



THE NEW BIDDING LAW IN FOCUS: AN ANALYSIS OF THE OBSTACLES TO ITS EFFECTIVENESS IN PUBLIC MANAGEMENT

A NOVA LEI DE LICITAÇÕES EM FOCO: UMA ANÁLISE DOS OBSTÁCULOS À SUA EFETIVIDADE NA GESTÃO PÚBLICA

LA NUEVA LEY DE LICITACIONES EN EL PUNTO DE MIRA: UN ANÁLISIS DE LOS OBSTÁCULOS A SU EFICACIA EN LA GESTIÓN PÚBLICA



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ABSTRACT

This article analyzes Law No. 14,133/2021 as an essential regulatory framework for modernizing and improving Brazilian public management. The research addresses the central issue of identifying the practical obstacles to implementing the new law, as evidenced and monitored by oversight agencies. The study uses a documentary research and bibliographic survey methodology, highlighting the analysis of reports and decisions from the Federal Court of Auditors (TCU) and the Court of Auditors of the State of Tocantins (TCE/TO). The main results confirm that the law's effectiveness is compromised by structural and cultural barriers. Evidence points to a lack of civil servant training, the persistence of a bureaucratic culture and outdated practices (such as those of Law No. 8,666/1993), the low level of digitalization of processes, and the lack of planning as the main obstacles. The research contributes by providing a critical diagnosis of the transition between bidding systems and by supporting the formulation of recommendations and policies to overcome these challenges and consolidate a new culture of public management.

Keywords: New Bidding Law. Control Bodies. Public Administration. Governance. Bids and Contracts.

RESUMO

O artigo analisa a Lei nº 14.133/2021 como um marco regulatório essencial para modernizar e aprimorar a gestão pública brasileira. A pesquisa aborda a questão central de identificar os obstáculos práticos à implementação da nova lei, conforme evidenciado e monitorado por órgãos de controle. O estudo utiliza uma metodologia de pesquisa documental e levantamento bibliográfico, com destaque para a análise de relatórios e decisões do Tribunal de Contas da União (TCU) e do Tribunal de Contas do Estado do Tocantins (TCE/TO). Os

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principais resultados obtidos confirmam que a efetividade da lei é comprometida por barreiras estruturais e culturais. As evidências apontam para a carência de capacitação de servidores, a persistência da cultura burocrática e de práticas antigas (como as da Lei nº 8.666/1993), a baixa digitalização dos processos e a ausência de planejamento como os principais entraves. A pesquisa contribui ao fornecer um diagnóstico crítico sobre a transição entre os regimes licitatórios e ao subsidiar a formulação de recomendações e políticas para superar esses desafios e consolidar uma nova cultura de gestão pública.

Palavras-chave: Nova Lei de Licitações. Órgãos de Controle. Administração Pública. Governança. Licitações e Contratos.

RESUMEN

Este artículo analiza la Ley n.º 14.133/2021 como marco regulatorio esencial para la modernización y mejora de la administración pública brasileña. La investigación aborda la cuestión central de identificar los obstáculos prácticos para la implementación de la nueva ley, evidenciados y monitoreados por los organismos de control. El estudio utiliza una metodología de investigación documental y de estudio bibliográfico, destacando el análisis de informes y decisiones del Tribunal de Cuentas de la Unión (TCU) y del Tribunal de Cuentas del Estado de Tocantins (TCE/TO). Los principales resultados confirman que la eficacia de la ley se ve comprometida por barreras estructurales y culturales. La evidencia señala la falta de capacitación del personal, la persistencia de una cultura burocrática y prácticas obsoletas (como las de la Ley n.º 8.666/1993), el bajo nivel de digitalización de los procesos y la falta de planificación como los principales obstáculos. Esta investigación contribuye proporcionando una evaluación crítica de la transición entre sistemas de licitación y apoyando la formulación de recomendaciones y políticas para superar estos desafíos y consolidar una nueva cultura de gestión pública.

Palabras clave: Nueva Ley de Contrataciones. Órganos de Control. Administración Pública. Gobernanza. Contrataciones y Contratos.



1 INTRODUCTION

Brazilian public management has been increasingly modernized, and Law No. 14,133/2021, which institutes the New Law on Bids and Administrative Contracts, represents a fundamental regulatory milestone for this advancement. The new legislation seeks to reduce bureaucracy procedures, improve governance and align public procurement with more efficient practices. Despite its innovative nature, the transition to the new law faces practical obstacles. In view of this, this article seeks to answer the following question: what are the main practical obstacles to the implementation of Law No. 14,133/2021 and how are these challenges evidenced and monitored by control bodies?

Understanding these challenges is crucial for the improvement of public management, and this study is justified by the need to identify, in a concrete way and based on evidence from inspection agencies, the bottlenecks that prevent the full effectiveness of the rule. The general objective of this work is to analyze the structural and cultural obstacles that hinder the effective regulation and application of the New Bidding Law, based on reports and decisions of control bodies. To this end, the study proposes to: analyze the lack of training of public agents; verify the persistence of practices of the repealed legislation; investigate the level of digitalization of processes; understand the impacts of the absence of planning; and propose recommendations for the consolidation of a new culture of public management.

The article is structured in an introduction, a theoretical framework divided into six topics that address key concepts, a section of analysis and discussion of the results with empirical findings, suggestions and recommendations, as well as a conclusion that summarizes the main results.

2 ORGANIZATIONAL CULTURE IN PUBLIC ADMINISTRATION AND THE CHALLENGES OF MODERNIZATION

2.1. THE NEW LAW ON BIDDING AND ADMINISTRATIVE CONTRACTS (LAW NO. 14,133/2021)

Law No. 14,133, of April 1, 2021, represents one of the most significant legislative milestones in the history of Brazilian Administrative Law, proposing the replacement of the regime of bidding and public contract laws (Laws No. 8,666/93 and 10,520/02). Its conception sought to align the public procurement system with a new management reality, guided by efficiency, transparency and governance. As Joel de Menezes Niebuhr (2021) observes, the new law "promotes a true paradigm shift, abandoning formalistic rigidity in favor of greater flexibility and a more strategic vision of hiring". The standard was designed to be a vector of



professionalization, debureaucratization and modernization, with the objective of optimizing the allocation of public resources and delivering better services to society.

The new legal diploma reinforces the constitutional principles of Public Administration provided for in article 37 of the Federal Constitution. In addition, it introduces new principles, such as planning, which becomes a central guideline for all stages of contracting. The law highlights the importance of efficiency, but not at any cost, but rather in harmony with probity and legality. As the normative text itself emphasizes, the application of the law must respect "the public interest, probity, morality, impersonality, legality, competitiveness, and isonomy" (Brasil, 2021, art. 5, §1). This principled basis serves as a guide for managers, guiding them to act with greater responsibility and focus on results.

