



CHAPTER 112

Profile of servers responsible for management and supervision administrative contracts of the federal institute of Santa Catarina - ifsc

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ABSTRACT

The administrative contract can be considered an agreement between the Public Administration and other administrative or private entities. In order to ensure that all contractual obligations are fulfilled, the

contractor must appoint the contract manager and supervisor. These servers will be responsible for monitoring and inspecting the contract throughout its execution. Considering that contract managers and inspectors play a fundamental and highly responsible role in Public Administration, this article aims to identify the profile of the servers responsible for the management and inspection of administrative contracts at the Federal Institute of Santa Catarina/IFSC. As for the methodology, the questionnaire composed of 26 questions was elaborated through an online form and applied only to servers who act as managers and inspectors of administrative contracts of the Federal Institute of Santa Catarina/IFSC. The results obtained with this research are worrying, as more than half of the servers answered that they did not receive training before being appointed as manager or supervisor. In addition, 75% of respondents do not feel fully prepared and qualified to act in contractual management and inspection.

Keywords: Administrative Contracts, Management and Inspection, Federal Institute of Santa Catarina.

1 INTRODUCTION

Contracts in the Public Administration are drawn up in accordance with certain rules established mainly by Law no. 8,666/93. The contract is concluded between the contractor and the contractor and presents all the obligations of the parties. To ensure that all clauses contractual obligations are fulfilled, the contractor must appoint the manager and supervisor of the contract. You officials appointed to assume such functions are responsible for monitoring and monitoring of the contract throughout its execution. In addition to being essential to have an efficient management and inspection in each contract, it is important that managers and inspectors are organized and capable people for the occupation. In this context, do the civil servants appointed as managers and inspectors feel prepared to take on this responsibility?

The present research is justified, as it is a topic of great relevance and importance for the Public Administration and considering that the manager and the contract inspector play a fundamental role and of great responsibility not only within the Institute Federal de Santa Catarina (IFSC), as well as in other public agencies.

This article has the general objective to identify the profile of the responsible servers for the management and inspection of the administrative contracts of the Instituto Federal de Santa Catarina/IFSC.

It also has the following specific objectives: to identify the profile of managers and contract inspectors, to analyze if the servers feel prepared to act as managers or inspectors and propose alternatives to improve contractual management and inspection.

As for the Methodology, the research was developed through an online questionnaire. It was forwarded to the servers of the Federal Institute of Santa Catarina (IFSC) who work in the management and inspection of administrative contracts.

The present study is organized in 05 sections. In section 2, we present the theoretical foundation. The methodology is exposed in Section 3. Section 4 presents the Results and discussion. Section 5 ends with final remarks.

2 THEORETICAL FOUNDATION

2.1 PUBLIC ADMINISTRATION

The Public Administration is responsible for carrying out services and actions that are of public interest and can be considered as a “set of bodies, services and agents of the State that seek to satisfy the needs of society, such as education, culture, safety, health, etc.” (SILVA, 2019).

According to the Federal Constitution (1988), public administration will follow the principles constitutional principles of legality, impersonality, morality, publicity and efficiency. These principles have the function of “giving validity and coherence to the acts of public administration, controlling its activities and the agents that perform their functions directly or indirectly in your name” (SILVA, 2019).

Considering the constitutional principles and the management of public resources, the Public Administration acquisitions must comply with the rules established by law, mainly Law 8.666/1993, which provides for general rules on bidding and administrative contracts pertaining to works, services, including advertising, purchases, disposals and leases within the scope of the Powers of the Union, the States, the Federal District and the Municipalities (BRAZIL, 1993).

2.2 ADMINISTRATIVE CONTRACTS

The administrative contract can be defined as the adjustment in which the Administration Public, establishes with the private or other administrative entity to meet the public interest needs, according to the requirements determined by the Administration (NOVO, 2018).

The Art. 2 of Law 8.666/1993, clarifies that

Single paragraph. For the purposes of this Law, any agreement between Public Administration bodies or entities and individuals is considered a contract, in which there is an agreement of wills for the formation of a bond and the stipulation of reciprocal obligations, whatever the denomination used (BRAZIL, 1993).

The main contracts that the Public Administration signs with individuals are related to public works, provision of services and supply of goods (ENAP,2013).

