

# Chambers

GLOBAL PRACTICE GUIDE

---

Definitive global law guides offering  
comparative analysis from top ranked lawyers

# Public Procurement & Government Contracts

Second Edition

Burundi  
Trust Juris Chambers

[chambers.com](https://www.chambers.com)

2019

## Law and Practice

*Contributed by Trust Juris Chambers*

### Contents

|   |            |  |            |
|---|------------|--|------------|
| <b>1. General</b>   | <b>p.3</b> | <b>3. General Transparency Obligations</b>                             | <b>p.7</b> |
| 1.1 Legislation Regulating Procurement of Government Contracts                  | p.3        | 3.1 Obligation to Disclose Bidder/Tender Evaluation Methodology        | p.7        |
| 1.2 Entities Subject to Procurement Regulation                                  | p.3        | 3.2 Obligation to Notify Interested Parties Who Have Not Been Selected | p.7        |
| 1.3 Type of Contracts Subject to Procurement Regulation                         | p.3        | 3.3 Obligation to Notify Bidders of Contract Award Decision            | p.8        |
| 1.4 Openness of Regulated Contract Award Procedure                              | p.5        | 3.4 Requirement For 'Standstill Period'                                | p.8        |
| 1.5 Key Obligations   | p.5        | <b>4. Review Procedures</b>  | <b>p.8</b> |
| <b>2. Contract Award Process</b>  | <b>p.6</b> | 4.1 Responsibility for Review of Awarding Authority's Decisions        | p.8        |
| 2.1 Prior Advertisement of Regulated Contract Award Procedures                  | p.6        | 4.2 Remedies Available for Breach of Procurement Legislation           | p.8        |
| 2.2 Preliminary Market Consultations by Awarding Authority                      | p.6        | 4.3 Interim Measures   | p.8        |
| 2.3 Tender Procedure for Award of Contract                                      | p.6        | 4.4 Challenging Awarding Authority's Decisions                         | p.8        |
| 2.4 Choice/Conditions of Tender Procedure                                       | p.6        | 4.5 Time Limits for Challenging Decision                               | p.8        |
| 2.5 Timing for Publication of Documents   | p.7        | 4.6 Length of Proceedings  | p.8        |
| 2.6 Time Limits for Receipt of Expressions of Interest or Submission of Tenders | p.7        | 4.7 Annual Number of Procurement Claims                                | p.8        |
| 2.7 Eligibility for Participation in Procurement Process                        | p.7        | 4.8 Costs Involved in Challenging Decision                             | p.8        |
| 2.8 Restriction of Participation in Procurement Process                         | p.7        | <b>5. Miscellaneous</b>  | <b>p.9</b> |
| 2.9 Evaluation Criteria   | p.7        | 5.1 Modification of Contracts Post-award                               | p.9        |
|   |            | 5.2 Direct Contract Awards   | p.9        |

**Trust Juris Chambers** is made up of seven lawyers and is a member of the W-AKILI AFRICA strategic alliance network of law firms, which operates in Kenya, Tanzania, Rwanda and Burundi, and intends shortly to expand its network to Democratic Republic of Congo, Uganda and South Sudan. The firm specialises in many areas, including corporate and commercial, investment, construction, energy

(petroleum, electricity and mining), telecommunications, banking and finance, and transport. It advises clients on public procurement laws and regulations, especially relating to drafting, throughout the entire contract award procedure, and specialises in public procurement compliance and processes, awards, appeals, executions, sanctions, contract negotiations, PPP structuring and drafting, etc.

## Author



**Abdoul Mtoka** is the founding partner of the firm and is active in corporate and commercial, competition, investment, infrastructure, telecommunications, transport and logistics, energy and mining, banking and finance, arbitration, public procurement and international business law matters.

## 1. General

### 1.1 Legislation Regulating Procurement of Government Contracts

In Burundi, there are two separate laws that govern the procurement of government contracts (*marchés publics*).

The first one is Law No 1/04 of 24 January 2018 regarding the modification of Law No 1/01 of 4 February 2008 instituting the Public Procurement Act (*Code des Marchés Publics*).

The second is Law No 1/14 of 27 April 2015 governing the regime of Public Private Partnerships agreements (*Loi portant régime des contrats de Partenariat Public-Privé*).

In addition to the legislation, there are several regulations implementing the Public Procurement Act.

