

## **Sustainable development in public administration: An analysis of the new bidding law**

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### **INTRODUCTION**

One of the most emerging goals of society is to promote human development without endangering the dignified lives of present and future generations, while promoting conditions that maintain a fair environmental balance, maintaining adequate standards of environmental protection and development.

The Federal Constitution of 1988 stipulates that the State has the responsibility to protect the ecologically balanced environment for present and future generations, making it necessary to reinvent new mechanisms to promote sustainable development, such as the application of sustainability in public procurement.

Given its vast power, influence, and capital, the Public Administration is ranked as one of the largest buyers in the Brazilian market. The Government has, therefore, the ability to determine and influence the way markets develop, as well as the conditions under which products and materials are produced, how services are provided and how work is performed.

This situation is triggered by the volume of acquisitions, which allow the State to choose how to execute public contracts, thus playing a strategic role in stimulating a more sustainable economy.

In this sense, the new bidding law, although not an initial milestone in the implementation of this matter, brings significant changes to the sustainability of public procurement and the concept of sustainable public procurement.

Therefore, this article tries to answer the following question: what contributions can the innovations brought by the new bidding law have for the sustainable development of the country?

To address the above issues, the general objective of this study is to discuss the way in which sustainable variables are included in bids and the impact of their implementation, using the Administration as a mechanism for compliance with constitutional environmental norms.

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To achieve this objective, specifically, it is intended to discuss the three innovations contained in Federal Law No. 14,133/2021, namely: the establishment of variable remuneration based on environmental sustainability criteria, the preference for products with quality from the environmental aspect, as well as the requirement of environmental certification in bidding processes, so that all analyses aim to respond to the proposed problem.

## **MATERIALS AND METHODS**

As a method of scientific research, bibliographic and documentary research was adopted. The first is the type of research that is related to the reading, analysis and interpretation of books, journals, manuscripts, reports, articles, monographs through a reading plan, which includes the screening of the collected materials, accompanied by a reading plan (Muzucato *et al.*, 2018).

This type of research makes it possible to investigate and appreciate different materials, that is, it gives opportunity for a range of phenomena, as it uses materials from different authors to address the theme studied, and is a broader approach than a direct search method (Gil, 2002).

With the use of these two methods, it was possible to analyze articles and studies related to the theme using the research technique called *Snowballing*, which, as defined by Greenhalgh and Peacock (2005), consists of using new authors through the references of authors already found.

The research was conducted on websites, newspapers, periodicals, as well as in the Google Scholar and Scielo databases, using the following descriptors: public administration, bidding law, environment and sustainability. Finally, all the works analyzed have a time frame of three years, encompassing only works published after the advent of Federal Law No. 14,133/2021.

## **RESULTS**

The National Environmental Policy Law establishes the legal definition of environment, the aforementioned diploma mentions that the environment is classified as "the set of conditions, laws, influences and interactions of a physical, chemical and biological nature, which allows, shelters and governs life in all its forms" (Brasil, 1981, n.p.).

This perspective allows us to conclude that the concept of environment is not only related to the idea of human life, but includes life in all its forms, its conservation and protection. So that future generations can enjoy an ecologically balanced Natural Environment, so that the analysis of the principle of environmental sustainability and the legislation related to the bidding procedure are important for the promotion of sustainability.

Da Cruz and Pazinato (2023) point out that the State does not have its own resources to satisfy all the demands of society's life, so it must count on the help of individuals to recruit goods, jobs, and



services from third parties, which can provide goods and services necessary for the full functioning of public administration.

It should be noted that the hiring of a private party generally leads the Public Administration to find a more profitable, economical and efficient way to obtain the necessary goods and services, given the specialized nature of many of the activities that are necessary for the progress of administrative activities, their implementation directly by the authorities would not be economically profitable or even satisfactory.

The new procurement law provides for a series of provisions that aim to implement the principle of sustainable national development through public procurement, for example, the sole paragraph of article 11 of Law No. 14,133/2021 is cited, which emphasizes the need to observe, in the planning of its contracts, the objectives established in the caput of said article, in order to achieve, among others, sustainable national development (Brasil, 2021).