Also according to Law 8.666/1993, contracts must be clear and precise in regarding the conditions for its execution. Contract clauses must establish the rights, obligations and responsibilities of the parties (contractor/contractor) (BRASIL, 1993). It is at the time of the execution of the administrative contract, that the fulfillment of the object, their terms and conditions, will be managed, controlled and supervised by the Administration Public (ENAP, 2013).

2.3 MANAGEMENT AND INSPECTION

According to Lima (2016), much of the specialized doctrine understands that the Contractual inspection function can be divided into: management and inspection. According to Costa

(2013), the inspector should not be subordinated to the contract manager and the activities of manager and tax must not be assigned to the same person.

The Art. 67 of Law 8.666/1993, determines that

“the execution of the contract must be monitored and supervised by a representative of the Administration specially designated, allowing the hiring of third parties to assist it and subsidize it with information pertinent to this attribution” (BRASIL, 1993).

For the author Justen Filho (2014), contractual inspection is not a faculty assured to the Administration, but “it is a duty, to be exercised in order to better carry out the fundamental interests. It is even assumed that the inspection induces the hired to perform more perfectly the duties imposed upon him.”

The representative of the Administration must act based on Art. 67 of Law 8.666/1993.

“Its 1st paragraph defines the obligation to record in the proper book all occurrences related to the contractual performance, and to determine what is necessary to regularize the faults or defects. Paragraph 2 states that decisions and measures that go beyond the competence of the representative must be requested by him from his superiors in a timely manner for the adoption of the appropriate measures. Failure to take action constitutes an administratively punishable offense, which sets the tone for the expected good performance of the inspectors” (ALMEIDA, 2009).

Like the Administration, the contractor also has a representative, called agent, who will be appointed by the company to monitor the execution of the contract (ENAP, 2013).

It is extremely important that inspectors and managers are aware of the different responsibilities that belong to each one. In this way, they will be able to follow the performance of the contract and verify more precisely the cases of irregularities, in addition to use tools to avoid the occurrence of behaviors that harm the activities contractual obligations, as well as serving the public interest (LIMA, 2016).

Management should not be confused with Inspection. Management is a service administrative role that can be exercised by a server or by a sector, being responsible for the overall management of all contracts, including economic rebalancing issues financial, documentation, control of expiration dates, extension, etc. already the supervision is assigned to a server, specially designated for that function, who will monitor the contract more punctually (ALVES, 2004).

According to art. 39 of Normative Instruction no. 05/2017,

The management and inspection activities of contractual execution are the set of actions that aim to assess compliance with the results expected by the Administration for the contracted services, verify the regularity of social security, tax and labor obligations, as well as provide support to the procedural and forwarding the relevant documentation to the contracts sector for the formalization of procedures related to renegotiation, alteration, rebalancing, extension, payment, possible application of sanctions, termination of contracts, among others, in order to ensure compliance with agreed clauses and the solution of problems related to the object (BRASIL, 2017).

The manager must have a global view of the contract, being under his/her responsibility for its administration and management. Furthermore, the manager

“it is responsible for analyzing reports sent by the contract supervisor; release of payments; price readjustment; amendments, such as: extension of the term, additions and deletions, economic and financial rebalancing; application of penalties and contractual termination, the latter with the indispensable consent of the competent authority of the body, always granting to those who want to penalize the right to prior defense” (LIMA, 2016).

The inspector is responsible for permanently monitoring the execution of the contract. In addition, the inspector can

“point out flaws and determine corrections and readjustments; clear doubts from the contractor's agent/representative to avoid incorrect activities that could generate rework with consequent delays in the evolution of the schedule; carry out measurements; instruct the processes of amendments, penalties and termination, providing the contract manager with substantial elements for carrying out these acts; prepare periodic reports and send them to the manager; fill in the diary or book of works and act in the provisional receipt of the contracted object” (LIMA, 2016).

Upon being appointed, the contract inspector must be prepared to perform such a function. This task has a high level of responsibility, as failure to correctly fulfill the function, it can cause damage to the treasury (ALVES, 2004). Furthermore, when the performance of contract enforcement is not efficient, can result in “widespread waste of resources, loss of object, punishments from servers that could be avoided, and even penalties applied unnecessarily to good contracted companies” (ALMEIDA, 2009).