Furthermore, the Government of Burundi has recently instituted an Economic Special Zone (ESZ) with an ESZ Authority, which has power to procure specific tenders and deliver authorisations within the ESZ pursuant to Decree No 100/29 of 16 February 2017 establishing the Economic Special Zone (ESZ) of Warubondo and instituting the ESZ Authority.

### 1.2 Entities Subject to Procurement Regulation

According to the Public Procurement Act, there are several entities that are subject to procurement regulation:

- First, the State and the decentralised local authorities.
- Second, the legal persons governed by public law composed of the State itself and its dismemberments, whose activities are financed mainly by the State or that benefit

from State financial assistance or the guarantee of the State or the local authorities.

- Third, the private legal persons acting on behalf of the State and all its dismemberments, the public law companies (State-owned companies) and any company with a majority of public financial shareholding, and any association formed of one or more of these public law legal entities.
- Fourth, the private legal persons or joint enterprises (*sociétés mixtes*) that benefit from State financial aid or the guarantee of the State, or one of the public law legal persons previously mentioned.
- Fifth, the legal persons enjoying special or exclusive rights to operate a public service/utility activity.

### 1.3 Type of Contracts Subject to Procurement Regulation

Public procurement is governed by a variety of laws and regulations, which provide different types of contracts. Hence, several types of contracts are provided by those different laws, including public contracts, Public Private Partnerships (PPP), and lease and concession agreements.

#### Types of Contracts

The main contracts subject to procurement regulation are PPP agreements and public contracts in general (including lease and concession agreements).

#### PPP agreements

The PPP Act provides for Public Private Partnership Agreements by defining them as follows: “The partnership agreement may relate in whole or in part to the design, financing, construction or transformation, operation, management, maintenance of works, equipment or intangible goods nec-

essary for the provision of a public service and other services contributing to the operation by any public body of the public service mission for which it is responsible.”

These agreements are awarded through three different procurement procedures: “open tender with pre-qualification proceedings”, “restricted tender procedure” or “competitive dialogue procedure”.

On the one hand, “open tenders with pre-qualification proceedings” and the “restricted tender procedure” must meet the requirements provided in the relevant provisions of the Public Procurement Act (and not the PPP Act).

On the other hand, the “competitive dialogue procedure” is provided when the contracting authority is, as regards the complexity of the project, unable to determine by itself the technical means capable of satisfying its needs or to specify the legal or financial arrangements of the project.

Furthermore, the PPP Act stipulates a fourth procurement procedure, which is to be proposed not by the contracting authority to the potential bidder but by the bidder itself to the contracting authority. Indeed, any third party may submit a “spontaneous tender” (*offre spontanée*) to a contracting authority, which must not have been previously (on the date of its submission) proposed by any contracting authority.

### **Public contracts**

The Public Procurement Act, which is the main legal source regarding public contracts, defines a public contract as “a written contract entered into for consideration by which a contractor, supplier or service-provider undertakes, to a public or private legal entity referred to in article 3 of this Act, in order to carry out works, to provide goods or services at a price.”

This law provides several types of public contract award procedures. There are four main public procurement contract procedures: “open procedures”, “contracts without soliciting tenders”, “specific contract award procedures” and “public service delegation contracts”. The “open procedure” is the rule, and the three others are exceptions.

First, in “open procedures”, any interested person may submit an offer in response to a call for tenders. This kind of contract award procedure is the rule in public procurement. There are several types of “open procedures”, including:

- open tenders (*appel d'offres ouvert*);
- open tenders with pre-qualification proceedings (*appel d'offres précédé d'une préqualification*);
- open tenders with competition (*appel d'offres ouvert avec concours*);
- standing offer agreements (*marchés à commande*);
- clientele offer agreements (*marchés à clientèle*);

- restricted tender procedure (*appel d'offres restreint*); and
- intellectual service contracts (*marchés de prestations intellectuelles*).

Second, under the procedure for “contracts without soliciting tenders”, a contracting authority shall not publicly solicit any offer from suppliers or service providers. This procedure spans direct awards (*marchés de gré à gré*), direct agreements (*marchés par entente directe*) and secret tenders (*marchés à caractère secret*).

Third, “specific contract award procedures” include decentralised local authorities’ contracts (*marchés des collectivités territoriales décentralisées*), “common tenders” (*marchés groupés*) and “contracts performed by the personnel of the contracting authority itself” (*prestations en régie*).

Fourth, “public service delegation contracts” encompass concession agreements (*concession*), a “variant of leasing arrangements” (*affermage*) and a “special public service contract” (*régie intéressée*).

