

Procurement from exclusive supplier or service provider by non-requirement of public bidding. Brief analysis of article 25, I of Law 8,666/93.



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ABSTRACT

Despite the fact that the possibility of contracting with exclusive service provider or supplier has been provided for in the macro regulatory system that guides the government procurement for several decades (already included in article 126 of Decree-Law No. 200/67), the agencies and entities of the Public Power still face difficulties regarding this norm. Often, the Courts of Accounts recognize imperfections and even illegalities committed by public officials when formalizing such procedures. Revisiting this norm, this study aims to shed some light on the subject, addressing practical issues that arise in the everyday life of the Public Administration, with the intention that the sectors responsible for this kind of procurement better instruct their processes.

Keywords: Bidding. Non-requirement. Exclusivity.

1. NON-REQUIREMENT FOR BIDDING – RELEVANT TRAITS

Article 37, XXI of the 1988 Constitution, establishes the principle of General Duty of Bidding as a condition for all public administration entities and bodies to sign contracts for construction, procurement, services and alienation., However, there are cases in which public interest will not be met by the



carrying out a public bid. The bid may appear unfeasible setting the stage for the non-requirement for a bidding process, mentioned in article 25 of Law No. 8,666/1993. This is different from a waiver of bidding because, in the latter, the bidding is perfectly possible, being an alternative to the bidding process strictly in the cases listed in article 24, of the same statute.

An important aspect of non-requirement is that the cases in which it can arise are endless. If, for some reason, it is not feasible to carry out the bidding, the same shall be deemed unenforceable. If a Municipality intends to¹ purchase fuel and the town has one gas station, and the nearest gas station is in the neighboring town, 25 km away, it would be absurd (and unnecessary) to perform a bid because, in case the latter gas station won, the lower price might be, the simple round trip would empty the tank. In such a circumstance, the bidding would be considered unfeasible, as the possible result would be damaging to the administration.

2. UNFEASIBILITY OF BIDDING FOR LACK OF COMPETITORS

The absence of a plurality of individuals eligible to apply to the contract intended by the Administration brings out the most classical form of unfeasibility.

However, in no way would it be reasonable to admit that the Administration would be forced to car-

ry out all the administrative acts typical of the bidding process knowing in advance to whom the contracting would be awarded, given that this is the only individual on the market able to meet the call. Hence, the provision of article 25, I of Law No.8,666/93 which we transcribe below:

Article 25- The bidding is unenforceable when there is competition unfeasibility, in particular:

I-for the acquisition of materials, equipment, or commodities that can only be supplied by an exclusive producer, company or commercial representative. Brand preference is prohibited and the Trade Union, Federation or Confederation of Employers, or equivalent entities must prove exclusivity made through an attestation provided by the local trade registry where the bidding, the construction, or the service would be performed;

Plainly, we should point out that the hypothesis of the item transcribed above is for acquisition where the supplier, distributor or producer is unique or exclusive. That does not mean to say that in case there is need to hire a particular service, which can only be executed by a single provider, the bidding would be mandatory for lack of legal support. As seen in a lesson of the celebrated master, Jesse Torres², stating that the

subsection does not subject to the head of the article, but rather, the opposite. Therefore, what matters, and will always be relevant, is that the object to be hired be supplied or provided by one who is unique. It is unimportant whether exclusivity falls upon a service or purchase. If the object of the contract intended is a service, it will fit into the heading of the article, and not its item (I). This is the guidance given by the Federal Court of Accounts:

“Refrain from contracting the services based on item I of article 25 of Law No. 8,666/1993, since this provision is specific for the acquisition of materials, equipment or commodities provided by an exclusive producer, company or trade representative. Hire services directly, by non-requirement for tender, only when there is proof of unfeasibility of competition, in line with the provisions of articles 25 and 26 of Law No. 8,666/1993 “. (Ac. 1096/2007 Plenary)

It should be highlighted that to be “unique” is different from being “exclusive”. When the supplier is unique, the non-viability of competition is absolute, that is, in fact there is no other available. When the vendor is “exclusive”, other suppliers provide the object but for some reason only that individual is authorized to provide it. It is said that non-requirement is relative.³