When appointing the inspector, the Administration must decide on a servant who has sufficient technical knowledge of the contracted object. This person is responsible for verify that the contracted company is complying with the conditions determined in the Public Notice and in the winning proposal throughout the execution of the contract (COSTA, 2013).

In some cases, the civil servant appointed as contract supervisor may refuse this function, for example, if you have any family relationship with the contractor or even when they do not have specific technical knowledge for the contracted object. With that, the server must formalize a justification to the competent authority, explaining the situation and requesting the change of the inspector (ALVES, 2004).

For contracts that have extremely complex objects, such as works and engineering services, Management may hire third parties to assist in the process inspection, mainly with the provision of technical

information. In this case, the responsibility for contractual inspection remains with the Administration, however, when this activity is performed in a deficient manner, the contracted third party may also be held accountable (COSTA, 2013).

The legislation does not provide for how the Public Administration must appoint the public servant to carry out the monitoring activity of the contract. However, both the Court of Auditors of the Union and some scholars, understand that this designation must occur through of an official act/instrument issued and published prior to the start of validity.

3 METHODOLOGY

The research was developed with the servers of the Federal Institute of Santa Catarina (IFSC) that work in the management and inspection of administrative contracts. the work was carried out through a questionnaire composed of 22 closed and 04 open questions. The questionnaire was prepared using an online form³. The questions applied to servers can be viewed in Appendix A. Servers received the questionnaire by e-mail and were informed about the objective and purpose of the research. The questionnaire was applied between May 02 and 08, 2019 and answered by 95 servers from different Campus, in addition to the Rectory.

After collecting and manipulating the questionnaire data, the analysis of the information. The results will be presented throughout this article. This job encompassed a quantitative and qualitative research, through the study of the data obtained and the analysis and interpretation of the results of the questionnaires. The bibliographic research also helped in the elaboration of the questionnaire and the work as a whole.

4 RESULTS AND DISCUSSION

The Federal Institute of Santa Catarina (IFSC) is a federal public institution of teaching that operates in the provision of professional, scientific and technological education, offering courses at various levels: professional qualification, youth and adult education, technical courses, higher and postgraduate courses (IFSC, 2019).

The institution is a federal agency linked to the Ministry of Education. it is headquartered in Florianópolis and has administrative, patrimonial, financial, didactic autonomy pedagogical and disciplinary (IFSC, 2019).

In addition to the Rectory, the Federal Institute of Santa Catarina currently has 22 Campuses installed throughout the State, being: Araranguá, Canoinhas, Caçador, Chapecó, Criciúma, Florianópolis, Florianópolis - Continente, Garopaba, Gaspar, Itajaí, Jaraguá do Sul – Center, Jaraguá do Sul – RAU, Joinville, Lages, Palhoça, São Carlos, São José, São Lourenço do Oeste, São Miguel do Oeste, Tubarão, Urupema and Xanxerê (IFSC, 2019).

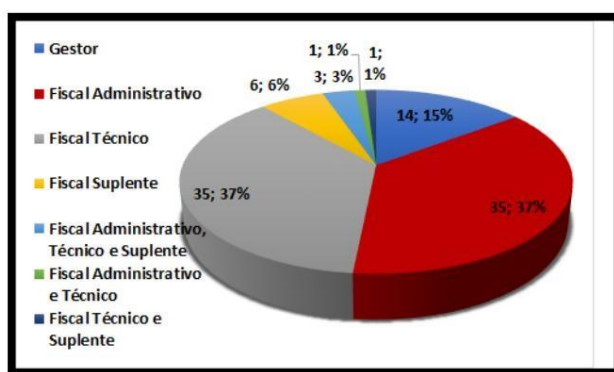
The Federal Institute of Santa Catarina has a Contracts Department that is linked to the Dean of Administration (Proad). Managers and Tax (Administrative, Technician and Alternates) of contract are appointed by means of an Ordinance issued by the General Direction of each Campus.

Next, the results that were obtained through the application of the questionnaire for civil servants who work in the management and inspection of contracts at the Instituto Federal de Santa Catarina.

