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IMPACT OF LAW 14.133/21 ON PUBLIC BIDS IN THE MUNICIPALITY OF ITINGA DO MARANHÃO – MA.: LEGAL ANALYSIS AND PRACTICAL IMPLICATIONS[1]

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ABSTRACT

Public bids are one of the fundamental pillars of the Brazilian legal system, ensuring not only competitiveness and transparency in administrative contracting processes, but also compliance with the constitutional principles that govern the Public Administration, as provided for in article 37 of the Federal Constitution of 1988: legality, impersonality, morality, publicity and efficiency. This article aims to analyze the impacts of Law No. 14,133/2021 on public bids in the Municipality of Itinga do Maranhão – MA. The research, of a qualitative and exploratory nature, was based on documentary analysis and application of structured questionnaires with closed questions, directed to public servants and local bidders. The data collected allowed us to evaluate the main challenges faced, such as the lack of technical training, the limitation of the technological infrastructure and the difficulties of adapting to the new legislation. The results demonstrate that, although Law No. 14,133/2021 represents a normative advance, its effective implementation in the municipality depends on structuring institutional efforts and management measures aimed at administrative modernization and transparency.

Keywords: Public bidding. Law No. 14,133/2021. Public administration. Itinga do Maranhão. Administrative hiring.

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INTRODUCTION

The practice of public bidding is a fundamental pillar of the Brazilian legal system, ensuring not only competitiveness and transparency in administrative contracting processes, but also compliance with the constitutional principles that govern the Public Administration, as provided for in article 37 of the Federal Constitution of 1988: legality, impersonality, morality, publicity and efficiency.

Historically, these processes were regulated, above all, by Law No. 8,666/1993, widely known as the **Law of Bids and Administrative Contracts**, which structured the bidding procedures for almost three decades. However, in view of the constant social, technological, and economic transformations, it became necessary to update this regulatory framework, culminating in the enactment of **Law No. 14,133/2021**, which replaces and unifies the previous legislation with the proposal to modernize, rationalize, and provide greater legal certainty to public procurement.

In this context, the choice of the theme *"Impact of Law 14.133/2021 on Public Bids in the Municipality of Itinga do Maranhão – MA: Legal Analysis and Practical Implications"* is justified by the importance of critical analysis of the new legislation from a local perspective, considering the structural and operational difficulties commonly faced in small municipalities. The research proposes to examine how the changes promoted by the new rule have been reflected in the scenario of public bids in Itinga do Maranhão, especially in the 2023-2024 biennium.

This research aims to contribute to the understanding of these changes and to the evaluation of their impact on the public procurement scenario in Brazil. The central research problem, "How did Law 14.133/21 impact public tenders in the Municipality of Itinga do Maranhão – MA?", directs the focus of this work to the analysis of the effects of this legislation on public tenders in the municipality. Through this question, it seeks not only to understand the legal implications of the new legislation, but also to identify the challenges faced by public agencies and bidders in its application, as well as to propose possible solutions for a more effective and transparent application of the new rules.

In addition, it is essential to investigate the practical impacts of this new legislation, both from the point of view of public agencies and private individuals that participate in bidding events. Identifying the challenges faced in the application of Law 14,133/21 and proposing appropriate legal solutions is essential to ensure the effectiveness and legitimacy of the bidding process, as well as to prevent any irregularities and ensure administrative probity.

In order to achieve the proposed objectives, the methodology adopted is based on a qualitative, exploratory and descriptive approach on two main fronts: documentary analysis and field research with the application of questionnaires with closed questions (multiple choice), directed to two distinct groups: public servants who participate directly in the bidding processes and bidders/entrepreneurs who compete in the competitions held by the municipality.

Therefore, this study presents itself as an exercise of theoretical and practical deepening in the field of Administrative Law, offering relevant subsidies to critical reflection on the challenges of implementing the new Bidding Law in Brazilian municipalities, especially in realities such as Itinga do Maranhão – MA, thus contributing to the strengthening of the Democratic Rule of Law.