It is clear that the hypothesis is that competition is a factual impossibility. If the Administration intends to purchase a product that is in the hands of only one individual, there is no need to talk about the dispute even if this were desired. It is necessary to clarify that the limitation imposed by the legal provision, that it is impossible to have brand preference, means that the main point of the absence of competitors is not the product itself. It is, rather, the technical solution the product matches and the fact that this is the only one that meets the need of public interest which has arisen. This chain does not find discrepancy in the precedents. From the repository of TCU (Federal Court of Accounts), we highlight the following excerpt from the judgment:

“Determine to the Mint of Brazil that when purchasing materials with an exclusive supplier they... check the records... to make sure there are not similar products able to meet the needs of the service. Both the assertions must be duly recorded, through attestations issued by competent bodies”. (Ac. 2008 Plenary/3,645)

Therefore, it is the duty of the agent to judge convenience and opportunity of the acquisition of a product considered unique or exclusive (thus, not falling into the principle of the General Duty to Bid) to demonstrate that this technical solution is the only



adequate one to meet the need of the Administration. They should dispel the idea that there are no others on the market with similar features, application or solutions. Otherwise, we would not be facing a situation of non-requirement and holding a public bid would be perfectly possible, and, consequently, a mandatory route.

3. THE UNFEASIBILITY OF BIDDING BASED ON EXCLUSIVE COMMERCIAL REPRESENTATION.

We are not in away from the central idea that the non-requirement for tender is based on practical unfeasibility of competition, due to absolute absence of contracting alternatives. Although the cases in this matter are infinite, we must recognize that not infrequently, there will be cases in which exclusivity may even be circumstantial or transitory. The best example is the case of an exclusive commercial representation, though the lesson of Marçal Justen Filho: "... it is the commercial figure that is present when a supplier assigns to a certain economic agent the private right to mediate business in a certain region."⁴

Practice has shown that one of the most common forms of non-requirement due to a lack of competitors is when there is an exclusive commercial contract in which the product manufacturer or owner of the distribution rights or of intangible property (which is the case of book and periodicals publishers and or owners of industrial patents) grants to a certain company in his/her commercial circle (franchisees, accredited companies or their authorized network) the exclusivity of supply/distribution or of the provision of services. As mentioned before, this exclusivity can be restricted to a certain region or even to a certain period. The mentioned scholar also adds that commercial representation is regulated in Brazilian Law in various legislations, pointing out, for example, Law 4,886/65 (commercial representation); Law No. 6,729/79 (lease of motor vehicles) and law No. 8,955/94 (business franchise). Therefore, the non-requirement for tenders covers not only exclusive commercial representation, as well as "any kind of economic agent holding an exclusivity clause".⁵

To better illustrate this, suppose a publisher, which owns the rights to publishing, distribution and marketing of works it publishes, grants⁶ to a single company — a local bookstore — the right to market one or several titles in a given State. It cannot be de-

nied that this the market reserve is a suggestion of the publisher who, in that State, chose not to have a plurality of bookstores or booksellers at the expense of exclusivity of a single company. Therefore, if the local Public Administration needs to acquire exactly those titles, there would be unfeasibility of bidding because that publisher (owner of the editing rights, distribution and sale) authorized only a certain company to market them, excluding themselves also from selling. A typical case of relative non-requirement, where, in principle, even with several individuals in other locations offering the same product, due to the circumstances where there is an exclusive commercial representation agreement, only one company would be authorized by the owner of the distribution rights to market such works in that State. It is necessary to point out that there is no controversy regarding this issue. The eminent jurist⁶

Mark Juruena acknowledges, "exclusivity can also be proved through exclusive contract (distribution, representation, licensing, etc.)."⁷

The Federal Court of Accounts in its judgment No. 095/2007 – Plenary addressed an interesting hypothesis. The rapporteur was Min. Benjamin Zymler, who analyzed several purchases of pharmaceuticals made by the Secretariat of Health of the State of Paraíba, founded on non-requirement for tender with local exclusive sales representatives. In the case examined, the SES/PB(Health Secretariat of PB) relied on statements of manufacturers (holders of patents) which attributed specific exclusivity for signing contracts. By way of example, see the content of one of the declarations presented by one of the laboratories dated 04/02/2013, which is part of the records, but with proper omissions:

"To whom it may concern, we declare that the company (*omissis*), CNPJ/MF nº (*omissis*), with headquarters at (*omissis*), will be the exclusive representative of the Pegasys product (Peginterferon alfa 2 the -40 kD 180mcg), manufactured by us, **in the amount of 3,000 vials required by SES/PB. Validity of this Declaration 90 days**"(underlined)