Most respondents (54%) are female. Almost half of survey participants (47%) are aged between 30 and 39 years, while only one person (1%) is over 60 years old. As for schooling, 60% of civil servants are Specialists, 4% have a Doctorate and one person (1%) has only a High School Technician. As for the server's capacity Campus, the answers were quite varied, with the Criciúma Campus (13%) and the São Miguel do Oeste Campus (12%) stand out. With In relation to the position they hold at the Federal Institute of Santa Catarina, most of the interviewees work in the position of Assistant in Administration (40%), followed by the positions of Laboratory Technician (12%) and Administrator (10%). As for the length of service within the Institution, 39% are civil servants between 04 and 06 years and 2% for more than 16 years.

Regarding the role performed by the interviewed servers, only 15% responded that they act as managers, while the others carry out the activities of administrative, technical and alternate inspectors.

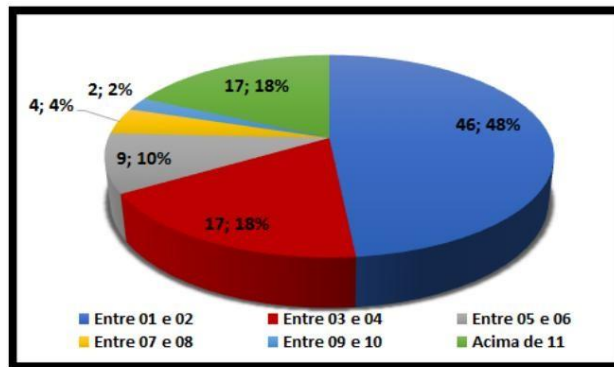
Graph 1 – Function performed by the server.



Source: Prepared by the author, 2019.

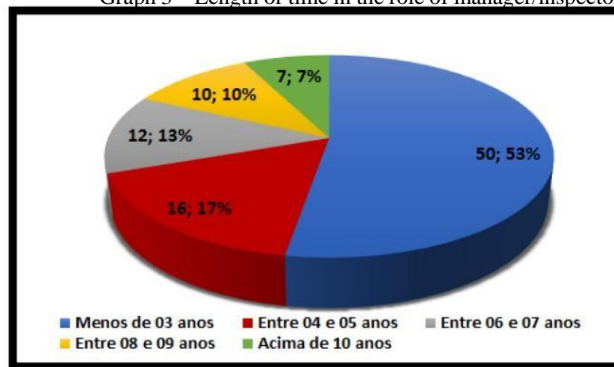
Subsequently, participants were asked to indicate the number of contracts that were under their responsibility, both in management and in supervision. Of the total of interviewed, 46 people (48%) responded that they are responsible for one or two contracts, while 17 people (18%) are responsible for more than eleven contracts. the amount of contracts can directly interfere in the quality of management and inspection, mainly, when we have a high number of contracts, which result in an overload of work when server and prevent it from dedicating itself entirely to monitoring companies hired.

Graph 2 – Number of contracts under the responsibility (management/supervision) of the server.



As for the length of time in the role of contract manager or inspector, 7% of interviewees have been acting as managers or inspectors for more than ten years. However, 53% of the servers have been in office for less than three years, which can be considered a relatively short period, given the complexity and responsibility of these activities.

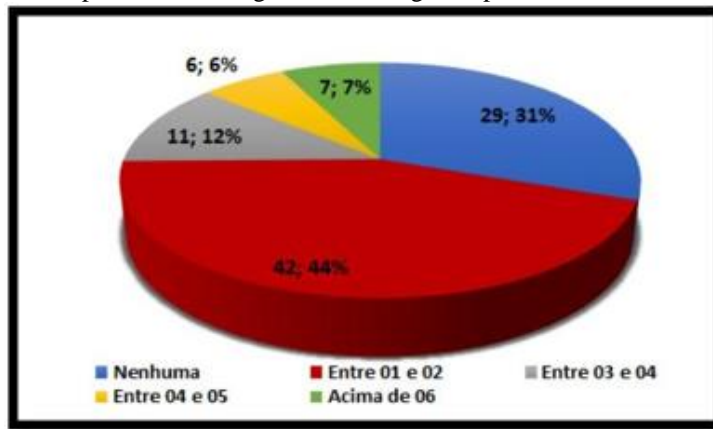
Graph 3 – Length of time in the role of manager/inspector.



Source: Prepared by the author, 2019.