THEORETICAL FOUNDATION

CONSTITUTIONAL ASPECTS AND THE LEGAL BASIS OF PUBLIC BIDDING CAS

The requirement to carry out public bidding as a form of contracting by the Public Administration is based on article 37, item XXI of the Federal Constitution of 1988, which establishes:

> Except for the cases specified in the legislation, the works, services, purchases and disposals will be contracted through a public bidding process that ensures equal conditions for all competitors, with clauses that establish payment obligations, maintaining the effective conditions of the proposal, under the terms of the law, which will only allow the technical and economic qualification requirements indispensable to guarantee the fulfillment of the obligations. (BRAZIL, FEDERAL CONSTITUTION 1988).

This provision is part of the context of the principles of Public Administration provided for in the caput of article 37, namely: legality, impersonality, morality, publicity and efficiency — which constitute the foundation for administrative action, especially in matters of bidding and public contracts.

In this way, public bidding not only imposes itself as a formal mechanism, but is consolidated as an instrument for the implementation of the constitutional principles that govern the Public Administration. Thus, its presence in the legal system is the expression of the control of legality and administrative morality in the use of public resources.

According to Di Pietro, bidding represents an essential instrument for the protection of the public interest, being an obligation imposed on the State in the exercise of its administrative function:

> Bidding is not a power of the Administration, but a duty that arises from the principle of legality and the need to ensure the selection of the most advantageous proposal for the public interest, as well as the observance of equality between competitors. (Di Pietro 2021, p. 454).

Thus, the bidding process should be understood not only as a formal administrative procedure, but as an essential legal instrument to ensure morality, competitiveness and control of public spending, with a view to achieving the collective interest.

HISTORICAL EVOLUTION OF BIDDING LEGISLATION IN BRAZIL

The Brazilian bidding legislation has undergone a long process of maturation and normative systematization, reflecting the development of the State model itself and its administrative structure. The history of public procurement in Brazil demonstrates that the bidding process has evolved gradually, seeking to incorporate fundamental principles of public administration and adapt to contemporary requirements of efficiency, control, transparency and economy.

The following is a brief legislative timeline that illustrates this normative evolution, from the first imperial decrees to the recent enactment of Law No. 14,133/2021, the new regulatory framework for public procurement.

Decree No. 2,926/1862 – The first attempts at regulation

The first rules aimed at public procurement date back to the imperial period, with **Decree No. 2,926, of May 14, 1862**, considered the first legal framework related to public works. However, it was a very incipient standardization, with a rudimentary character and limited practical application.

According to Justen Filho:

> Decree No. 2,926/1862 can be considered the starting point of the regulation of bidding in Brazil. However, its effectiveness was more symbolic than effective, since there was no consolidated administrative culture or effective control mechanisms. (Justen Filho, 2023., p. 32).

Based on this understanding, it is observed that, in that period, the function of the State was still strongly centralized, and the normative provisions did not have sufficient strength to guarantee transparency and isonomy in administrative contracts.

Federal Accounting Code (1922)

A new advance occurred with the **Federal Accounting Code**, instituted in 1922, which began to provide for more organized rules for public spending and the requirement of

bidding in certain cases. Even so, the legislation remained fragmented and insufficient to ensure isonomic and standardized contracting processes.

As Di Pietro explains:

> Until the middle of the twentieth century, the rules of bidding were dispersed and little systematized. The public administration had a certain discretion to decide how to contract, which generated legal uncertainty and favored patrimonialist practices. (Di Pietro 2021, p. 459):

Di Pietro's comment shows that the absence of normative uniformity created an environment conducive to deviations from purpose, lack of control and subjectivity in the contracting processes, which compromised equal opportunities and economy in public management.

Decree-Law No. 200/1967 – Restructuring of the Public Administration

During the military regime, **Decree-Law No. 200, of February 25, 1967**, promoted a broad reorganization of the Federal Public Administration. Although it was not a rule specifically aimed at bidding, this diploma was fundamental for administrative modernization, by enshrining the principles of **decentralization, delegation of powers, planning and control**.