Among the most relevant innovations of Law No. 14,133/2021, the requirement for governance in contracting and the improvement of detailed preliminary planning, as well as the virtualization and digitalization of procedures and processes, stand out. Tools such as the Annual Contracting Plan (PCA), Preliminary Technical Study (ETP) and electronic processes become mandatory, aiming at contracting in a more strategic and less reactive way. Such instruments, as analyzed by Maria Tereza Fonseca Dias (2023), are essential for "the public administration to hire what it really needs, avoiding improvisations and unnecessary hiring". The law also consolidates the publication of the tenders through the National Public Procurement Portal (PNCP), seeking to provide greater publicity, accessibility and efficiency to the procedures.

The new legislation also places emphasis on the professionalization of public agents involved in the bidding process. The creation of the figures of the "contracting agent" seeks to attribute greater technical qualification and responsibility to these professionals, moving them away from designation by political appointment. Herbert Almeida (2023) points out that the qualification of civil servants "is one of the pillars for the success of the law, as the best rule is useless if agents are not prepared to apply it". This focus on technical competence aims to reduce the exacerbated formalism and procedural errors that were common in the previous regime.

However, the transition to this new management model is not without resistance. The innovations of Law No. 14,133/2021 require a profound change in mentality and the overcoming of a deep-rooted bureaucratic culture, which manifests itself in the attachment to old practices and resistance to digitalization and the electronic process. It is in this context of practical challenges that the performance of the control bodies becomes fundamental. The analysis of its reports and decisions allows us to go beyond the text of the law, revealing how



weaknesses in its application are detected and what are the concrete bottlenecks that prevent the consolidation of a new and more efficient public procurement model.

2.2 ADMINISTRATIVE LAW AND PUBLIC MANAGEMENT

Understanding Law No. 14,133/2021 and the challenges of its implementation requires an analysis of the evolution of Administrative Law and public management models in Brazil. The bureaucratic model, described by Di Pietro (2024), was fundamental to combat favoritism and corruption, by instituting a system based on hierarchy, formalism, and impersonality. However, this same rigidity, with its excessive emphasis on procedures and rites, generated a slow, inefficient administration disconnected from the results expected by society, which guided the search for new reforms.

In response to the limitations of bureaucracy, the concept of New Public Management (NGP) gained strength from the 90s onwards, especially in the context of the State Reform in Brazil. The managerial model, as conceived by Bresser-Pereira (2011), seeks to "make public administration more flexible and oriented towards achieving results, without giving up the principles of legality and probity". The objective was to focus on the efficiency and quality of services, using tools from the private sector, but with due adaptation to the public interest. This management paradigm, therefore, shifts the focus from the control of procedures (the "how it is done") to the evaluation of results (the "what is achieved").

It is in this context that the new legislation is inserted, being an instrument of reform aligned with the principles of the New Public Management. The law abandons the procedural rigidity of the old law on bidding and administrative contracts and incorporates managerial guidelines such as the strategic planning of public procurement, management by competencies and real-time transparency. The requirement of the Annual Contracting Plan (PCA) and the Preliminary Technical Study (ETP) is a direct reflection of this paradigm shift, aiming at more qualified and less reactive decision-making. The priority for the use of digital media and the creation of platforms such as the National Public Procurement Portal (PNCP) also demonstrate the alignment of the law with the search for efficiency and modernization.

However, the implementation of these new instruments faces resistance from an administrative culture deeply marked by formalism and attachment to bureaucratic practices. The transition from Law No. 8,666/1993, with its already established procedures, to a more flexible and principle-oriented rule, requires more than a simple legal change; It requires a complete transformation in the mentality of managers and servants. Justen Filho (2025) points out that the interpretation and application of the rule are often still linked to a purely



legalistic and formal view, which can sabotage the intention of the New Public Management and prevent the full effectiveness of the new law.

Thus, the effective use of Law No. 14,133/2021 is not limited to a legal challenge, but a management and cultural challenge. The new law is, in essence, a legislative effort to consolidate managerial reform in the field of public procurement. Its effectiveness will depend on the ability of the state apparatus to go beyond the mere formal observance of the new text, internalizing its principles of planning, efficiency, professionalization and electronic processes. The analysis of how control bodies, such as the TCU and the TCE/TO, are diagnosing this transition, becomes the central point to understand the gaps and resistances that still persist in the daily life of public administration.

2.3 ADMINISTRATIVE CULTURE AND BUREAUCRACY IN PUBLIC ADMINISTRATION AND THE NEED FOR CHANGE

The transition to a new model of public procurement management is not only a legal issue, but a challenge of a cultural and organizational nature. The Brazilian Public Administration, in its essence, was shaped by Max Weber's (2015) theory of bureaucracy, which proposed a rational-legal model of organization to combat patrimonialism. According to the Weberian conception, bureaucracy is characterized by a well-defined hierarchy, formal and impersonal rules, specialization of functions and appointment by merit. This model was crucial to ensure stability and predictability in state action, protecting it from personal and political influences and establishing the foundations of modern public service.

Although historically essential, the rigidity of the bureaucratic model has proven to be an obstacle to modernization. The excessive attachment to rules and procedures, typical of bureaucracy, generates slowness, inefficiency and an aversion to risk that prevents innovation. The bureaucratic administrative culture, as a set of institutionalized values and practices, is perpetuated even in the face of legislative reforms, creating a barrier to the adoption of new tools. As Bresser-Pereira (2011) argues, the managerial reform of public administration in Brazil was born from the realization that the bureaucratic model has exhausted its capacity to generate effective results and respond to complex social demands.

In this context, Edgar H. Schein's (2025) concept of organizational culture becomes central to understanding resistance to change. For Schein, the culture of an organization is a "pattern of basic assumptions, invented, discovered or developed by a given group, which learns to deal with its problems of external adaptation and internal integration". The mere advent of a new law is not enough to change these entrenched patterns. The administrative culture of the old bidding regime, based on physical processes, formalisms and Law No.



8,666/1993, is a strong counterpoint to the agility and planning requirements of the New Bidding Law. In the article *"New Public Management and the 1988 Constitution: efficiency, innovation and responsibility as legal imperatives"*, the authors Diego Avelino Milhomens Nogueira, Alexandre Orion Reginato and Carlos Ricardo Rodrigues assert:

"The modernization of public administration is not a mere administrative guideline, but a constitutional obligation imposed on managers and public servants. (...) Efficiency, innovation and continuous institutional development are essential pillars of the current legal-administrative regime, and their omission is subject to liability." (NOGUEIRA; REGINATE; RODRIGUES, 2025)

Resistance to change in Public Administration manifests itself in several ways, with the lack of training, low adherence to digitalization and the persistence of physical and analog processes being the most evident. This resistance reflects a bureaucratic "mentality" that prefers the familiar to the innovative, the commonplace to the efficient. The non-full adoption of digital platforms such as the PNCP, for example, contradicts the trend of the network society, analyzed by Manuel Castells (2017), who points to digitalization as an imperative for the modernization of organizations. The persistence of outdated practices is, therefore, concrete evidence that the administrative culture has not yet aligned itself with the requirements of the new legislation.