When asked if the server knew the manager/inspector's attributions, 61 servers (64%) responded that they know the assignments, 32 servers (34%) indicated the option “partially” and 02 servers (2%) responded that they have no knowledge of the duties of the manager/inspector. All civil servants should be aware of the manager/inspector's attributions. It is essential that the server knows its attributions and responsibilities, so that you will know what to do and how to act at the time of execution contractual.

Graph 4 – Knowledge of the manager/inspectors' attributions.

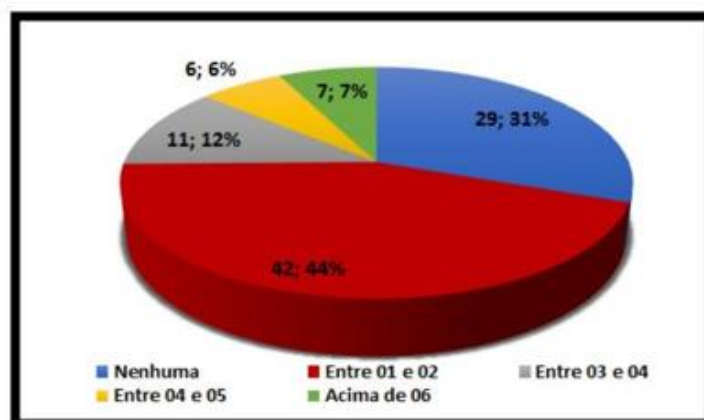


Source: Prepared by the author, 2019.

Then, participants were asked to tick the option that indicated whether the The server received some type of training, before taking on the role of manager/inspector. Of the 95 interviewed, only 30 participants (32%) responded that they received some type of empowerment. All civil servants should be trained prior to appointment as manager/inspector, in order to prepare them to monitor contracts more efficient and safe.

Regarding the amount of training on administrative contracts that the server participated from the moment of his appointment as manager/inspector, 42 servers (44%) responded that they participated in one or two training sessions and 07 servers (7%) participated in more than six trainings. However, 31% of those interviewed pointed out the option “none”, that is, they did not receive training from the moment of appointment as contract manager or inspector. Just as it is important to train before the appointment, continuing education is also essential, as the server must always be updated, taking into account that rules, laws or procedures may change during contract performance.

Graph 5 – Number of trainings (internal or external) on administrative contracts, from the moment of appointment as manager/inspector.

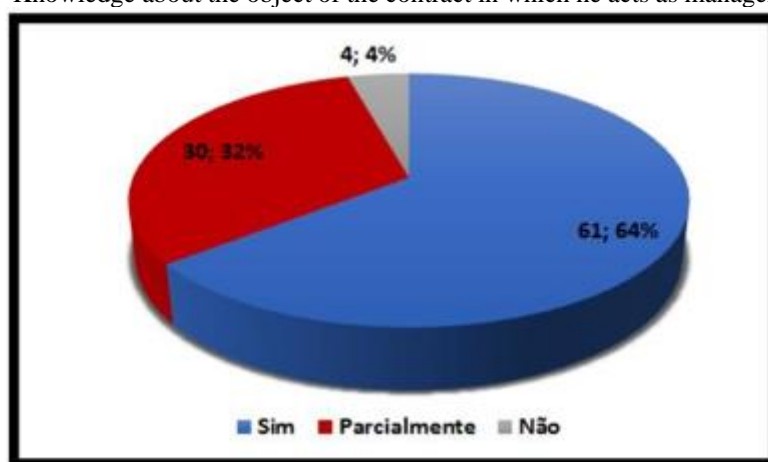


Source: Prepared by the author, 2019.

In the next question, participants were asked to indicate whether the server showed interest in participating in some type of training, from the moment of their appointment. Of all respondents, only 10 servers (11%) responded that they did not expressed interest in participating in some type of training.

In another question, respondents were asked to select the option that show if the server has knowledge about the object of the contract. Of the 95 participants, 61 servers (64%) responded that they have knowledge about the object of the contract, while 04 servers (4%) opted for the “no” alternative, that is, they answered that have no knowledge of the contracted object. When the server has knowledge about the object of the contract, management/inspection becomes simpler and uncomplicated, facilitating the contractual follow-up process.