According to Carvalho Filho:

> Decree-Law No. 200/67 played a structuring role in the Brazilian Public Administration, introducing modern bases of organization and management. Its provisions significantly influenced the subsequent bidding legislation, by requiring greater rationality and planning in contracting (Carvalho Filho, 2023, p. 698).

From this reform, public management began to incorporate more technical practices, signaling a paradigm shift that would later culminate in the need for specific laws on administrative contracting. This transition shows the beginning of a movement of professionalization of the Public Administration.

Law No. 8,666/1993 – Consolidation and normative systematization

Law No. 8,666/1993, known as the **Law of Bids and Administrative Contracts**, represented the first major systematization of the rules on public procurement in Brazil, unifying sparse legal provisions and creating a solid set of norms.

According to Meirelles:

> Law No. 8,666/93 was an important milestone, as it consolidated the constitutional principles into a systematic regulation, establishing objective criteria for the selection of the most advantageous proposals and ensuring the control of the legality of administrative acts (Meirelles, 2020, p. 321).

The legislation introduced bidding modalities such as **competition, price taking, invitation, contest and auction**, in addition to providing detailed rules for administrative contracts and judgment criteria.

However, despite its historical importance, Law No. 8,666/93 came to be the target of criticism for its **excessive bureaucratization and rigidity**, making it difficult to modernize public management. As Justen Filho (2023, p. 50) analyzes: "Law No. 8,666/93 ended up becoming an instrument of exaggerated formalism, more concerned with the appearance of legality than with the effectiveness of public procurement". This criticism is justified by observing that the excessive rigidity of the law often prevented the Administration from conducting contracting processes in an agile and efficient manner, hindering innovation and modernization of public management.

In this sense, it can be seen that Law No. 8,666/93, although it was a watershed by consolidating a structured normative regime, also created challenges that drove the emergence of new legislative approaches. The very advent of laws such as the Auction (Law No. 10,520/2002) and, more recently, Law No. 14,133/2021, reflects this need to update and make the public procurement system more flexible, in order to balance legal certainty and administrative efficiency.

Law No. 10,520/2002 – Face-to-face and Electronic Auction

In order to make public procurement more agile, **Law No. 10,520/2002 was created**, which instituted the auction modality, applicable to the acquisition of common goods and services. This legislation brought important innovations, such as the **inversion of the phases**, in which the judgment of the proposals precedes the qualification phase.

For Mazza (2021, p. 296), "The auction represents one of the main procedural innovations in the Brazilian bidding system, as it broke with the formalism of Law No. 8,666/93 and prioritized speed and competitiveness, especially with its electronic version."

The use of the electronic auction democratized access to the bids and enabled greater transparency and social control over the bidding processes.

Law No. 12,462/2011 – Differentiated Contracting Regime (RDC)

The **Differentiated Contracting Regime (RDC)** was instituted by **Law No. 12,462/2011**, initially for works for the World Cup and Olympic Games, but later extended to other areas of the Administration.

The RDC introduced concepts such as **confidential budgeting**, **integrated contracting** and **simplified procedure**, marking an attempt to make processes more flexible in highly complex projects.

As Di Pietro (2021, p. 473) points out: *"The RDC emerged as a more flexible model, adapted to the reality of large enterprises, however, its widespread application still encounters resistance in the face of the traditional culture of the public sector."*

Law No. 14,133/2021 – New Legal Framework for Bidding

The enactment of **Law No. 14,133/2021** consolidated the experience gained with the previous legislation and promoted a true **paradigmatic reformulation**, by incorporating the advances of the auction, the practices of the RDC, and the modern guidelines of governance, planning, and integrity.

According to Justen Filho (2023, p. 63): "The new law is not just a normative update, but a controlled break with the previous paradigm. It is a legislation oriented to efficient management, transparency and the strengthening of social control."

This new legislation incorporates significant advances, such as **the creation of the National Public Procurement Portal (PNCP),** which centralizes information on bidding processes, making them more accessible and traceable. In addition, the **obligation of prior planning and the training of public agents** reflect a movement towards a more professionalized administration and less susceptible to operational failures. These aspects are key to ensuring that the execution of contracts is more effective and aligned with the needs of society.