For ease of understanding, the following is a brief definition of some contract award procedures, pursuant to the Public Procurement Act:

- *Standing offer agreements (marchés à commande)* – these are designed to enable the Contracting Authority to meet its current annual supply requirements for supplies that have a limited life expectancy whose exact importance cannot be anticipated at the beginning of the year, or which exceed the storage possibilities. They are renewable once.
- *Clientele offer agreement (marchés de clientèle)* – these are those agreements by which the Contracting Authority undertakes to entrust – for a limited period not exceeding one budget year – the performance of all or part of certain categories of services, defined by the regulations in force, following orders made as and when needed. They are renewable once.
- *Restricted tender procedure (appel d'offres restreint)* – a tender is restricted if, depending on the nature or specificity of the contract, a Contracting Authority may consult only a limited number of candidates with the technical capacity to perform the contract.
- *Intellectual service contracts (marchés de prestations intellectuelles)* – these are intended to provide mainly intellectual services whose predominant element is not physically quantifiable. This category of contracts includes studies, project management, technical assistance services, computer and delegated project management or operating conduct contracts.
- *Direct award (marchés de gré à gré)* – a contract is awarded by mutual agreement when it has passed without a call for tenders, after special authorisation from the National Public Procurement Control Agency.

- *Secret Tender (marchés à caractère secret)* – this procedure allows the provision of works, supplies or services which, by virtue of legal and regulatory provisions, have an aspect that is incompatible with any form of advertisement, and when the protection of the fundamental interests of national security requires such secrecy.
- *Common tenders (marchés groupés)* – two or more contracting authorities may agree to procure tenders together, in order to meet their common needs. The procurement and execution of those tenders are common, and are headed by a single leading contracting authority.
- *Concession agreement (concession)* – by concession, the delegating authority entrusted the delegator:
  - (a) with the provision of works or the acquisition of property required for the establishment of a public service and its operation; or
  - (b) with the operation of a public service/utility.

### **Thresholds of Regulated Tenders**

The public procurement rules apply to tenders exceeding thresholds provided in the various specific regulations (which implement the Public Procurement Act).

The choice of the procedure for determination of the thresholds is made according to the type of the tender, regardless of the number of participating tenderers.

First and in general, for public procurement contracts procured by the State, the decentralised local authorities and all legal persons mentioned in **1.2 Entities Subject to Procurement Regulation**, the regulation applies when the estimated value of a works contract meets or exceeds BIF30,000,000 (VAT excluded), when the estimated value of a supplies contract meets or exceeds BIF12,500,000 (VAT excluded) and when the estimated value of a service contract meets or exceeds BIF10,000,000 (VAT excluded).

Second, for public procurement contracts procured by the public enterprises of a commercial nature and the personalised administrations operating activities of a commercial nature, the regulation applies when the estimated value of a works contract meets or exceeds BIF30,000,000 (VAT excluded), when the estimated value of a supplies contract meets or exceeds BIF25,000,000 (VAT excluded) and when the estimated value of a service contract meets or exceeds BIF20,000,000 (VAT excluded).

Third, for public procurement contracts procured by the decentralised local authorities (municipalities), the regulation applies: when the estimated value of a works contract meets or exceeds BIF 12,000,000 (VAT excluded), when the estimated value of a supplies contract meets or exceeds BIF 10,000,000 (VAT excluded) and when the estimated value of a service contract meets or exceeds BIF 8,000,000 (VAT excluded).

Fourth, for public procurement contracts financed by external financing, the regulation applies when the estimated value of a works contract meets or exceeds BIF150,000,000 (VAT excluded), when the estimated value of a supplies contract meets or exceeds BIF100,000,000 (VAT excluded) and when the estimated value of a service contract meets or exceeds BIF80,000,000 (VAT excluded).

All contracts whose estimated value does not exceed BIF2,000,000 (VAT excluded) are not submitted to regulation.

### **1.4 Openness of Regulated Contract Award Procedure**

According to Article 11 of the Public Procurement Act, participation in a contract award procedure shall observe the principle of free access to public procurement, and Article 55 states that any person may freely apply in a public tender procedure.

In addition, Article 12 of the PPA provides that any discrimination between the applicants on the grounds of nationality is prohibited. However, the same article provides that a preference regime may be applied in favour of nationals (natural and legal persons), which include all legal persons registered and governed by the Burundian laws. All natural and legal persons who are registered as citizens of the East African Community Partner States are also classed as nationals.