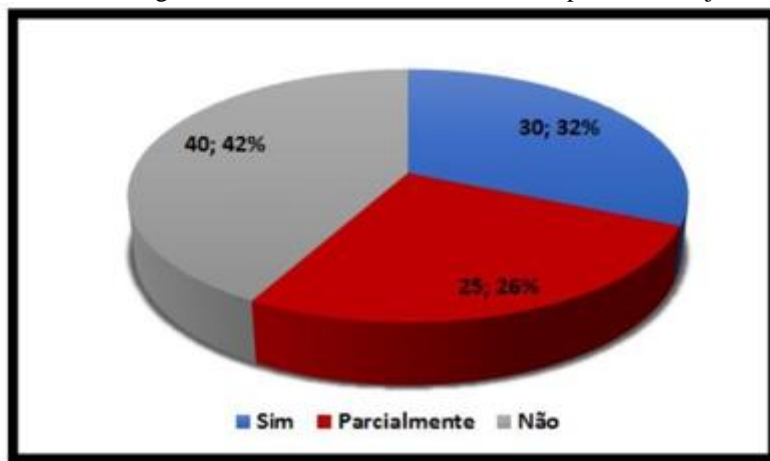
Graph 6 – Knowledge about the object of the contract in which he acts as manager/inspector.



Source: Prepared by the author, 2019.

As for the academic training of the server and its relationship with the object of the contract in who acts as manager/tax. Of the servers interviewed, 30 participants (32%) responded that academic training is related to the object of the contract. Nonetheless, 40 participants (42%) responded that academic training does not have any type of relationship with the contractual object. When the academic formation is related to the object of the contract, the server feels more secure and prepared to assume the role of manager/inspector.

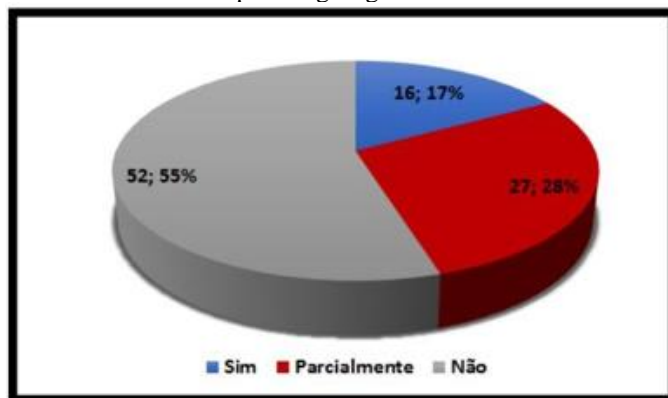
Graph 7 – Academic background of the server and its relationship with the object of the contract.



Source: Prepared by the author, 2019.

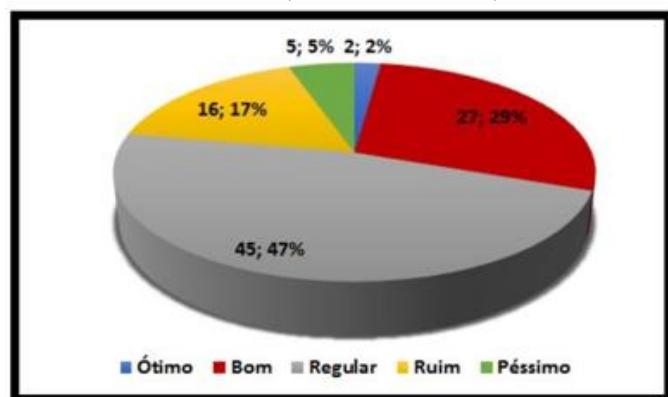
Regarding the participation of the server in the planning stage of the contracts in which acts as a manager/inspector, the majority of respondents (55%) responded that they did not participate of the contract planning stage. Only 16 servers (17%) participated in the stage of planning contracts in which they act as manager/inspector.

Graph 8 – Participation of the civil servant in the planning stage of the contracts in which he acts as manager/inspector.



Source: Prepared by the author, 2019.

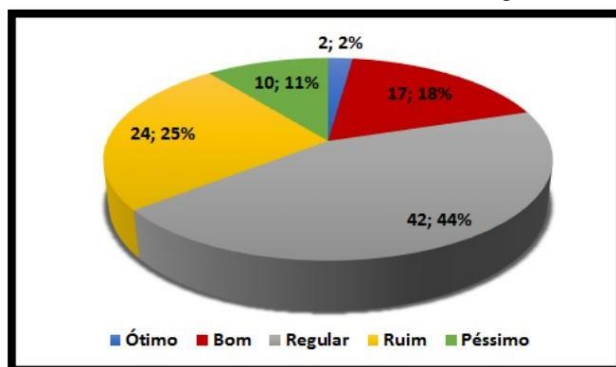
Graph 9 – Knowledge about Law n. 8666/1993 (Bids and Contracts) and other rules relevant to the subject.