Another relevant point of Law No. 14,133/2021 is the **introduction of sustainable criteria and contractual governance, aiming not only at economy, but also at environmental and social responsibility in public procurement**. This paradigm shift demonstrates that bids cannot be evaluated only by the lowest price, but must consider long-term impacts, promoting a more balanced development.

Thus, the new law presents itself as a substantial advance in relation to the previous model, seeking to overcome the excessive bureaucratization of Law No. 8,666/1993 and provide greater flexibility without compromising the legality and control of contracts. However, its implementation still requires significant efforts, such as continuous investments in the training of civil servants and in the adaptation of public agencies to the new system.

THE INNOVATIONS OF LAW NO. 14,133/2021 AND ITS LEGAL FOUNDATIONS

Law No. 14,133/2021 was enacted with the objective of gradually replacing Law No. 8,666/1993, the Auction Law (Law No. 10,520/2002) and the Differentiated Public

Procurement Regime (RDC - Law No. 12,462/2011). The new legislation promotes structural, procedural and principled changes.

Among the main advances, the following stand out:

- Normative unification;
- The inversion of the phases of the bidding process;
- The creation of the National Public Procurement Portal (PNCP);
- New modalities such as competitive dialogue;
- More modern criteria for judging proposals;
- Emphasis on governance and integrity of contracting.

According to Mazza (2021, p. 285):

> Law No. 14,133/2021 sought to balance the rigidity necessary to ensure legality and control with the flexibility required for good public management. It is a normative text that aligns Brazil with the best international practices in government procurement.

The new law also reinforces the role of **prior planning**, **competency-based management**, **efficient internal control** and **the use of information technologies**.

This conceptual transformation is confirmed by other authors in the area, who highlight the structuring role of legislation in redefining the administrative culture of public procurement.

In the same sense, Justen Filho (2023 p. 74) points out that:

> The new legislation is based on a modern conception of Public Administration, in which bidding is no longer just a formal procedure and is now treated as a strategic activity, linked to planning, governance and the effectiveness of public policies.

Justen Filho's reflection shows that bidding, in the new normative perspective, is more than a legal obligation: it is a tool for implementing effective and transparent public policies. The Administration's performance is no longer merely reactive and becomes **proactive, planned and results-oriented**, as recommended by the contemporary public management model.

GOVERNANCE, COMPLIANCE AND SUSTAINABILITY IN PUBLIC PROCUREMENT CAS

Law No. 14,133/2021 also introduced provisions aimed at **public governance, institutional integrity (compliance),** and **sustainable development**, incorporating ethical and social dimensions into state procurement.

These innovations are in full harmony with the constitutional principles and values of modern public administration, demonstrating a broader concern that goes beyond the simple acquisition of goods and services, incorporating **social, environmental and institutional ethical responsibility** in the bidding process.

According to Di Pietro (2021, p. 467): "The introduction of requirements such as the integrity plan for companies contracted in large contracts is a fundamental innovation, aligning the Public Administration with socio-environmental responsibility and the fight against corruption".

The concern with sustainable development is also manifested in the judging criteria and qualification requirements, promoting **environmentally and socially responsible practices**.

According to Carvalho Filho (2023, p. 740): "The legal provision for sustainable criteria in public procurement represents the incorporation of collective and global values into administrative activity, overcoming the purely economic view of bidding."

Thus, it is observed that Law No. 14,133/2021 is not limited to updating administrative procedures, but proposes a new model of public procurement, guided by governance, institutional responsibility, and results-oriented efficiency. This change reflects the legal maturity of the Brazilian State in the field of public procurement, demanding from the Administration not only legal compliance, but excellence in public management.

DATA RESULTING FROM THE FIELD RESEARCH

The documentary analysis comprises the study of current legislation, internal rules of the municipal administration, bidding notices, administrative contracts and other related documents, in order to understand the normative and operational context of public bids in Itinga do Maranhão.