Note that the owner of a medicine patent delivers to a given company exclusivity for the supply of a specific medicine and only in quantities sufficient to meet the need of the Secretariat of Health of Paraíba. The laboratory itself or other representatives could

market this same drug if the customer was another. In this example, the issue is not even territorial, because since the client is an agency from another sphere of the Government, there would be no reason to talk about non-viability of competition. In particular, I bring up the manifestation of the eminent representative of the Federal Public Ministry in TCU, in that trial, in verbis:

“there was an authorization that generated a temporary accreditation, which meant a sort of” exclusive representation “, for a certain period, place and object. To us this shows that the laboratories lacked interest in direct selling in a specific case. **We do not see obstacles for laboratories to establish a specific exclusive representation (with established time, place and object).** This denotes that the laboratory did not want to participate in a determined bid of a government agency, but it did not exclude its interest in participating in future bids of that agency.” (underlined)

Agreeing with the opinion of the acquisitions, the Rapporteur Minister asserted that:

Office of the Prosecutor and, at the end, acknowledging the legality of

“the company (omissis) was in fact an exclusive representative of this laboratory. In spite of it being unusual and perhaps questionable to issue specific declarations to participate in a certain bid, the point is that the manager found himself in a situation in which there were no competitors able to make the bid. ”

In the example represented by above declaration, we note that there is even a validity period of 90 (ninety) days. This means that after this time the condition of exclusivity would disperse, which would make the competition viable. However, with the Administration needing to hire immediately, unable to bear this delay, the unchangeable fact is that hiring would be, within the period of exclusivity, impossible to be concluded with the exclusive representative.

4. THE PROBLEM OF PROVING EXCLUSIVITY

One of the most controversial issues regarding exclusivity involves precisely the way in which

it can be proved, rather, how to prove that a supplier or service provider is exclusive. According to the final part of paragraph 1 of article 25, proof of exclusivity should be made

“... through attestation provided by the trade registry entity where the bidding or the construction or the service would occur, by the Trade Union, Federation or Employers’ Confederation, or equivalent entities.”

As understood from the legal text, exclusivity cannot be merely alleged by the competent authority or even by the “owner” of said exclusivity. The rule requires that the situation of exclusivity be indicated by some competent entity. The list of entities in the provision under study is merely illustrative, finishing with the peculiar expression “...or equivalent entities.” It is of utmost importance to establish the scope of the provision according to the factual reality of the market. To this end, we will examine in detail this part of the legal text.

4.1 THE FORMALISTIC ELEMENT OF PROOF OF EXCLUSIVITY

The first point to be clarified concerns how exclusivity can be proved. The rule indicates that the corroboration must be made “...through attestations...”.

Conceptually, a attestation is a document signed by someone, who declares an existing fact and of which he/she has knowledge due to the position or function that one occupies. José dos Santos Carvalho Filho explains that the attestations are enunciative acts:

“...because their contents express the existence of a certain legal fact. In the attestations and statements, the managing agents give faith, by their own condition, to the existence of that fact”.

The attestation differs from the certificate because the latter is a document that affirms the existence of a fact contained in an act, entries or in processes, book or documents which are in power of the certifier.

Thus, characteristically, an attestation is nothing more than an affirmation of the agent, a judgment of the declarer, based on a fact of his knowledge. It has a lesser degree of certainty and accuracy than the certificate since the latter is the picture of what actu-

ally exists already formalized in public record. The attestation does not show something tangible. It expresses nothing more than an opinion or a narrative from the perspective of the declarer. The special importance given to the attestation, when issued by a public servant, is the fact that it constitutes an official administrative act. When all its validity assumptions are present (competence, object, form, reason and purpose). As such, it receives its typical attributes, among which we can highlight the presumption of legitimacy (competence to issue the act) and accuracy (that which has been expressed is true until proven otherwise and the burden of proving it untrue is on the one who accuses it of being untrue). However, in essence, it is still a narrative or a value judgment⁹.

Therefore, it is true that **no attestation**, at least in theory, can state categorically that this or that individual is exclusive supplier of a given product. If it could, the instrument would be the certificate due to it having more strength as a proving force. In the attestation of exclusivity, the declarer only reports what he “knows”, but by no means guarantees that in fact the company declared is exclusive. Not that he cannot do it, but the law does not require this exhaustive statement, because, it reiterates, it would require a certificate. It should also be stressed that the registration trade entity, that is, the Board of Trade, is an independent entity and therefore a public agency whose servants have the necessary public competence to issue certificates. Yet the legislator was satisfied with the attestation.