The need for change in public administration, therefore, transcends the legal sphere and enters the cultural and behavioral dimension. Law No. 14,133/2021 serves as a catalyst for this transformation, but its full effectiveness depends on the internalization of its principles by civil servants and managers. The success of the managerial reform, in the context of bidding, is directly linked to the administration's ability to overcome the formalistic bureaucratic culture and adopt a new culture oriented to planning, governance and innovation. The analysis of external control documents, TCU rulings (2023/2025) and TCE-TO Resolution (2024) is crucial to diagnose the extent of this resistance and the gaps that still need to be overcome for the reform to be fully implemented.

2.4 EXTERNAL CONTROL AND EVALUATION OF PUBLIC POLICIES

The performance of the control bodies transcends the mere inspection of isolated acts, assuming a strategic role in the evaluation of public policies and in the effectiveness of state management. The Federal Court of Accounts (TCU), according to its institutional mission, "exercises external control over the management of federal public resources, contributing to the improvement of Public Administration" (TCU, 2023). This function, shared with the State Audit Courts (TCEs) in their respective spheres, makes the analysis of their documents, such



as audit reports, judgments and resolutions, become a primary source of evidence on the performance and weaknesses of the administrative machine.

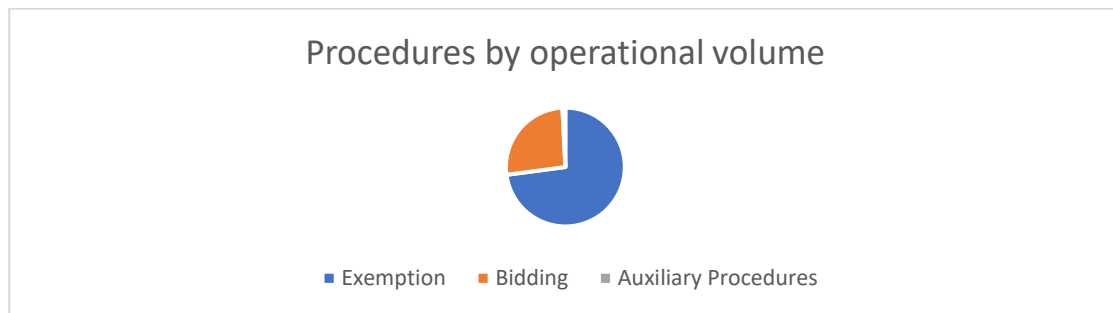
It is through external control that the gap between the legal norm and administrative practice can be evaluated. The implementation of Law No. 14,133/2021, for example, is a public policy of modernization that requires constant monitoring so that its objectives are achieved. TCU rulings, such as No. 2,154/2023, which monitored the transition of the law at the national level, reveal the difficulties and low adherence by managers, showing that the mere existence of a rule does not guarantee its effectiveness. Research in judgments and reports allows the identification of "fragility in governance and low maturity in public procurement" (Ruling No. 1,917/2024-TCU), a technical diagnosis that provides the necessary basis to understand the depth of the problem.

The analysis of external control also allows contextualizing the challenges at different federative levels, providing a more complete diagnosis. If, on the one hand, the TCU offers a macro view of the implementation of the law at the federal and national levels, the TCE/TO, with its documents such as Resolution No. 1,027/2025 and Process No. 4046/2025, offers a micro view, focused on the reality of the municipalities of Tocantins. This local look reveals specific bottlenecks, such as the absence of internal regulation for the Price Registration System (SRP) and problems in the designation of effective contracting agents. The joint analysis of these documents allows for a "data triangulation", which strengthens the research by comparing and contrasting the challenges at different scales of government.

The importance of using these documents as primary sources lies in their nature as a technical and validated diagnosis. They not only point out flaws, but also quantify the dimension of the problems. For example, the TCU's finding that 72.9% of the processes registered in the PNCP until June 2024 were direct contracts (Ruling No. 53/2025-Plenary) is concrete evidence of the low competitiveness in the transition.

Figure 1

Procedure by operating volume: data extracted from Ruling No. 53/2025-Plenary

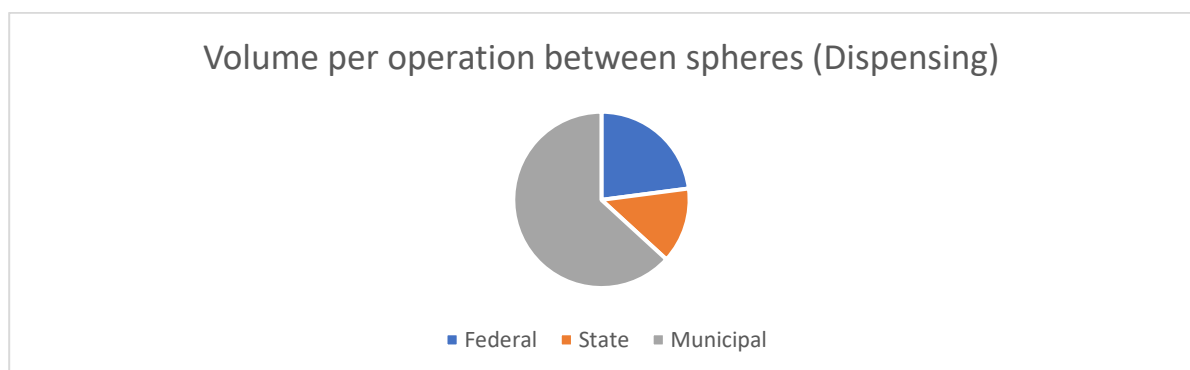


Source: prepared by the authors

In addition, the number of records of direct contracts, operational volume, at the municipal level, represents 63.2% of the total of this form of contracting in all spheres.

Figure 2

Procedure by operating volume: data extracted from Ruling No. 53/2025-Plenary



Source: prepared by the authors

Therefore, the documentary analysis of judgments and reports from control bodies is the backbone of this research. It allows us to go beyond theory, confronting the ideals of the New Bidding Law with the practical reality of public administration, as diagnosed by inspection bodies. The research contributes by systematizing this evidence, categorizing and analyzing it in the light of a robust theoretical framework, offering a deep understanding of the challenges of the reform and subsidizing the proposition of recommendations for overcoming it.

2.5 THE ROLE OF SENIOR MANAGEMENT IN THE IMPLEMENTATION OF LAW 14,133/21

Law No. 14,133/2021 assigns a central role and great responsibility to the senior management of public bodies and entities in the governance of contracts. The sole paraFigure of article 11 of the aforementioned law establishes that senior management is not



just an observer, but the main responsible for implementing processes and structures that ensure the integrity, reliability, and efficiency of hiring. This means that leadership must go beyond mere formal compliance with the law, taking a proactive role in creating an environment that promotes the alignment of hiring with strategic planning and budget laws. The lack of engagement of senior management, therefore, compromises the basis of the reform proposed by the new law, perpetuating the bureaucratic culture and administrative inertia.