In addition, questionnaires with closed questions (multiple choice) were developed and applied, structured based on the research objectives. The first questionnaire was aimed at public servants involved in conducting the competitions, in order to identify the levels of knowledge about Law No. 14,133/2021, the difficulties faced in its application and perceptions about the impacts of the new legislation. The second questionnaire was aimed at bidders/entrepreneurs, aiming to understand the practical experiences, the challenges of adapting to the new legal requirements and the evaluation of the transparency and competitiveness of the processes.

The questionnaires were applied to 10 participants, 5 of whom were public servants directly involved in the bidding procedures and 5 were local bidders/entrepreneurs. This

sample was chosen in order to cover both the view of the public administration and that of market participants, ensuring a greater diversity of perceptions about the implementation of the new legislation.

The choice to use structured questionnaires with objective questions seeks to ensure greater standardization of the answers, facilitate comparative analysis and enable the identification of relevant patterns, ensuring reliability and systematization of the data collected.

DATA COLLECTION AND ANALYSIS PROCEDURE

The questionnaires were made available to the participants in printed version. The application took place according to the availability of the respondents, respecting the ethical principles of scientific research, with a guarantee of anonymity, confidentiality of information and consent of the participants.

The answers were organized in spreadsheets and analyzed through descriptive statistical analysis and categorical analysis techniques, with a view to identifying patterns, trends and recurrent perceptions.

The sample composed of 10 participants (5 public servants and 5 bidders/entrepreneurs) allowed us to draw a representative panorama of the difficulties, advances, and challenges faced in the process of adapting to Law No. 14,133/2021 in the municipality of Itinga do Maranhão. This approach ensured that the perspectives of both the public and private sectors were considered in the analysis of the impacts of the new legislation.

The triangulation between the data from the questionnaires, the documentary analysis and the theoretical framework allowed a critical and comprehensive approach to the application of the new legislation in the municipal context. All stages of the research were conducted with methodological rigor, respecting the ethical precepts of scientific production, the integrity of data and the commitment to the production of knowledge relevant to the field of Administrative Law and to the reality of local public management.

TABULATION OF PRELIMINARY DATA AND RESULTS

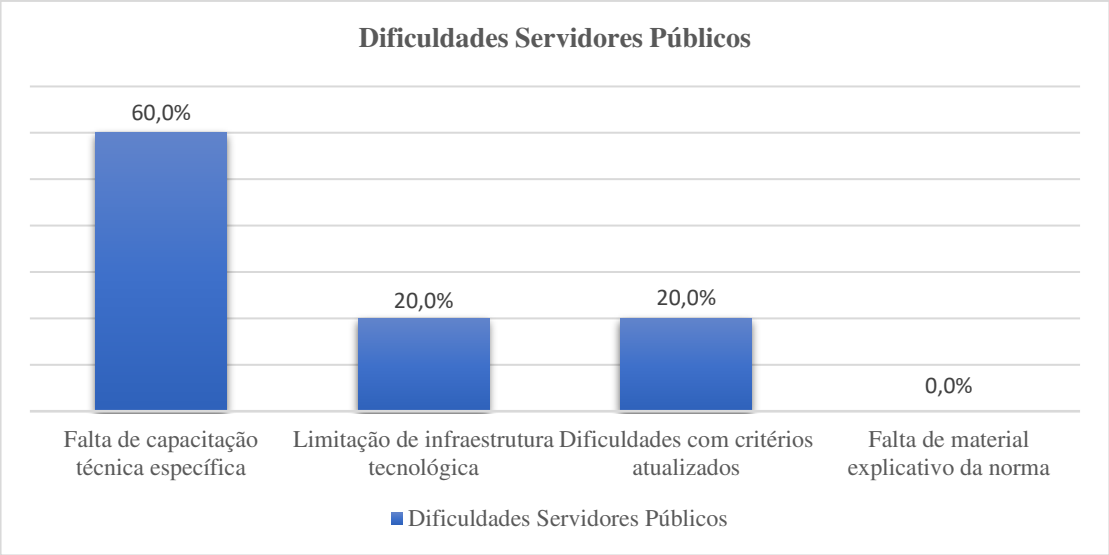
Next, the tabulation of the data obtained through the questionnaires applied is presented.

