Two hundred million dinars (200,000,000) for service contracts.

- One hundred million dinars (100,000,000) for studies.
- The Committee shall also monitor the appendices related to these contracts in accordance with the conditions set out in Article 139 of the previous Presidential Decree.

#### **5.1.2.1. The Committee Shall rule on the Supervision of Public Contracts as Follows**

The committee is responsible for examining the specifications or draft contracts relating to works or supplies exceeding twelve million dinars (12,000,000 DZD), as well as all addenda related to these contracts within the limits specified in Article 139 of the decree in force. As for the specifications or draft contracts for studies or services, their value must exceed six million dinars (6,000,000 DZD), and the annexes to these contracts are subject to the same limits as those set out in Article 139 of Decree 247/15. In both cases, the supplement must not exceed 10% of the original amount of the contract, which falls within the jurisdiction of the sectoral contract committee.

This condition also applies to contracts referred to in Article 139 of the aforementioned decree.

#### **5.1.2.2. Its Jurisdiction in the Field of Supervision: It is Responsible for Examining<sup>15</sup>**

- Reviewing draft specifications that fall within its jurisdiction.
- Examining draft transactions and their appendices.
- Deciding on appeals that fall within its jurisdiction.
- Dealing with appeals lodged by contracting parties before resorting to the courts.
- Disputes arising from the execution of the contract.

Examining files belonging to another sector when the responsible ministerial department acts within its powers on behalf of another ministerial department.

### **5.1.2.3. Its Jurisdiction in the Field of Regulation: The Committee is Responsible for<sup>16</sup>**

- Proposing measures to improve the conditions for the conclusion of public transactions.
- Drafting and proposing model internal regulations governing the work of transaction committees.

### **5.1.2.4. Powers<sup>17</sup>**

In order to achieve its objectives, the Commission shall have the following powers:

- Monitoring the procedures for the conclusion of public contracts.
- Contributing to improving the conditions for monitoring the validity of public procurement procedures.
- Providing support to its contracting authorities.

The members of the national and sectoral public procurement committees and their deputies are appointed by an administrative decision issued in their name for a renewable term of three (3) years, with the exception of the chairperson and vice-chairperson<sup>18</sup>. The oversight exercised by the national and sectoral committees culminates in the issuance of a visa within a maximum of forty-five (45) days from the date of submission of the complete file to the secretariats of these committees<sup>19</sup>.

The committee may approve or reject the endorsement. In the event of rejection, it must be justified by a report, and in any case, this shall be due to a violation of the applicable legislation and regulations<sup>20</sup>. A copy of the decision to grant approval shall be sent to the Minister of Finance, the relevant transactions committee and the Accounting Council. The contracting authority shall submit the draft transaction after removing any reservations attached to the approval, which may be suspended if they relate to the subject matter of the draft transaction, the specifications or an annex, or not suspended when they relate to the form of the transaction, which is granted by the competent external supervisory body, to the financial bodies so that they commit to the expenditure before the reducing authority approves it and begins to implement it. In the case of municipalities, the draft transaction and

the annex are subject to deliberation by the municipal people's council and the state's legality control.

If the required information is not completed, the draft transaction shall be postponed, the deadlines shall be suspended, and it shall become effective from the date of submission of the required information<sup>21</sup>.

On this basis, sectoral committee meetings shall only be valid if an absolute majority of its members are present. If this quorum is not reached, the committee shall meet again within the following eight days, and its deliberations shall be valid regardless of the number of attendees. Decisions shall be taken by a majority of the members present<sup>22</sup>, and in the event of a tie, the chair shall have the casting vote<sup>23</sup>.

## **5.2 The Transactions Committee of the National Public Institution and the Decentralised Structure of the National Public Institution of an Administrative Nature:**

It is responsible for examining the terms and conditions of transactions within the limits specified in Article 184, points 1 to 4, and the appendices set out in the conditions stipulated by the legislator under Article 139 of Presidential Decree 15-247.

## **6. Pre-contractual Control Mechanisms for Public Contracts in the Prevention of Corruption**

Given that public contracts of all kinds are linked to the public treasury, it has become necessary to subject them to various forms of control at all stages, whether before conclusion, during implementation or after implementation.

The main purpose of this oversight is to ensure that the objectives of the contract are achieved and to oblige central and decentralised public administrations to comply with the provisions of Presidential Law 23/12, which sets out the general rules governing public contracts, thereby enshrining the key principles of contracting, such as transparency, free competition and equality between competitors. Hence, we find that the aforementioned presidential decree has devoted an entire chapter, Chapter V, to the subject of oversight of public contracts. Pre-contractual oversight mechanisms are embodied in several aspects: The most notable of these are

the preparation of terms and conditions in advance, the determination of methods for selecting the contracting party<sup>24</sup>, the announcement of the desire to contract, and administrative oversight of the legality of concluding the transaction.