The effective implementation of the New Law depends directly on the ability of senior management to institute a culture of risk management and effective internal controls. By focusing on monitoring, directing, and evaluating bidding processes, leadership ensures that public procurement achieves its objectives more efficiently and strategically. However, the analysis of reports from control bodies, such as the TCU and the TCE/TO, points to a gap in this regard. The persistence of old practices and the low adoption of tools such as the Annual Contracting Plan (PCA) in many municipalities in Tocantins demonstrate the absence of strong leadership that drives the necessary change and regulation. The lack of internal regulation for the Price Registration System (SRP) in 80% of the municipalities, as diagnosed by the TCE/TO, is a clear symptom of the inertia of senior management in adapting to the innovations of the law.

The training of public agents, one of the pillars for the success of the law, is a direct responsibility of senior management. Article 11, in its sole paragraph, makes it clear that the organization's management has the duty to provide adequate qualification to civil servants. The Doctor in Administration and Federal Auditor of the TCU, Carlos Wellington Leite de Almeida, reinforces this view, highlighting that the law establishes the duty of taking care of the training: the leader of the organization. The absence of a stable, qualified and properly trained technical staff, as evidenced by the TCE/TO in its reports, compromises the professionalization required by law and demonstrates that the leadership has not yet prioritized the training of its employees.

Senior management plays a crucial role in overcoming bureaucratic culture and fostering the digitalization of processes. By prioritizing the use of electronic systems and platforms such as the National Public Procurement Portal (PNCP), leadership sends a clear message that modernization is an imperative. However, the technical reports reveal that the poor usability of the PNCP by public entities and the persistence of "physical processes and stamps" are significant obstacles, which point to the lack of a firm direction from senior management. The inertia of senior management in promoting the virtualization of procedures compromises the transparency, agility and efficiency that the new law seeks to promote.



In summary, the role of senior management in the implementation of Law No. 14,133/2021 is to be the main catalyst for change. The managerial reform in the field of bidding will not be achieved only with the existence of the law, but with the action of leaders who internalize the principles of planning, efficiency and professionalization. The diagnoses of the control bodies, by revealing the gaps in regulation, training and digitalization, work as a warning to senior management, demonstrating that the absence of an active role on their part is the main bottleneck for the full effectiveness of the new standard. The consolidation of a new culture of public management, therefore, depends fundamentally on the protagonism and commitment of senior management to innovation and governance.

2.6 ANALYSIS AND DISCUSSION OF RESULTS

The present topic aims to analyze and discuss the results obtained through documentary research, confronting the evidence extracted from the reports and rulings of control bodies with the research hypotheses and the theoretical framework. The discussion is structured based on the main obstacles to the implementation of Law No. 14,133/2021, as diagnosed by the Federal Court of Accounts - TCU (2023/2025) and the Court of Auditors of the State of Tocantins - TCE/TO (2024), seeking to demonstrate the depth of the challenges faced by the Public Administration.

2.6.1 Lack of Planning in Hiring

The first major obstacle identified refers to the absence of planning in hiring, one of the basic principles of the New Law. Documentary evidence is consistent in pointing out the fragility of this issue. Ruling No. 1,917/2024-TCU, which monitored the maturity in governance of public procurement, diagnosed that most federal and subnational agencies (states and municipalities) had low maturity indices (IMIL – Implementation Maturity Index of the Bidding Law), reflecting a reactive and non-strategic administrative culture, *in verbis*

Figure 3

Overall Result

Tabela 8 – Resultado Geral

Grau de Maturidade	Qtde.	%	IMIL	
			Mínimo (>)	Máximo (≤)
Inadimplente	55	3,1%		
Insuficiente	1.085	61,4%	0,00	0,60
Básico	534	30,2%	0,60	0,85
Intermediário	83	4,7%	0,85	0,95
Avançado	11	0,6%	0,95	1,00
Total	1.768	100,0%		

Source: Table 8 – General Result – data extracted from Ruling No. 1,917/2024-TCU

94. From the results consolidated in the table above, it can be inferred that 1,085 respondents did not reach a general IMIL higher than 0.60, thus indicating that the institutional maturity aimed at the implementation of the New Bidding Law is at an insufficient level for 61.4% of the target audience of the inspection, composed, in total, of 1,768 bodies and entities of the Public Administration. It is worth remembering that the aforementioned level reveals unsatisfactory institutional maturity, with indications of relevant gaps in structure, governance, transparency and procedures linked to public procurement.

95. In addition, when considering the group of defaults — which is the worst level of institutional performance — the diagnosis becomes more alarming. Considering that 55 entities (3.1%) failed to respond to the questionnaire, it is concluded that 1,140 bodies and entities of the Public Administration, almost two-thirds of the target audience (64.5%), did not reach a satisfactory minimum level of institutional maturity to implement the New Bidding Law. (emphasis added)

The aforementioned ruling reports that 92% of the research bodies, the target audience, "are in a precarious or incipient stage of institutional maturity", as they will not reach the intermediate level (IMIL grade 0.85).

Figure 4

IMIL/ General Average by sphere

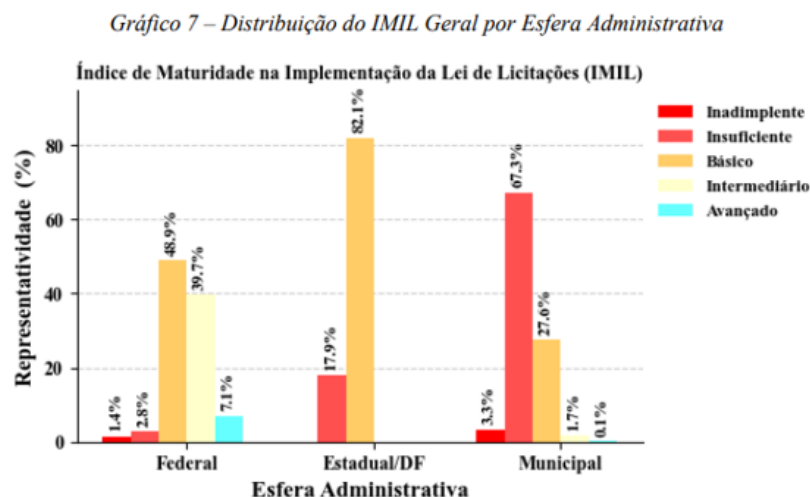
Tabela 9 – IMIL/Média Geral e por Esfera

<i>Esfera</i>	<i>Qtde.</i>	<i>Média</i>	<i>Grau de Maturidade</i>
<i>Federal</i>	<i>139</i>	<i>0,82</i>	<i>Básico</i>
<i>Estadual/DF</i>	<i>28</i>	<i>0,69</i>	<i>Básico</i>
<i>Municipal</i>	<i>1.546</i>	<i>0,53</i>	<i>Insuficiente</i>
<i>Total / Média Geral</i>	<i>1.713</i>	<i>0,56</i>	<i>Insuficiente</i>

Source: Table 9 – IMIL/General Average – data extracted from Ruling No. 1,917/2024-TCU

Figure 5

Distribution of the General IMIL



Source: Table 7 – Distribution of the General IMIL – data extracted from Ruling No. 1,917/2024-TCU

The Figure above shows the Implementation Maturity Index of the Bidding Law by Administrative Sphere, with the municipalities having the lowest implementation index, with a high degree of insufficient and basic.