With this objective in mind, article 26 of Law No. 14 133/2021 provides for the possibility of establishing a profit margin of 10% for industrial products and public services that meet technical standards, as well as for recycled, recyclable, or biodegradable goods (Brasil, 2021).

Environmental sustainability is also seen as a criterion that takes into account the "variable remuneration linked to the contractor's performance" in article 144 of Law No. 14,133/2021. Thus, the variable rate "will be based on the goals, quality standards, environmental sustainability criteria and delivery deadlines defined in the bidding protocol and in the contract" (Brasil, 2021, n.p.).

Thus, the new legislation stipulates that environmental sustainability criteria may result in differentiated rates for the contractor. Such criteria, if defined objectively and adequately, can bring significant benefits to the public administration in terms of its own environmental protection. In this way, public procurement has gained a reputation as good enablers of sustainable development, capable of reviving the economy through technological innovation and social progress through environmental preservation.

## **FINAL CONSIDERATIONS**

From the analysis carried out, it is concluded that the socio-environmental variable applied in the bidding process aims to minimize the environmental damage caused by the state machine, in order to induce certain market behaviors, as well as to encourage the practice of sustainable acts and routines by private individuals. This happens due to the fact that the Government has the power to lead to a sustainable economy, given its purchasing power and the volume of acquisitions that allows the Public Administration to dictate the conditions under which the provision of the service and the execution of the works should be carried out.



In view of the above, it can be seen that the New Bidding Law has caused a significant evolution in the application of sustainable practices in public management, representing an important milestone in the search for the effectiveness of sustainability in state administration, since it established clearer guidelines and criteria for the incorporation of socio-environmental aspects in public procurement.

**Keywords:** Public Administration, Bidding Law, Environment, Sustainability.



## REFERENCES

- Brasil. (2021). Lei nº 14.133, de 1º de abril de 2021: Lei de licitações e contratos administrativos. Retrieved from [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2021/lei/L14133.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/lei/L14133.htm). Accessed February 16, 2024.
- Brasil. (1981). Lei nº 6.938, de 31 de agosto de 1981: Lei da Política Nacional do Meio Ambiente. Retrieved from [https://www.planalto.gov.br/ccivil\\_03/Leis/L6938.htm](https://www.planalto.gov.br/ccivil_03/Leis/L6938.htm). Accessed February 16, 2024.
- Da Cruz, A. B., & Pazinato, L. F. H. (2023). A busca pelo desenvolvimento sustentável na nova Lei de Licitações e Contratos Administrativos do Brasil–Lei nº 14.133/2021. Retrieved from [https://www.cidp.pt/revistas/rjlb/2023/5/2023\\_05\\_0235\\_0263.pdf](https://www.cidp.pt/revistas/rjlb/2023/5/2023_05_0235_0263.pdf). Accessed February 18, 2024.
- Gil, A. C. (2002). Como elaborar projetos de pesquisa. São Paulo: Atlas.
- Greenhalgh, T., & Peacock, R. (2005). Effectiveness and efficiency of search methods in systematic reviews of complex evidence: Audit of primary sources. *BMJ*, 331(7524), 1064-1065. <https://doi.org/10.1136/bmj.331.7524.1064>. Accessed February 17, 2024.
- Mazucato, T., et al. (2018). Metodologia da pesquisa e do trabalho científico. Penápolis: Funep. Retrieved from <https://periodicos.uem.br/ojs/index.php/EspacoAcademico/article/view/11165>. Accessed January 5, 2024.
- Rother, E. T. (2007). Revisão sistemática x revisão narrativa. *Acta Paulista de Enfermagem*, 20(2), 5-6. <https://doi.org/10.1590/S0103-21002007000200002>. Retrieved from <https://www.scielo.br/j/ape/a/z7zZ4Z4GwYV6FR7S9FHTByr/?lang=es>. Accessed February 13, 2024.