Source: Prepared by the author, 2019.

Then, it was asked how the server evaluates its knowledge about the Normative Instruction no. 05/2017. Most respondents (44%) rate their knowledge as “regular” and only 02 servers (2%) marked the option “excellent”. THE IN n. 05/2017 regulates the rules of the procedure for contracting services, therefore, the contract manager/inspector must have full knowledge of this document.

Graph 10 – Knowledge about Normative Instruction n. 05/2017 (rules and guidelines of the service contract procedure).



Source: Prepared by the author, 2019.

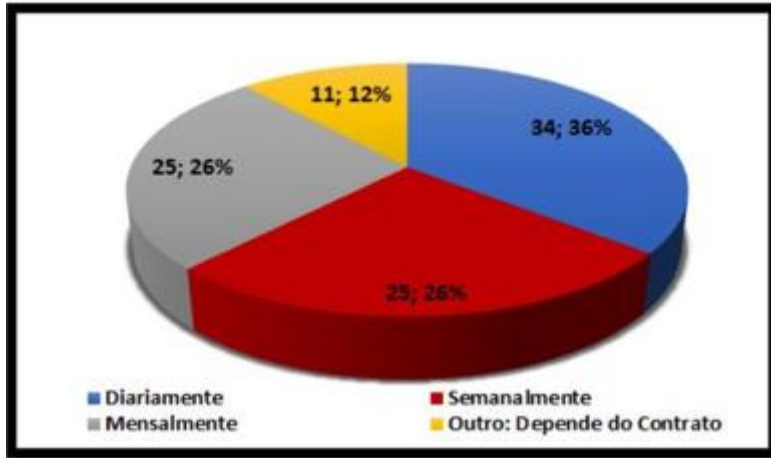
As for the main problems faced during the management/inspection of contracts, of the 95 interviewees, only 16 servers responded that so far, they have not had problems or difficulties in managing/inspecting contracts.

The main problems pointed out by most servers were: breach of obligations by the contractor and lack of standardization of internal regulatory procedures and instructions. Other points were mentioned with less frequency, but which also deserve to be highlighted, such as the lack of training, doubts in relation to labor legislation, civil servants with accumulation of attributions and a high number of of contracts to follow up.

In the next question, it was asked if the server has access to all documents essential aspects of contracting and for the inspection of contracts. Of the participants, 80 respondents (84%) responded that they have access to all documents, while 15 respondents (16%) responded that they do not have access to documents.

With respect to the frequency with which the server monitors the performance of the contract, the responses were quite diverse, but the majority of respondents (36%) responded that monitor the performance of the contract on a daily basis. The follow-up frequency contract is quite variable, as it depends on many factors, such as the type of contract object.

Graph 11 – Frequency that the server monitors the execution of the contract.

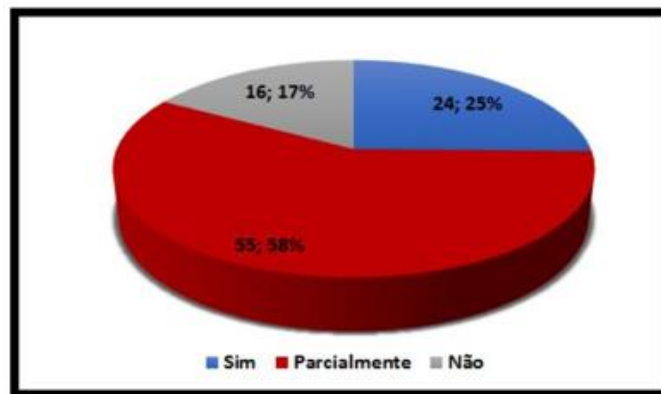


Source: Prepared by the author, 2019.

Regarding the recording of occurrences that occur during the execution of the contract, the Most respondents (66%) responded that they record the occurrences, while 12% responded that they do not record during the execution of the contract. It's from responsibility of the server, register all occurrences that happen during the performance of the contract, whether positive or negative.