At the Federal level, even with the high degree and better maturity index conditions, several problems were still found in the implementation of the Bidding Law, let's see, what the judgment under analysis reports,

108. The 141 bodies or entities selected at the federal level are part of 31 Higher Government Bodies, three of which are members of the Attorney General's Office (AGU), one of the Federal Public Defender's Office (DPU), three of which make up the Presidency of the Republic (PR) and 24 that are part of Ministries of the Federal Executive Branch.

109. The Ministry of Defense presented the best result in terms of degree of maturity. Of its 29 units evaluated, ten are at the basic level, eleven at the intermediate level and eight at the advanced level, standing out as the higher body with the highest number of units at the advanced level. Of the total of 141 units evaluated, only ten reached the advanced degree of maturity, eight of which belong to the Ministry of Defense, which highlights its superior performance.

110. On the other hand, the Ministry of Health was the higher body with the lowest degree of maturity, with one unit in default, one insufficient, ten in the basic level and seven in the intermediate level, with none in the advanced one. In addition, it was the agency with the highest amount committed in 2023, representing 35.9% of the total.

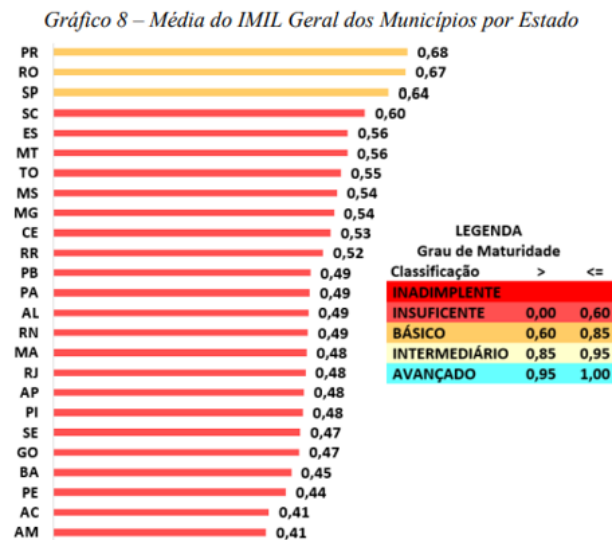
111. In total, twenty Government Functions were observed, in the sample of 141 selected bodies and entities, for the amounts committed by the units in 2023.

(...) Considering the total of 141 units evaluated, only ten reached the advanced degree of maturity (...)

It is verified that most of the management units at the federal level are at the basic level of maturity, especially in the direct administration with 51.39%. (emphasis added)

Figure 6

Average of the General IMIL of Municipalities by State



Source: Figure 8 – Average of the General IMIL of Municipalities by State – data extracted from Ruling No. 1,917/2024

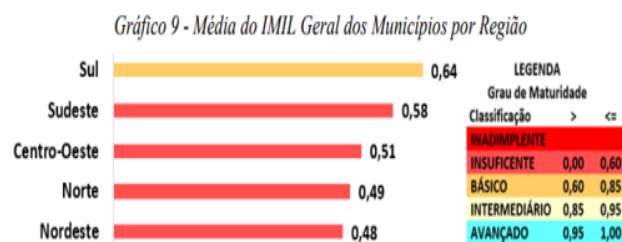
From the Figure above, it can be seen that only in three federative units, the average is in the basic degree of maturity, the others are in the insufficiency range.

Also, it is possible to analyze by region

124. Regarding the general average of the IMIL of the municipalities in each region, only the South region is not in the insufficiency range, even disregarding the municipalities of Rio Grande do Sul. There is also a correlation between regions with greater economic development and the achievement of a higher general index.

Figure 7

Average of the General IMIL of Municipalities by Region

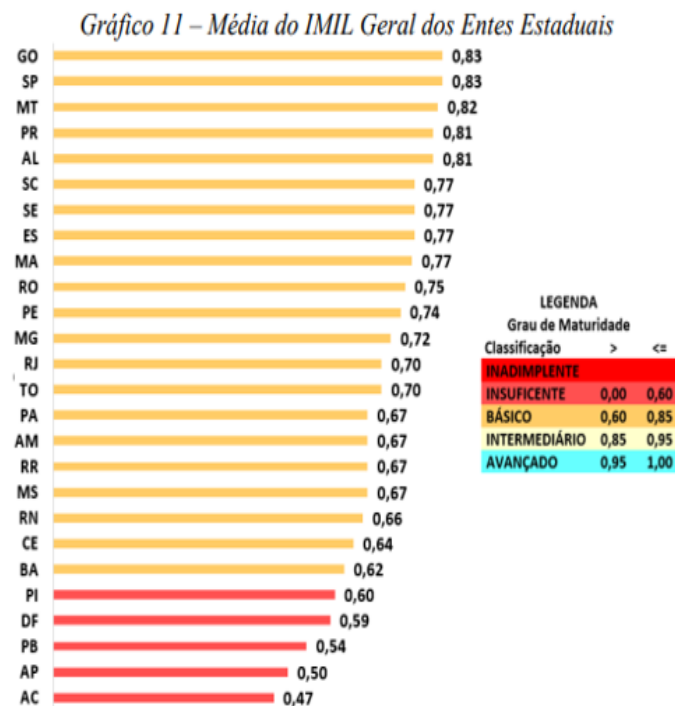


Source: Figure 9 – Average of the General IMIL of Municipalities by Region – data extracted from Ruling No. 1,917/2024

The Figure below shows that the state entities are more in the basic range of maturity.

Figure 8

Average of the General IMIL of State Entities



Source: Figure 11 – Average of the General IMIL of State Entities – data extracted from Ruling No. 1,917/2024

Another problem presented related to the lack of Planning is the absence of implementation of the Annual Contracting Plan (PCA). For Ruling No. 1971/2024, "The PCA is a relevant instrument of governance and planning in public procurement, linked to the strategic dimension of procurement."

In the Figure below, (Figure 18 – Degree of Non-implementation of the PCA in 2024 – extracted from ruling 1.917/2024-TCU), it shows that the degree of non-use of the PCA, in the municipalities surveyed, reached approximately 74%.

