

## Opinion

# TCU and Public Procurement

**T**he Federal Court of Accounts of Brazil (TCU) plays a prominent role in the area of public procurement. Public bids and contracts are one of the topics that are most examined in the sessions of the Court Collegial Body, and is a rich source of information for managers as well as for scholars on the subject. Managers from the powers of the Federal, state, Federal District, and municipal governments must obey these decisions related to the application of general bidding laws.

Why is this important? Remember that public procurement is the means through which governments materialize their public policies and that enable maintenance of the “administrative machine”, which gives organizational support to the execution of the policies. Public bids and contracts make it possible to build hospitals, schools, roads and refineries. Buy medicine, vaccines, school supplies, vehicles for public security, information technology equipment and services, office supply, among others. Nothing in the Brazilian State will function without these goods and services. Hence the criticality of the issue!

However, public procurement is not as simple as it looks. It is a complex process that involves several players and that has many risks and rules created to reduce risks. In order for the administration to make good purchase, In order for the administration to make good purchases, we need to meet and follow requirements such as the ones contained in the following question. Taking into account a specific public need, what is the best solution (goods and services) to cater to public interest in a timely manner, with quality and in the right amount, with sustainability requirements, which is not directed, provides the preferences foreseen in the law, such as those directed to micro and small companies, and that is economically advantageous? We need to recall that an advantageous proposal is not the least expensive one. It is the proposal that meets the requirements above!

After choosing the solution and selecting the supplier (bid), there is another very sensitive phase, which is when goods and services are received. That is, verifying if the technical specifications and quality requirements were met, according to the contract.

These actions are not amateurish! The process is critical because it requires many studies and technical capacity on the part of managers and public servants involved. It is of no use if the Public Administration has great specifiers in the planning phase and no contract supervisors with knowledge of the good or service to be hired, for example.

It is in this scenario that TCU comes in as a change inducer, either due to its pedagogical role in disseminating good practices or through preventive and corrective actions when necessary.

In the specialization process TCU is undergoing, the topic of bids and contracts took on even more vigorous actions with the creation



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of Rede-Log. This network is composed by the Department of External Control – Government Procurement (Selog), which is in charge of oversight of public purchases, and the Departments of External Control in the states of Amazonas, Pará, Pernambuco, Ceará, Bahia, Goiás, Rio de Janeiro and Santa Catarina, which are specialized centers in this topic.

This configuration makes the TCU have a qualified team that is specialized to oversee public procurement in the country. The control activity materializes in several ways, either when a representation and denunciations are examined or when audits are conducted. Specialization brings about uniformity of technical opinions as well as timeliness for TCU to meet external demands.

In addition to acting in concrete cases submitted within the scope of this social control, since 2013 TCU, on its own initiative, carries out audits focused on procurement. The aim of good governance in the public sector is to ensure that its organizations always perform according to the public interest, based on principles such as transparency and publicity, planning and control, morality, impersonality, legitimacy, efficiency and economy, among others.

Procurement governance is the application of these principles and practices focused on the procurement function of organizations. In these governance works, TCU uses self-evaluation questionnaires to trace a profile of governance and management of public entities. The questionnaire itself that has questions on issues such as leadership, strategy and control in the procurement sector of each agency, has a series of good practices that

can be implemented right away by public administration. In addition to this “advisory”, TCU build a Procurement Governance Index (IgovAquisições), calculated with statistical concepts, which gives managers a notion of the stage of maturity of the entity (beginning, intermediate and advanced), as well as a view of itself in relation to the other entities (by segment and within the universe of federal agencies and entities). The main result of this work was the issuance of structuring measures (determinations and recommendations) to superior governing bodies (Ministry of Planning, National Justice Council, among others) so they can guide and coordinate actions to improve procurement governance in the agencies that they supervise.

Another important tool made available by TCU to assist public managers is called Risks and Controls in Procurement (RCA). This tool maps a generic procurement process, listing the stages from planning to contract execution, including, for example, preliminary technical studies and price research. For each stage, the risks associated to the activities carried out are identified as well as possible controls to mitigate them. The tool is available to all on the TCU internet site ([www.tcu.gov.br/selog](http://www.tcu.gov.br/selog)), especially to public managers who are responsible for implementing controls to mitigate these risks.

In addition to the actions above, following the guidance of the TCU presidency, the Court currently invests in improving information technology tools to enhance its control actions regarding public procurement. There is work on developing search tools for non-structure data,

identification of typologies in the area of procurement and making available a dashboard for procurement control. We highlight the creation of a probabilistic model to define samples for more precise selection of objects to be audited.

In addition to the above actions, there are also daily challenges faced by TCU, such as how to enhance the actions to identify and prevent fraud, embezzlement and corruption in public procurement. These actions involve necessarily intensive use of IT tools and intelligence actions, as well as formalization of technical cooperation agreements with other Public Administration agencies and international entities such as the Organization for Economic Cooperation and Development (OECD). Another challenge for TCU is to harmonize structuring control measures that materialize because of issuance of new norms, with actions that make the new procurement process dynamics less bureaucratic and more efficient. An example is the recommendation for OGS to reevaluate the need for mandatory use of the linked account system in outsourcing contracts.

As seen, the task of controlling public procurement is Herculean and at the same time noble. With actions in this area, TCU takes an important step to fulfill its mission, which is to “improve public administration in benefit of society through external control”, contributing to the implementation of public policies through purchases made with efficiency, isonomy, transparency and economy, thus accomplishing its constitutional mission of assisting the national Congress in the oversight of public expenses in the area of bids and contracts.