### **1.5 Key Obligations**

The key obligations of the successful bidder (contractor) are as follows:

- the contractor is required to open and keep up-to-date documents and statements relating to the tender;
- the contractor is required to hold account documents relating to the tender;
- the contractor must give free access to the relevant contract documents in favour of the Contracting Authority;
- the contractor may be required to provide a performance bond;
- the contractor may be required to provide a specific guarantee; and
- the contractor shall comply with all legislative and regulatory provisions.

The key obligations of the procuring entity (contracting authority) are as follows:

- to conduct a transparent, fair, competitive procurement process;
- to monitor and control the contract performance;
- to finance the tender;
- to pay default interest in case of payment default; and

- to release the deposit within the timeframe set by the Special Conditions of Contract (*Cahier des clauses administratives particulières*).

## 2. Contract Award Process

### 2.1 Prior Advertisement of Regulated Contract Award Procedures

Contracting authorities must advertise the tender notice in the public procurement journal or in a national or international gazette, and on the website of the public procurement regulation authority (<http://www.armp.bi>).

The tender documents are written in French and encompass the following:

- the tender notice (*Avis d'Appel d'Offres*);
- the general conditions of contract (*Cahier des clauses administratives générales*);
- specific rules for the invitation to tender (*Règlement particulier de l'appel d'offres*);
- the special conditions of contract (*Cahier des clauses administratives particulières*), including the draft contract;
- the general technical conditions of contract (*Cahier des clauses techniques générales*);
- specific technical conditions of contract (*Cahier des Clauses Techniques Particulières*), terms of reference (ToR) or description of the supply;
- special environmental specifications (*Cahier des clauses environnementales*), if applicable;
- a schedule of unit prices;
- bills of quantities, with details of quantities;
- sub-detailed price;
- standard forms relating to the application and securities; and
- if applicable, technical documents or any other documents deemed necessary by the contracting authority.

### 2.2 Preliminary Market Consultations by Awarding Authority

Only intellectual service tenders (*marchés de prestations intellectuelles*) may be subject to preliminary consultation before the contract award procedure is launched.

### 2.3 Tender Procedure for Award of Contract

The Public Procurement Act provides a specific section regarding the procedure for the presentation, reception and opening of the offers. Another section deals with the procedure and assessment criteria of the offers, and the next section relates to the temporary contract award. A final section deals with the signature, the approval and the notification of the contract award.

In submitting their offers, the tenderers may be required to offer some guarantees and to submit in sealed envelopes.

The opening session of offers is public, and minutes must be written by the President of the sub-commission in charge of opening offers. The minutes shall be addressed to all the tenderers upon request.

The sub-commission in charge of analysing the offers draws up a report within a time limit prescribed by the President of the commission in charge of awarding the contract. The tenderers may be requested to provide supplementary information or documentation. The evaluation of the tenders shall be made on the basis of the economic, financial and technical criteria mentioned in the tender notice, in order to determine the lowest evaluated compliant offer.

A call for tenders may be cancelled and declared unsuccessful after the opinion of the competent procurement commission in the absence of tenders, or where the Contracting Authority has not obtained proposals that conform with the call for tender documents, in which case a new call for tenders may be initiated.

Tenders may be declared undervalued or overvalued after requesting the tenderer to provide justifications, and consequently those tenders may be rejected.

The successful tenderer will be attributed the provisional contract award, and must be notified of this decision. If nobody complies with the contract award procedure, the contract award will be approved by the competent authority and the successful tenderer will be invited to execute the contract.

Negotiations are not permissible, except for three specific types of tenders: direct awards (*procédure par entente directe*), direct agreements (*marché de gré à gré*) and intellectual service contracts (*marché de prestations intellectuelles*). In those tenders, negotiations are conducted individually and involve no more than one person at a time.

There are some specific restrictions on the conduct of such negotiations:

- negotiations in the context of intellectual service contracts may not concern fee rates;
- in direct agreements, there must be at least three participating candidates in the negotiations; and
- direct awards and direct agreements may only be concluded with contractors, suppliers or service-providers that agree to submit to a specific price control during the performance of the services.

### 2.4 Choice/Conditions of Tender Procedure

The Public Procurement Act (PPA) provides for several tender procedures, and the choice of procedure is determined by certain conditions provided in the same law. Therefore, the awarding authority cannot, at its discretion, choose a

specific procedure regardless of the conditions provided in the PPA.