Table 1 – Difficulties faced by public servants in the application of Law 14,133/21.

Difficulty pointed out	**Frequency (%)**
Lack of specific technical training	**60**
Limitation of technological infrastructure	**20**

Difficulties with updated criteria	**20**
Lack of explanatory material for the rule	**00**

Graph 1 – Difficulties faced by public servants in the application of Law 14,133/21

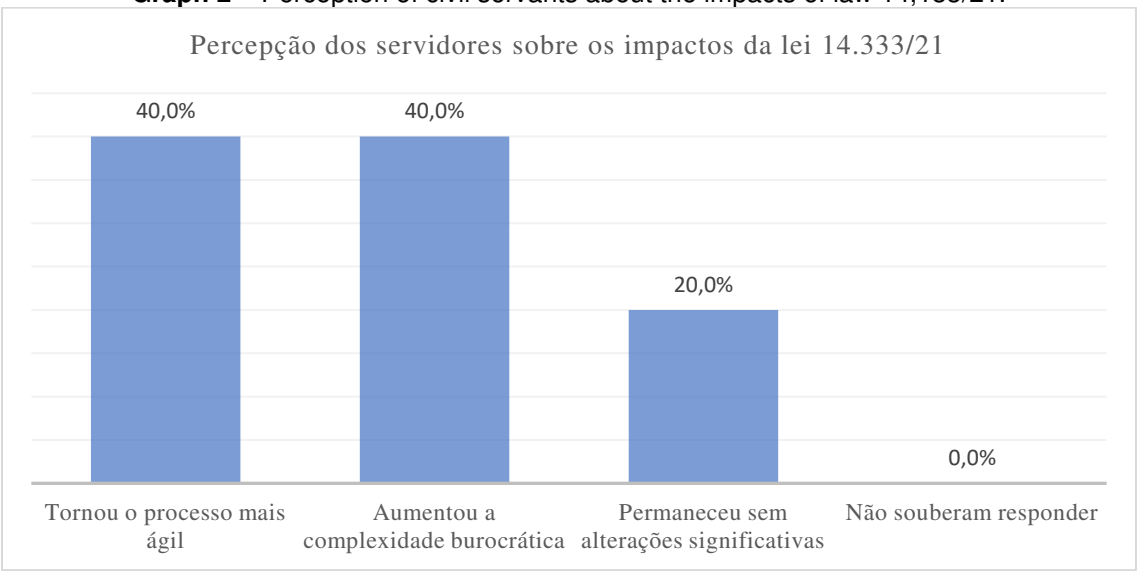


The graph shows that the absence of technical training is the main obstacle to the effective implementation of the new law at the local level. The lack of technological infrastructure also appears as a significant limitation, revealing the need for structural investments in the municipal public sector.

Table 2 – Perception of civil servants about the impacts of law 14,133/21.

Perceived Impact	**Percentage (%)**
Made the process more agile	**40**
Increased bureaucratic complexity	**40**
It remained unchanged	**20**
They did not know how to answer	**00**

Graph 2 – Perception of civil servants about the impacts of law 14,133/21.