Figure 9

Degree of Non-implementation of the PCA in 2024

Tabela 18 – Grau de Não Implementação do PCA em 2024

<i>Esfera</i>	<i>Quant.</i>	<i>%</i>
<i>Federal</i>	<i>23</i>	<i>16,55%</i>
<i>Estadual</i>	<i>10</i>	<i>35,71%</i>
<i>Municipal</i>	<i>1143</i>	<i>73,93%</i>
<i>Total e média geral</i>	<i>1176</i>	<i>68,65%</i>

Source: Figure 18 – Degree of Non-implementation of the PCA in 2024 – extracted from ruling 1,917/2024-TCU

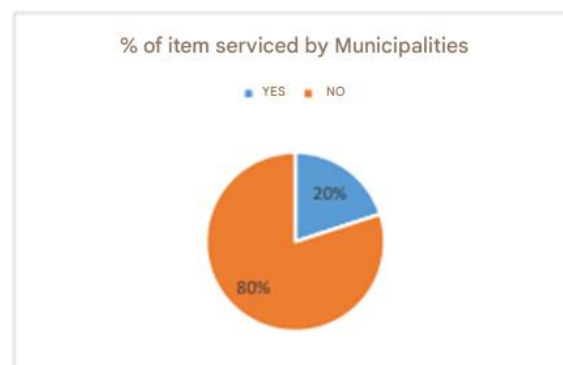
The TCU, in the commented ruling, adduces that

"the non-adoption of the Annual Contracting Plan as the primary source of the contracting planning process may, among other implications, lead to an unrealistic planning of the bids, in terms of definition of priority objects, quantities, etc., to the execution of improper, fractional and targeted direct contracts, causing inefficiency in the use of resources, as a result of the casuistry of the contracts.

Furthermore, Resolution No. 1,027/2025 and the technical reports of Process No. 4046/2025 - TCE/TO, as shown in the Figure below, revealed that a significant majority of the municipal entities evaluated in Tocantins, about 80%, did not have the Annual Contracting Plan (PCA) duly prepared and published on the National Public Procurement Portal (PNCP). This data is a strong indication that the legal requirement for planning has not been internalized by the local administrative culture.

Figure 10

Percentage of attendance of the publication of the PCA by the Municipalities.



Source: Technical Report of Process No. 4046/2025 - TCE/TO

The lack of robust planning corroborates the hypothesis raised in the research, that the transition to the New Law is hampered by the lack of planning. This finding, in the light of Bresser-Pereira's (2011) theory of New Public Management, demonstrates a mismatch between legislation, which seeks efficiency and strategic management, and administrative practice, which remains linked to a reactive vision, with hiring made on an emergency basis and without the proper preparation that the law requires.

2.6.2 Low digitalization and the persistence of physical processes

The low digitization and virtualization of contracting processes and the persistence of physical methods, such as the use of paper and stamps, represent one of the main obstacles to the full implementation of Law No. 14,133/2021. The new legislation is designed to operate

in a digital environment, promoting transparency, agility, and efficiency through virtualization. However, the documentary analysis, based on the reports of the TCE/TO (Case No. 4046/2025) and Ruling No. 1,917/2024-TCU, demonstrates that the transition to this new paradigm is far from being a reality in most entities of the federation. The poor usability of the National Public Procurement Portal (PNCP) by the agencies and the preference for physical procedures are symptoms of an institutional resistance that compromises the modernization of public management.

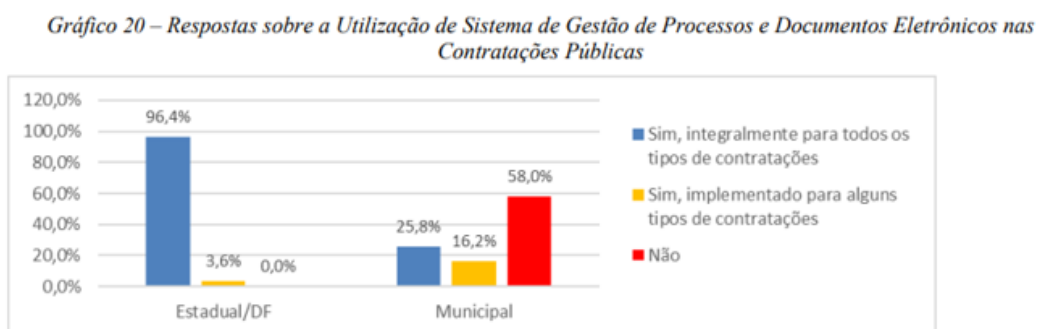
VIII. Lack of publicity of the bidding and contracting documents, considering that item 11 presented a NON-COMPLIANCE of 60% (sixty percent). Another item that deserves attention, as it is a violation of the principles of publicity, transparency and also of the criteria listed in item 2 of this technical report;

IX. Poor usability, by the Public Entities, of the PNCP, because, although item 12 presented a compliance of 60% (sixty percent), it was observed that the bidding procedures published in the PNCP are lower than those registered in the SICAP/LCO. This shows that the Public Entities are not publishing, in the PNCP, all the bidding procedures carried out. (Technical Report of Process No. 4046/2025)

According to Ruling No. 1,917/2024, of the TCU, 58% of municipalities still do not use electronic systems for contracting processes. This alarming statistic reveals that most public administrations remain tied to bureaucratic and inefficient management models. Virtualizing processes is not just a matter of convenience; It is a requirement for effective governance and control. The reliance on paper documents makes it difficult to trace, publicize and inspect the bidding stages, increasing the risk of failures and irregularities. Thus, the lack of electronic processes and procedures goes against the principles of transparency and efficiency, which are pillars of the new law.

Figure 11

Responses on the Use of Management System and Electronic Documents in Public Procurement



Source: Figure 20 – Responses on the Use of Management System and Electronic Documents in Public Procurement - extracted from ruling 1,917/2024-TCU



The predominance of physical processes in several municipal administrations is verified. This situation is not only a problem of operational inefficiency, but a strong indication of an organizational culture that clings to old methods and refuses technological innovation. Resistance to digitalization, in a context of "network society" such as the one analyzed by Castells (2017), places public administration in a state of technological lag, compromising the agility, accessibility, and responsiveness that modern society demands.

TCU Ruling No. 1,917/2024 not only diagnoses the problem, but also points out the possible causes for this lag. The lack of encouragement from senior management, the lack of adequate technological infrastructure and the absence of qualified technical staff in Information Technology (IT) are crucial factors for the low adoption of electronic systems. These barriers demonstrate that digitalization is not just a matter of acquiring software, but of a strategic investment in infrastructure and human capital. The absence of a clear direction from senior management for the virtualization of processes reinforces the hypothesis that cultural change is the main obstacle.

Given this scenario, overcoming low digitization requires coordinated and strategic action. The TCU, for example, proposes that the Ministry of Management and Innovation in Public Services (MGI) be notified to evaluate the possibility of inducing the use of an electronic system by subnational entities. This initiative, combined with the investment in training of civil servants for systems management and the prioritization of digitalization by senior management, is essential for the public administration to enjoy the benefits of the New Bidding Law, promoting a more transparent, effective management in line with the requirements of the digital age.

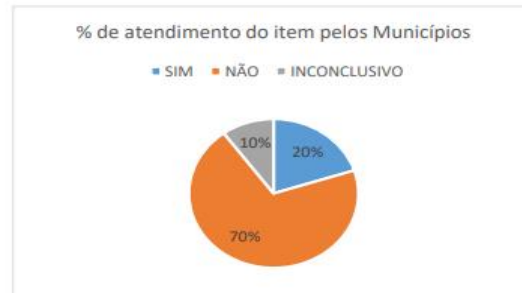
2.6.3 Lack of training and qualification of civil servants

The lack of training and qualification of civil servants constitute one of the most significant obstacles to the effective application of the New Bidding Law. Law No. 14,133/2021, in its article 8, requires that the bidding be conducted by a contracting agent, a person designated among permanent civil servants or public employees of the permanent staff of the Public Administration. However, the TCE/TO report, in Case No. 4046/2025, points out that 70% of the functions of hiring agent and auctioneer are not performed by career civil servants, but by temporary or commissioned designations. This instability of the technical staff directly compromises the professionalization and expertise necessary to deal with complex and constantly evolving legislation.