Then, it was asked if the server feels prepared and qualified to act as manager/inspector of IFSC contracts. Of the respondents, only 24 servers (25%) feel prepared and qualified for the role. However, 55 servers (58%) indicated the option “partially” and 16 civil servants (17%) do not feel prepared and qualified to act as a contractual manager/inspector. It is essential that the server feels prepared and qualified to act as manager/tax. Thus, in addition to requiring the company to comply with with all the obligations signed in the contract, he will be able to carry out the follow-up with a more careful and detailed look throughout the contractual execution period.

Graph 12 – Server feels prepared and qualified to act as manager/inspector of the contracts of the IFSC.



Source: Prepared by the author, 2019.

Soon after, the participants were asked to justify the option marked in the question previous question, which asked if the server feels prepared and qualified to act as a contract manager/inspector. Respondents who opted for the “no” alternative justified their response in the sense that there is a lack of capacity building and training; there are no procedures standardized and some servers for being in the

didactic-pedagogical area do not have technical and administrative knowledge for the performance. The employees interviewed who marked the option “partially”, also cited the lack of training and trainings; absence of standardized procedures, in addition to the accumulation of attributions for some servers. The servers who opted for “yes” answered that they have experience in the area of contracts and received training to work in management/supervision contractual.

Regarding the interest of the server in participating in a course or training in the area of administrative contracts, 81% of respondents chose the “yes” alternative, that is, they have interest in participating in courses or training. While 17 servers (18%) marked the option “maybe” and 01 server (1%) is not interested in participating in courses or training in the area of administrative contracts.

In the last question, participants were asked how the IFSC should offer courses or training on contracts. Most participants (69%) opted for alternative “in person and virtual”, followed by the options “virtual” with 17% and “in person” with 17% 14%.

Finally, after applying the questionnaire and obtaining a very expressive number of responses, it was possible to identify the profile of the managers and inspectors of the contracts administrative offices of the Federal Institute of Santa Catarina, mainly in relation to the training and preparation of these servers who carry out activities of great responsibility within the Public Administration.

5 FINAL CONSIDERATIONS

The present research sought to apply a questionnaire to the servers that work in the management and inspection of administrative contracts at the Federal Institute of Santa Catarina. THE The first part of the questions sought to identify the server's profile, including gender, age, schooling, campus, position and length of service at the Instituto Federal de Santa Catarina. In the second part of the questionnaire, the questions were more specific and directed to the management and inspection of administrative contracts.

The results obtained with this research are worrying, as it was observed that more half of the civil servants interviewed answered that they did not receive training before being appointed as manager or supervisor. It is essential to carry out training for the servants even before assuming the functions of manager or inspector, mainly for those who do not have much knowledge and mastery of administrative areas, such as for example, teachers and technicians in the pedagogical area.

Another important and significant fact is that 71 participants (75%) do not feel fully prepared and qualified to act in contractual management and inspection, justifying the absence of training and standardized procedures. so that the management and contractual inspection activities are performed efficiently, the server must feel safe and prepared to make decisions and to demand that the company fulfills all obligations established in the contract.

With regard to the problems faced during management and inspection, the interviewees cited the breach of obligations by the contractor and absence of standardization of procedures and internal normative instructions.

In view of the above, it became evident that contract managers and inspectors exercise a function of great importance and relevance within the Public Administration. The execution contractual is a step that requires a very careful monitoring by managers and tax authorities, as they can and should prevent the occurrence of irregularities and illegalities that may harm the Public Administration as a whole.

In this sense, at the end of the research and verifying that the objectives presented were fulfilled, it is worth highlighting some proposals that may be implemented by the Instituto Federal Santa Catarina to improve contract management and inspection activities: normative instructions and standardized procedures for servers to have parameters to monitor contracts; empower servers before naming them as managers or inspectors, especially those who do not work in the administrative area (eg. teachers); and promote training more frequently, whether virtual or face-to-face.

In addition, it is also suggested that contractual management and inspection should not be centralized and/or always directed to the same servers, mainly on campuses where the number of servers is reduced which can result in an overload of job.

Finally, it is important to emphasize that managers and inspectors must act in order to prevent poor contractual performance from harming the Institute's public interest activities of Santa Catarina and the Administration as a whole.

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