### **6.1. Preparation of Tender Documents in Advance**

Tender documents for public contracts must be prepared in advance, in accordance with the Law on Prevention and Combating Corruption, to ensure transparency and fair competition. This preparation specifies the conditions for participation and the criteria for selecting contractors, thereby preventing the selection of contractors on illegal grounds such as bribery or favouritism<sup>25</sup>. The legislator did not merely emphasise the need for ‘advance preparation of specifications,’ but also specified the content of these specifications in the regulation of public contracts, as these specifications must include the following:

- Common technical instruction books that specify the technical arrangements applicable to all public transactions relating to a single type of work, supplies, studies or services approved by decision of the relevant minister.
- Special instruction books that specify the conditions specific to each public contract.
- Books of general administrative provisions applicable to all contracts for works, supplies, studies and services approved by executive decree.

### **6.2. Determination of the Methods for Selecting the Contractor<sup>26</sup>**

The selection of contractors in public contracts differs from private law contracts, where the general principle is based on a call for tenders, while negotiation is an exception<sup>27</sup>, in accordance with Article 37 of Presidential Decree 23/12. A call for tenders (Article 38) is defined as a procedure aimed at obtaining bids from several contractors and awarding the contract to the most economically advantageous bid based on pre-established objective criteria, thereby ensuring competition and protecting against monopolies and crimes involving public funds. The law requires mandatory publication in the official gazette of contracts and in the print and electronic press, as well as

on the electronic portal for public contracts<sup>28</sup> (Article 46), including the contracting authorities and bodies mentioned in Articles 9 to 14.

The legislator has taken care to detail the disclosure requirements, oblige the administration to choose objective criteria, and grant a reasonable deadline to contractors. The negotiation procedure involves awarding a contract to a single contractor without a formal call for competition, and may take the form of direct agreement or negotiation after consultation<sup>29</sup> (Article 40). Negotiation allows the contracting authority to negotiate prices and terms of execution (second paragraph). Direct negotiation is an exceptional rule that is only used in the cases provided for in Article 41. After selecting the contractor through a call for tenders, the administration must provisionally announce its selection, the contractor's details and the technical and financial scores obtained (Article 56). The law also guarantees the right to judicial review, whereby a contractor who objects to the provisional award, cancellation or declaration of the procedure as ineffective may lodge an appeal with the competent public procurement committee<sup>30</sup>.

### **6.3. Announcement of the Desire to Contract**

The law requires a press and official announcement in the official gazette, on the electronic portal, and in two daily newspapers, in at least one national and one foreign language, regardless of the method of contracting.

The importance of announcing the call for tenders lies in preventing corruption for several reasons:

- \* Ensuring integrity during the conclusion of public deals, as the announcement is a means of preventing the administration from limiting its contracts to a narrow group of contractors on the pretext that they are the only ones who can meet its requirements, thereby preventing crimes of squandering public funds.

- Achieving the financial benefit of the administration publicly, which will lead to an increase in the number of participants in the call for tenders, resulting in the administration obtaining the best prices, thereby preventing crimes of waste and squandering of public funds, as it is a means of ensuring transparency and, consequently, respect for the law.

### **6.4. Administrative Oversight of the Legality of the Transaction**

Administrative oversight of the legality of the transaction is a preventive mechanism against corruption, as the competent oversight authority ensures that the contract was concluded in accordance with the law. If the oversight authorities discover that the law has been violated, they refuse to grant approval for the transaction, and the contracting authority must revoke the provisional approval of the transaction. It may also, if it considers that the violation

committed by the contracting authority constitutes a crime under the Penal Code and its supplementary laws, notify the competent authorities, otherwise it would be guilty of the crime of failure to report. The legislator has called this type of control 'external control' and has devoted Articles 162 to 190 of the Regulation of Public Transactions and Public Facility Authorisations to it.

## **7. CONCLUSION**

The pre-approval control imposed on public transactions, which is exercised through the bid opening and evaluation committee and the local and central specialised transaction committees, has a clear and specific legal framework in the law governing public procurement, which aims to improve the oversight performance of these committees through their composition, which is commensurate with economic development, and their powers, which ensure that these committees perform their oversight role.

Corruption in public transactions is a phenomenon whose effects cannot be ignored and whose sources cannot be eliminated without resorting to conscious measures, binding laws and innovative ideas. Addressing this phenomenon requires the activation of mechanisms through prior oversight.

Based on the above, we have reached the following conclusions:

- The need to activate the legal mechanisms approved by the legislator within the framework of the new decree to combat corruption through the adoption of strict oversight by specialised committees, both at the level of internal oversight, represented by the committee responsible for opening bids and evaluating offers, which plays a fundamental role in selecting the most deserving contractor, and at the level of external oversight, represented by

committees at various levels with the aim of ensuring that transactions comply with applicable legislation.

- The supervision of public transactions remains the only mechanism aimed at controlling and protecting public funds from corruption, especially in light of the ongoing financial scandals, which has prompted legislators to review the provisions of public transactions, particularly those relating to supervisory committees, and to restructure them in line with current developments.

- Any amendment to the public procurement law often involves a review of the financial ceiling on the basis of which the jurisdiction of the various procurement committees is determined, on the one hand, and affects the nature of the supervisory role, on the other.