Figure 11

Exercise of the functions of Contracting Agent and Auctioneer by permanent employees or public servants

4.1. ITEM 1 - Exercício das funções de Agente de Contratação e Pregoeiro por servidores efetivos ou empregados públicos.



Source: Process No. 4046/2025 TCE/TO

The absence of a stable and qualified technical staff is not only an operational problem, but indirect evidence that training programs are still insufficient or ineffective. The new law requires a new level of competence and responsibility from agents, and the dependence on an unstable technical staff, as revealed by the control bodies, generates legal uncertainty and procedural errors that prevent the full effectiveness of the rule. The lack of investment in continuing education indicates that the organizational culture has not internalized the importance of technical expertise as a pillar of the new management, which is in line with Schein's theory (2025), which states that change only occurs with the internalization of new values and knowledge.

TCU Ruling No. 1,917/2024, in turn, emphasizes the importance of professional training and certification. Law No. 14,133/21, in its article 7, item II, provides for certification issued by a government school as one of the possibilities to prove the qualification of agents. The TCU even suggests the creation of a learning network, coordinated by the Serzedello Corrêa Institute (ISC), TCU's Higher School, for the construction of training trails on relevant topics of the law. This proposition demonstrates the seriousness of the problem at the national level and the perception of the need for coordinated and structured action to overcome it.

Training, however, should not be seen only as a formal requirement. The Doctor in Administration and Federal Auditor of the TCU, Carlos Wellington Leite de Almeida, points out that the duty to train the employees is incumbent on the leader of the organization. This vision, which goes beyond the simple responsibility of the human resources area, highlights the strategic role of senior management in providing the adequate qualification of civil servants. The absence of a broad organizational effort and the involvement of various sectors



of the organization in the task of training, as defended by the doctrine, evidences a systemic failure in the management of people and in the prioritization of professionalization.

In short, the lack of training and the lack of qualification of civil servants are significant barriers that prevent the correct application of the New Bidding Law. The instability of the technical staff, the absence of effective training programs and the lack of a specific career plan for the hiring area compromise the expertise necessary to deal with the complexity of the new legislation. Overcoming this challenge involves raising awareness among senior management about its strategic role in training, implementing continuing education programs and valuing career civil servants, ensuring that the new law is applied by qualified professionals prepared for the challenges of modern public management.

2.6.4 Bureaucratic culture and resistance to change

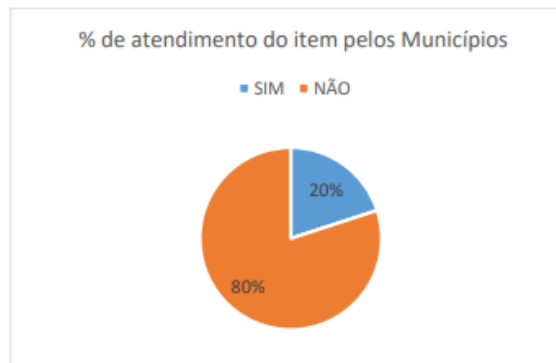
Finally, bureaucratic culture and attachment to old methods emerge as one of the most significant barriers to the full adoption of Law No. 14,133/2021. Ruling No. 2,154/2023-TCU, for example, revealed the low use of the New Law during the transition period, with managers preferring what was familiar in Law No. 8,666/1993. This preference for the commonplace, to the detriment of what the law proposes, goes against the legislator's expectation that the transition period would serve as an incremental learning of the new rules and institutes. Such inertia demonstrates that the paradigm shift in public management faces strong cultural resistance, manifested in the perpetuation of old practices, even in the face of new, more modern and efficiency-oriented legislation.

This cultural resistance is manifested in a forceful way in the absence of internal regulation and the non-use of new instruments. The TCE/TO diagnosis, for example, found that a significant majority of the municipal entities evaluated, about 80%, did not have the Annual Contracting Plan (PCA) properly prepared and published. The absence of regulation for the Price Registration System (SRP) is also a symptom of this inertia. The mere existence of a new legal norm is not enough to change entrenched practices. Documentary evidence points to a preference for maintaining the status quo, where new tools and requirements of the law are ignored in favor of bureaucratic and inefficient processes that managers already master.

Figure 12

Implementation of rules related to the Price Registration System – SRP

4.2. ITEM 2 - Implementação de regras relativas ao Sistema de Registro de Preço - SRP.



Source: Process No. 4046/2025 TCE/TO

This preference for bureaucratic and well-known practices, to the detriment of the principles of the New Public Management, is a manifestation of the rigidity of the Weberian model. The change of mentality in public management, one of the objectives of managerial reform, encounters a strong cultural barrier that prevents the adoption of innovations. Institutional resistance to virtualization and transparency, for example, causes public administration to remain in a state of technological lag, compromising the agility, accessibility, and efficiency that the new law seeks to promote.

In short, the transition from Law No. 8,666/1993 to the New Bidding Law is more than a legal adjustment; It is a paradigm shift that requires overcoming deep cultural barriers. Ruling No. 2,154/2023-TCU and the technical reports of the TCE/TO act as a warning, demonstrating that the fragility in the implementation of the new law is largely the result of the inertia and resistance of the Public Administration in abandoning bureaucratic methods in favor of a more strategic, planned, and governance-oriented management. The full effectiveness of the new rule will therefore depend on the ability to transform the organizational culture and to internalize the new values proposed by the legislation.

The triangulation of the data obtained from the TCU and TCE/TO documents is a crucial element for the robustness of this analysis. The comparison between the national scenario, diagnosed by the TCU, and the municipal scenario of Tocantins, analyzed by the TCE/TO, demonstrated that the weaknesses in the implementation of Law No. 14,133/2021 are not isolated phenomena. On the contrary, they reveal a pattern of administrative behavior that manifests itself consistently in different spheres of the federation, giving greater validity and consistency to the conclusions of the research.



2.6.5 Proposed suggestions

Based on the weaknesses identified by the documentary analysis and the confirmation of the research hypotheses, it is imperative that the transition to the New Law of Bids and Administrative Contracts be accompanied by concrete actions to overcome cultural and structural obstacles. The following suggestions aim to support managers and public policy makers in the consolidation of a new management culture, guided by planning, efficiency, and digitalization. The focus is to transform the challenges diagnosed by the control bodies into opportunities to improve the public machine.

The main suggestion is the prioritization of structured and continuous training programs for public servants. As found in the TCE/TO reports, the dependence on hiring agents and non-effective auctioneers compromises the professionalization required by the new law. It is suggested that each entity or entity prepare the Annual Training Plan for the realization of mandatory and periodic courses and training with certification for civil servants who work in the various areas of the bidding. Training should go beyond legal aspects, covering concepts of risk management, governance and strategic planning, in order to form a qualified technical staff capable of interpreting the law proactively.