### **2.5 Timing for Publication of Documents**

In open procedures, the time for publication of the tender notice is 20 to 40 calendar days for the procurement of a national tender, and 30 to 60 calendar days for an international competitive bidding procurement.

In restricted procedures, the time for publication of the tender notice is 15 to 30 calendar days for the procurement of a national tender, and 20 to 40 calendar days for an international competitive bidding procurement.

The time limit shall begin from the publication of the tender notice.

### **2.6 Time Limits for Receipt of Expressions of Interest or Submission of Tenders**

In open procedures, the time for the receipt of applications or expressions of interest is 20 to 40 calendar days for the procurement of a national tender, and 30 to 60 calendar days for an international competitive bidding procurement.

In restricted procedures, the time for receipt of applications or expressions of interest is 15 to 30 calendar days for the procurement of a national tender, and 20 to 40 calendar days for an international competitive bidding procurement.

### **2.7 Eligibility for Participation in Procurement Process**

The criteria that parties must meet in order to be eligible for participation in a procurement process are specified in the tender notice.

In any case, the interested parties must include the supporting documents, the technical proposal and the financial proposal in their offers.

### **2.8 Restriction of Participation in Procurement Process**

It is possible to restrict participation in the procurement process to only a small number of qualified suppliers, in the so-called restricted procedures.

The “restricted tender procedure” is provided only when the goods, works or services are available only from a limited set of suppliers, contractors or service providers, because of their speciality. In this case, all the identified potential candidates are invited to present their offers. The restricted tendering procedure shall be authorised by the National Public Procurement Control Agency, and the related decision shall be published.

The Public Procurement Act does not mention a precise number of suppliers who are qualified to participate in a

contract award procedure. However, in proceedings characterised by a restricted consultation of candidates, especially in the case of a pre-qualification procedure, a restricted tender procedure or an intellectual service tender, when a minimum of three offers has not been submitted within the time limits for the receipt of offers, the Contracting Authority grants a new period of submission for offers, which cannot be less than ten calendar days; this extension must be published. At the end of this new period, the bid opening sub-committee opens the bids, regardless of the number of offers received.

### **2.9 Evaluation Criteria**

In any contract award procedure, the Public Procurement Act states that the criteria on which tenders are evaluated to award the contract must be objective and previously made known to candidates in the tender documents, and expressed in monetary terms.

Subject to the specific provisions applicable to intellectual service contracts, the tender evaluation is based on the economic, financial and technical criteria mentioned in the tender documents, in order to determine the lowest and most substantially compliant offer.

## **3. General Transparency Obligations**

### **3.1 Obligation to Disclose Bidder/Tender Evaluation Methodology**

The Public Procurement Act provides specific provisions relating to the criteria of the evaluation methodology on the basis of which bidders are selected and tenders evaluated.

The bid assessment sub-committee establishes an assessment report within a period prescribed by the Chairman of the Procurement Committee and made public at the opening of the offers. This period must be compatible with the period of validity of the offers, and shall not exceed 15 days. However, this period may be extended to 30 days upon a motivated request made to the person responsible for the procurement.

### **3.2 Obligation to Notify Interested Parties Who Have Not Been Selected**

The Public Procurement Act provides that the contracting authority must communicate in writing to any unsuccessful bidder the reasons for the rejection of its offer, the amount of the awarded tender, and the name of the successful bidder.

Any bidder may request a copy of the minutes of the award and any other relevant information, which must be given to him or her within three days of the receipt of their written request.

### 3.3 Obligation to Notify Bidders of Contract Award Decision

The minutes of a provisional contract award decision are made according to a model established by the public procurement regulatory authority. These minutes are published in the official journal of public procurement or on the website of public procurement, after the approval of the National Public Procurement Control Agency, within a period of seven calendar days.

These publications concern tenders whose amount is equal to or more than the threshold prescribed by a prior control of the National Public Procurement Control Agency.

### 3.4 Requirement For ‘Standstill Period’

Contracting authorities observe a period ranging from a minimum of ten to a maximum of 15 calendar days after the notification of the contract award decision before proceeding to the signing of the contract and submitting the latter to the competent authorities for approval.

## 4. Review Procedures

### 4.1 Responsibility for Review of Awarding Authority’s Decisions

First, and before referring the matter to any other body, the unsuccessful bidders refer it to the person responsible for the contract award (the person representing the contracting authority).