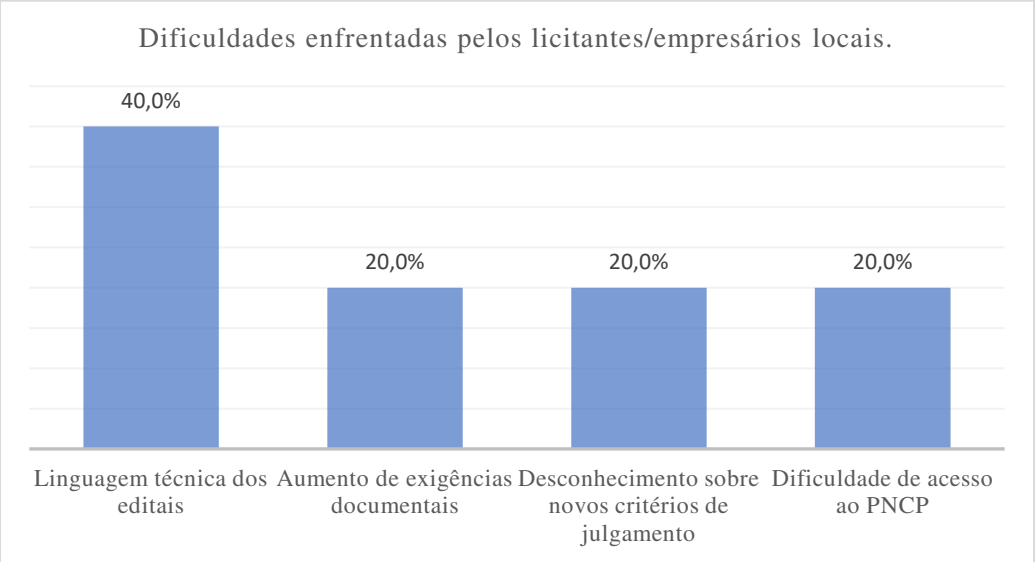


Despite the challenges, it is observed that part of the civil servants perceive gains in procedural agility. However, 40.0% indicate an increase in complexity, which may be related to the lack of training and lack of knowledge of the new mechanisms provided for in the legislation.

Table 3 – Difficulties faced by local bidders:

Perceived Impact	Percentage (%)
Technical language of the public notices	**40**
Increased document requirements	**20**
Lack of knowledge about new judging criteria	**20**
Difficulty in accessing the PNCP	**20**

Graph 3 – Difficulties faced by local bidders/entrepreneurs.

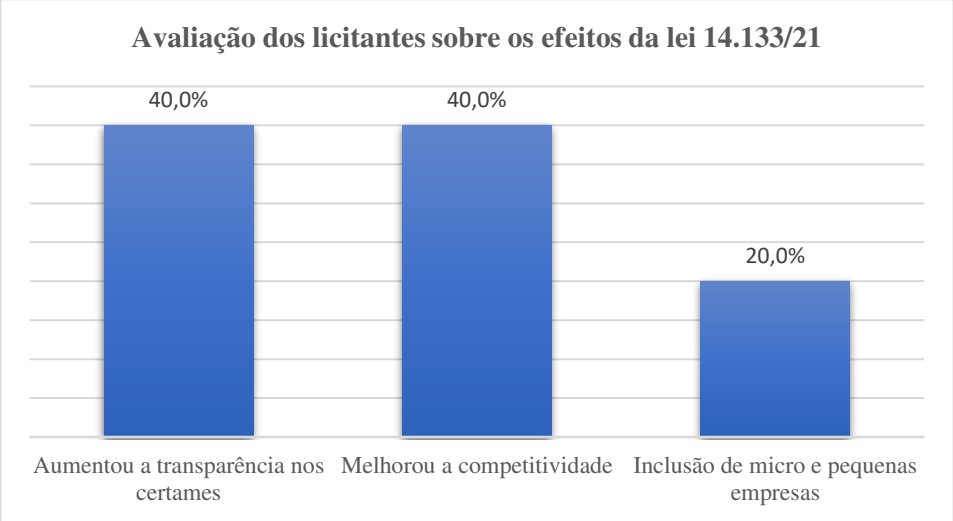


The bidders' responses reinforce the perception that the transition to the new legislation has not yet been sufficiently communicated. The technical language barrier and the absence of institutional support make it difficult to include small local entrepreneurs.

Table 4 – Evaluation of bidders on the effects of law 14,133/21.

Aspect Evaluated	Percentage (%)
Increased transparency in the competitions	**40**
Improved competitiveness	**40**
Inclusion of micro and small companies	**20**

Graph 4 – Bidders' evaluation of the effects of Law 14,133/21



Despite the difficulties, there is recognition that the new legislation promotes greater transparency and tends to benefit the inclusion of micro and small companies. Competitiveness is also seen with optimism, although part of the bidders still question the impartiality of the decision-making process.