To combat the absence of planning and strengthen governance, public administrations must effectively prepare the Annual Contracting Plan (PCA) with publication in the PNCP and monitor it rigorously. Its follow-up and monitoring in the execution ensures that the contracts meet the real needs of the population in a strategic way. The non-compliance with the PCA, diagnosed by both the TCU and the TCE/TO, demonstrates a gap in management.

The adoption of electronic processes and procedures is another crucial suggestion to overcome bureaucratic resistance. The persistence of "paper and stamps" is a symptom of a culture that needs to be transformed. It is recommended the mandatory use of electronic systems for all bidding and contractual procedures, with due adherence to the National Public Procurement Portal (PNCP) and investment in technological infrastructure and information security. The adoption of electronic signatures and the complete virtualization of processes not only increases transparency, but also reduces operational costs and the slowness of the traditional model.

Finally, it is essential that political leaders and senior management in the Public Administration assume a leading role in promoting a new management culture. The transition from Law No. 8,666/1993 to the New Bidding Law is more than a legal adjustment, it is a paradigm shift. It is recommended to carry out internal awareness campaigns about the benefits of the new law, to value civil servants who demonstrate proactivity and innovation, and to punish old practices that contradict the norm. External control, in turn, must continue



to act as a strategic partner, using its diagnoses to guide the administration in overcoming these challenges and in consolidating a more efficient public management model aligned with the principles of governance.

3 FINAL CONSIDERATIONS

The present research aimed to analyze the practical and cultural challenges in the implementation of the New Law on Bids and Administrative Contracts (Law No. 14,133/2021) from the diagnostic perspective of the control bodies. The research problem, centered on understanding how the obstacles to the new standard are evidenced and monitored by external control, was addressed through the analysis of documentary evidence. The findings in reports and rulings of the TCU and the TCE/TO demonstrated that, although the law represents an advance at the formal level, its effectiveness is compromised by structural and cultural barriers, confirming the initial hypotheses of the research.

The results obtained showed that the lack of training of civil servants, the persistence of the bureaucratic culture and the attachment to old practices (from Law No. 8,666/1993), the low adoption of digital processes and the absence of planning are the main obstacles. The research identified that this resistance to modernization is not an isolated phenomenon, but a pattern of administrative behavior that manifests itself at different levels of the federation. The main contribution of this study lies in the systematization of this evidence, offering a critical diagnosis of the transition between bidding regimes and demonstrating that Law No. 14,133/2021 requires a profound change in administrative culture, going beyond simple legal obedience.

Although the work is based exclusively on secondary data from control agencies, its importance is undeniable, as these documents constitute a source of high credibility and technical rigor. By analyzing reports and findings from the TCU and TCE/TO, the study offers a robust and validated view of the weaknesses and practical challenges of implementing Law No. 14,133/2021. In this way, the research contributes significantly to the diagnosis of the administrative reality, confronting the theory of the new law with practice, and is not limited to a mere interpretation, but rather to a systematic analysis of concrete evidence. The absence of primary data, such as interviews, does not diminish the relevance of the study, as the richness and collaboration of the material from external control allow for an in-depth understanding of the gaps and resistances that need to be overcome in order to consolidate the managerial reform.



REFERENCES

- Almeida, C. W. L. de. (2024). Lei nº 14.133/2021 e a obrigatoriedade de capacitação do fiscal de contratos administrativos. *Revista do TCU*, 153(1), 190–207.
- Almeida, H. (2023). *Nova lei de licitações esquematizada* (4th ed.). São Paulo: Estratégia Concursos.
- Bardin, L. (2011). *Análise de conteúdo* (L. A. Reto & A. Pinheiro, Trans.). São Paulo: Edições 70. (Original work published n.d.).
- Bresser-Pereira, L. C. (2011). *Reforma do estado para a cidadania: A reforma gerencial da administração pública brasileira* (7th ed.). São Paulo: Editora 34.
- Brasil. (2023). *Constituição da República Federativa do Brasil de 1988*. Brasília: Senado Federal.
- Brasil. (2024). *Lei nº 14.133, de 1º de abril de 2021. Dispõe sobre normas gerais de licitação e contratação*. Brasília: Presidência da República.
- Castells, M. (2017). *A sociedade em rede* (18th ed., Vol. 1). São Paulo: Paz e Terra.
- Di Pietro, M. S. Z. (2024). *Direito administrativo* (37th ed.). São Paulo: Atlas.
- Dias, M. T. F. (Org.). (2023). *A nova lei de licitações e contratos administrativos: Principais inovações e desafios para sua implantação*. São Paulo: Dialética.
- Exército Brasileiro. (2022). *Caderno de orientação aos agentes da administração – Pesquisa de preços* (2nd ed.). Brasília: Exército.
- Governo do Estado da Paraíba. (2024). *Manual de orientações para pesquisa de preços*. João Pessoa: SEAD.
- Justen Filho, M. (2025). *Curso de direito administrativo* (16th ed.). Rio de Janeiro: Forense.
- Lefosse Advogados. (2023). *Principais novidades e impactos para os setores público e privado*. São Paulo: Lefosse.
- Matos, M. C., Alves, F. D., & Amorim, R. (2023). *Nova lei de licitações e contratos: Debates, perspectivas e desafios*. Brasília: Câmara dos Deputados.
- Mazza, A. (2025). *Curso de direito administrativo* (15th ed.). São Paulo: Saraiva Jur.
- Niebuhr, J. de M. (2021). *Nova lei de licitações e contratos administrativos* (2nd ed.). Curitiba: Zênite.
- Nogueira, D. A. M., Reginato, A. O., & Rodrigues, C. R. (2025). Nova gestão pública e a Constituição de 1988: Eficiência, inovação e responsabilidade como imperativos jurídicos. *Revista Aracê*, 7(7), 37626–37643.
- Schein, E. H. (2025). *Cultura organizacional e liderança* (5th ed.). São Paulo: Atlas.



- Secchi, L. (2016). *Políticas públicas: Conceitos, esquemas de análise, casos práticos* (3rd ed.). São Paulo: Cengage Learning.
- SEGES/MGI. (2024). *Caderno de logística – Pesquisa de preços*. Brasília: Ministério da Gestão e Inovação.
- Tribunal de Contas da União (TCU). (2023). *Cartilha sobre a nova lei de licitações e contratos*. Brasília: TCU.
- Tribunal de Contas da União (TCU). (2023). *Manual de compras e licitações* (4th ed.). Brasília: TCU.
- Vieira, A. P., Vieira, H. P., Furtado, M. R., & Furtado, M. R. R. (2006). *Gestão de contratos de terceirização na administração pública: Teoria e prática*. Belo Horizonte: Editora Fórum.
- Weber, M. (2015). *Economia e sociedade: Fundamentos da sociologia compreensiva*. Brasília, DF: Editora UnB.