If the person responsible for the contract award responds negatively to the bidders’ request, or in the absence of any response, the bidders may refer the matter to the Dispute Settlement Committee within five days of the receipt of the negative decision, or within five days after the expiry of the response period.

The decisions of the Dispute Settlement Committee may be subject to a judicial appeal within five days from the notification of the decision.

Note that the Dispute Settlement Committee is a body of the Public Procurement Regulation Authority.

### 4.2 Remedies Available for Breach of Procurement Legislation

The sanctions that may be imposed on bidders are:

- confiscation of any guarantee or collateral provided by the offender during the tender procedure;
- exclusion from competition for a temporary or permanent period, depending on the severity of the misconduct, including, in case of collusion, a company that owns majority shares of the sanctioned bidder company or any

company in which the sanctioned bidder company owns majority shares;

- withdrawal of their approval and/or their certificates of qualification; and
- a financial penalty in the form of a fine, the maximum threshold for which is prescribed by the regulations.

These sanctions are cumulative or alternative.

### 4.3 Interim Measures

Whether administrative or judicial, the appeal has a suspensive effect on any public procurement procedure. The suspension lasts up to the final decision of the reviewing body.

For instance, the Dispute Settlement Committee’s decisions have effect to suspend the contested decision or the contract award process.

### 4.4 Challenging Awarding Authority’s Decisions

All unsuccessful bidders are entitled to challenge the awarding authority’s decision.

### 4.5 Time Limits for Challenging Decision

The time limit to challenge the decision before the person responsible for the contract award is three days from the notification of said decision.

If the person responsible for the contract award responds negatively to the bidders’ request or fails to respond at all, the bidders may refer the matter to the Dispute Settlement Committee within five days of the receipt of the negative decision or within five days of the expiry of the response period.

### 4.6 Length of Proceedings

Theoretically, the person responsible for the contract award has a maximum of five days to respond to the claim, and the Dispute Settlement Committee has a maximum of ten days to respond to the claim.

However, if a judicial appeal is initiated after these proceedings, the time period may be longer and less predictable.

### 4.7 Annual Number of Procurement Claims

According to the publication of the Public Procurement Regulation Authority, there were 51 procurement claims in 2017. In its publication, the PPRA specifies each claim by providing several details (name of the claimant, date of claim, purpose of the claim, number and title of the tender and name of the contracting authority).

No other figures relating to other years have yet been published by the PPRA.

### 4.8 Costs Involved in Challenging Decision

Challenge procedures before the public procurement bodies are free of charge, except for the judicial appeal.



However, the bidders should bear the professional fees of their advocates, and this will depend on the fares of the law firm involved because professional fees are freely determined by lawyers.

## 5. Miscellaneous

### 5.1 Modification of Contracts Post-award

In any case, the final contract cannot modify the scope and nature of the offerings provided in the tender documentation. Only minor alterations without financial implications or technical influence on the successful bid are acceptable.

However, during the execution of the contract, its terms and conditions may be modified upon approval by both the National Public Procurement Control Agency and the Minister of Finance.

Any amendment to the contract is subject to the following conditions:

- when a service order is likely to exceed the amount of the contract, its execution is subject to the availability of evidence regarding the financing;
- if the contract amount does not exceed a proportion of 10%, contract amendments may be made by order of service and regularised by way of amendment; and
- when the exceeding amount is more than 10%, contract amendments may be made only after the signature of the amended contract.

### 5.2 Direct Contract Awards

Exceptionally, the Public Procurement Act provides for three direct contract award procedures: the “direct award” (*marchés de gré à gré*), the “secret tenders” (*marchés à caractère secret*) and the “direct agreement” (*marchés par entente directe*). Certain conditions must be met in order to use these specific contract award procedures.

For instance, the “direct award” procedure (*marché de gré à gré*) may apply in the following circumstances:

- when the work, supplies or services are carried out only for research, testing or improvement purposes;
- in the case of an emergency when the works, supplies or services must be performed, upon the request of the contracting authority, by a person other than the defaulting contractor, supplier or service-provider; and
- in the case of urgent necessity due to unforeseeable circumstances or due to force majeure that does not allow the deadlines provided for in the tender procedure to be met.

#### Trust Juris Chambers

7 Avenue Mwaro, Quartier INSS  
Bujumbura, Burundi

Tel: +257 75 654 000  
Email: [info@trustjuris.com](mailto:info@trustjuris.com)  
Web: [www.trustjuris.com](http://www.trustjuris.com)