In light of the conclusions drawn, the following recommendations can be proposed:

- The need to ensure that public procurement is conducted in accordance with the principles of transparency, integrity and fair competition, and to allow contractors the opportunity to challenge administrative decisions in order to reinforce the fundamental principles enshrined in public procurement law, such as publicity, transparency and equality between parties contracting with the administration.

- Establish a comprehensive oversight system that supports all types of oversight to ensure good and effective performance, in line with the nature of the political and economic systems.

- Reassess the role of the chair of the public procurement committee, given that the president of the municipal council supervises the transaction and chairs the oversight committee on the one hand, and on the other hand approves it, which puts considerable pressure on committee members and raises concerns about conflicts of interest.

## 8. Endnotes

<sup>1</sup> Article 2 of Presidential Decree 23/12 dated 05/01/2023 sets out the general rules relating to public procurement, Official Gazette, No. 51.

<sup>2</sup> Ben Chehida Fadila, 'Pre-approval of public contracts and its role in preventing corruption,' Finance and Markets Magazine, University of Mostaganem, Issue 5, published on 01/09/2016, p. 86.

<sup>3</sup> Jamila Hamida, 'The Concept of Public Procurement between Contractual Nature and Legislative Restrictions,' Sixth National Forum on the Role of Public Procurement Law in Protecting Public Funds, Dr. Yahia Fares University, University of Médéa, Faculty of Law, 20 May 2013, p. 3.

<sup>4</sup> Presidential Decree No. 23/12 dated 18 Muharram 1445 AH, corresponding to 5 August 2023, sets out the general rules relating to public procurement.

<sup>5</sup> Furqan Fatima Al-Zahraa, Oversight of Public Transactions in Algeria, Master's Thesis in Law, State and Institutions Department, Faculty of Law, University of Algiers, 2007, p. 10.

<sup>6</sup> Ahmed Abdel Hamid El-Sayed, Protection of Public Funds, First Edition, Dar Al-Fikr Al-Jami'i, Alexandria, Egypt, 2014, p.55.

<sup>7</sup> Latifa Bahi, Administrative Mechanisms for Public Procurement in Algeria, Al-Nadwa Journal of Legal Studies, Issue No. 1, 2013, Faculty of Law and Political Science, University of El Oued, p. 195.

<sup>8</sup> Article 71 of Presidential Decree 15/247 regulating public procurement and public service concessions

<sup>9</sup> See Article 67, paragraphs 01-02, of Presidential Decree 15/247 mentioned above.

<sup>10</sup> See Article 72 of Presidential Decree 15/247.

<sup>11</sup> Boudiouf, Al-Khair, Internal Oversight in Public Procurement, Journal of Legal Studies and Research, University of Algiers, Faculty of Law, Issue 04, 2018, p. 98.

<sup>12</sup> Jalil Mouni, The Role of the Committee for Opening Bids and Evaluating Offers in Protecting Competition in Public Procurement, Faculty of Law, Ahmed Boukera University, Boumerdes, Annals of the University of Algiers 1, Issue 31, Part I, p. 398.

<sup>13</sup> In this regard, we note that the Minister of Finance issued Circular No. 08 dated 05/01/2016 concerning "Compliance with the Adjusted Procedure," which stipulates that the preliminary report must include the reasons for the award and

the criteria for selecting the economic operator. This is to enable the financial controller to ascertain the criteria adopted by the committee responsible for opening the bids and evaluating the offers when analysing its proposals for awarding the contract and the extent to which the contracting authority has complied with them.

<sup>14</sup> See Article 171 of Presidential Decree 15/247, cited above.

<sup>15</sup> Article 185 of Decree 15/247.

<sup>16</sup> Article 182 of the same decree.

<sup>17</sup> Article 182 of Decree 15/247

<sup>18</sup> Article 182 of the same decree.

<sup>19</sup> Article 187 of Decree 15/247

<sup>20</sup> Article 189 of the same decree.

<sup>21</sup> Article 195 of Decree 15/247

<sup>22</sup> Article 187 of the same decree.

<sup>23</sup> Latifa Bahi, 'Mechanisms for Monitoring Public Procurement in Algeria,' Al-Nadwa Journal of Legal Studies, Issue 1, 2013, Faculty of Law and Political Science, University of El Oued, p. 204.

<sup>24</sup> Article 191 of Presidential Decree 15/247.

<sup>25</sup> Bahri Ismail, 'Guarantees in Public Transactions in Algeria,' Master's thesis in Law, State Law and Public Institutions, Faculty of Law, University of Algiers, 2009, p. 40.

<sup>26</sup> Bahri Ismail, 'Guarantees in Public Transactions in Algeria,' Master's thesis in Law, State Law and Public Institutions, Faculty of Law, University of Algiers, 2009, p. 40.

<sup>27</sup> See Article 37 of Presidential Decree 23/12 laying down general rules on public procurement.

<sup>28</sup> Article 38 of M-23/12.

<sup>29</sup> Article 40 of M – R 23/12.

<sup>30</sup> Article 56 of Law No. 23/12.