The triangulation between the data from the questionnaires, the documentary analysis and the theoretical framework allowed a critical and comprehensive approach to the application of the new legislation in the municipal context. All stages of the research were conducted with methodological rigor, respecting the ethical precepts of scientific production, the integrity of data and the commitment to the production of knowledge relevant to the field of Administrative Law and to the reality of local public management.

ANALYSIS OF THE IMPACTS OF LAW NO. 14,133/2021 ON PUBLIC BIDS IN ITINGA DO MARANHÃO – MA

The enactment of Law No. 14,133/2021 marked a new normative cycle in Brazilian public tenders, seeking to provide greater modernity, efficiency, and transparency to the Public Administration. Among the innovations introduced by the legislation, the following stand out: **the inversion of procedural phases, the mandatory use of the National Public Procurement Portal (PNCP), the introduction of competitive dialogue, new judgment criteria and the strengthening of governance and contractual planning.**

However, the empirical analysis carried out in this study, through the collection of data from public agents and bidders in the municipality of Itinga do Maranhão – MA, demonstrated that the implementation of the new legislation still faces significant obstacles, especially related to institutional **structure, technical training and access to information**.

The results obtained reveal that, although public servants have reasonable theoretical knowledge about the new legislation, the **absence of formal and specific training** has hindered its practical application. Many agents reported difficulty in dealing with new legal institutes, such as auxiliary procedures and updated criteria for judging proposals.

Another obstacle identified was the **limitation of the technological infrastructure**, a factor that has prevented the effective use of the PNCP. Although some processes are being partially migrated to the system, the lack of familiarity with the platform and the lack of technical support have compromised the transparency of the bids, contrary to the objectives of the new rule.

From the perspective of the bidders, difficulties were reported regarding the **understanding of the notices**, prepared under the new law, which now contain more technical language and more complex requirements. Local entrepreneurs indicated a lack of knowledge of the new judging criteria and auxiliary procedures, evidencing **a lack of alignment between the government and local market participants**.

Despite the challenges, the study also identified **potential advances**. The inversion of the phases of the bidding procedure was pointed out as a positive innovation, capable of making the processes more agile and less bureaucratic. Likewise, there is an expectation that, with investments in training and infrastructure, the use of the PNCP will contribute to greater social control and effectiveness of public procurement.

Therefore, it can be seen that Law No. 14,133/2021, although it represents a normative advance, still needs **structural, technical, and cultural adjustments to achieve its full effectiveness in small municipalities**, such as Itinga do Maranhão. The consolidation of the new bidding system requires strategic planning, continuous training and approximation between the State and civil society.

CONSIDERATIONS

The objective of this research was to analyze the impacts of Law No. 14,133/2021 on public tenders in the Municipality of Itinga do Maranhão – MA, considering both legal innovations and the challenges faced in its practical implementation. Throughout the study, the historical aspects of the bidding legislation in Brazil, the advances brought by the new norm and the institutional reality of the municipality in question were discussed.

The analysis of the data obtained through questionnaires and interviews revealed that, although Law 14,133/2021 was conceived as an instrument of modernization and efficiency in the Public Administration, its implementation still encounters significant barriers

in the municipal context, especially due to the **lack of technical training of civil servants, deficiency in technological infrastructure, and low familiarity of bidders with the new legal framework**.

However, it is important to highlight the positive aspects observed, such as the **perception of greater agility in bidding procedures**, especially with the **inversion of procedural phases**, and the **potential to increase transparency with the use of the PNCP,** even though it is in the initial stage of implementation.

In view of this, it is necessary for the municipality to invest in **continuous training programs**, **technological modernization**, **standardization of public notices** and **creation of support channels for bidders**, especially micro and small companies, promoting greater inclusion and competitiveness in the bids.

It is concluded that the full effectiveness of Law No. 14,133/2021 depends not only on its formal existence, but on a set of **administrative, structural, and cultural actions** that allow its practical application in a manner consistent with the constitutional principles of public administration. In this way, the new legislation can, in fact, become a milestone of positive transformation in municipal public management and an instrument for strengthening the Democratic Rule of Law.

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