The Federal Court of Accounts for a long time has demonstrated concern about the content of attestations of exclusivity that instruct the direct procedures for non-requirement for tender. In view of this, it has abridged guidance to the agencies under its jurisdiction to brace themselves for the receipt of documents of this nature. Here is the entry:

ABRIDGEMENT 255 –TCU. In procurements where a sole manufacturer, company or trade representative can only provide the object, it is the duty of the public agent responsible for contracting to adopt the necessary measures to confirm the veracity of evidential documentation of the condition of exclusivity.

The concern of the Federal Court of Accounts is precisely due to the enunciative or declaratory nature of the attestation. If it were a certificate, such

insecurity would be minimized by the fact that there would be a formal record. The 633/2010-Judgment-Plenary, having as its rapporteur Min. José Jorge, and that generated the Digest transcribed above laid out the problem as follows:

“The rule in Public Administration is public bidding, and direct procurement, especially in the event of non-requirement, should be seen as an exception. The legislator treated procurement from an exclusive supplier as an exception, imposing as a condition for this kind of procurement that exclusiveness be effectively proven, by means of attestation of exclusivity. Thus, once exclusivity is the cause of unfeasibility of competition, due to the non-requirement, we have to be careful with its characterization. However (...) the Court unfortunately faced on several occasions situations in which the attestation of exclusivity did not correspond to reality or were false, including falsification. Hence, the Court precedents evolved to require that public officers responsible for hiring not only receive and accept the attestation of exclusivity mentioned in the provision, but also confirm the existence of the condition, through either legal proceedings or even queries to manufacturers. An example is Judgment 2,505/2006-2nd Chamber, determining that an entity under the Court’s jurisdiction adopt provisional measures to ensure the veracity of the statements made by the agencies and issuers. (...) In this context, the project in question is pertinent, consisting of one more effort by the Court to prevent irregularities in attesting the exclusivity of a supplier and ensuring compliance with the legal precept. It is worth stating that the role of the public officer shall not be limited to requiring the documentation specified, but also verifying the real condition of exclusivity claimed by the vendor. “(underline added)

Therefore, it is clear that the simple presentation of the attestation of exclusivity will be, in some cases, insufficient to guarantee that the no-bid contracting was legal. We note from the excerpt from the judgment transcribed above that confirmation of the veracity of the declaration can come even from the manufacturer, as seen in the second highlight.

4.2 THE ATTESTATION BY THE REGISTRY OF TRADE UNION, FEDERATION AND EMPLOYERS' CONFEDERATION.

The provision **under review** has an incongruity. It assigns to Boards of Trade (entities of trade registry) and the employers' unions the duty to provide attestation of exclusivity. First, issuance of this documentation is not a duty of the Trade Registry nor of trade unions. So much so that the¹⁰ National Department of Commerce Registration issued Normative Regulation No.93 of 05.12.2002 of DNRC/ MICT (Ministry of Science and Tourism), which prescribes, in its article 11:

"The Board Of Trade shall not attest proof of exclusivity, referred to in subsection I, article 25, of Law No. 8,66th6e, June 21, 1993, being limited to simply to issuance of a certificate of full text of the filed act. The certificate should include that the terms of the act are the sole responsibility of the company to which it refers. (emphasis added)

We recall that the **attestation is**, essentially, an act with a value judgment or a narrative of a fact known to the public servant in the exercise of his/her functions. One notices that the DNRC was concerned with the veracity of the information to be provided and, considering the fact that the Boards of Trade are not competent to attest the condition of commercial exclusivity. Therefore, in this specific context, the Boards of Trade shall limit themselves to record what someone has said about the exclusivity in favor of others or themselves. To Jacoby, only such provision "is frontally contrary to the Bidding Law, when it seeks to render ineffective the imperative thereof" 11 We dare disagree. Law No. 8,666/93 regulates article 37, XXI of the CF (Federal Constitution), namely, the procedure for hiring third parties in Public Administration, and not the business activity that is governed by its own rules. After all, it was the law of Bidding that ended up discussing a topic that is not its responsibility, surpassing its sphere of normative competence, and invading Law No. 8,934/1994, which provides for the registration of companies and related activities.

Therefore, recognizing the relevance of IN (Normative Instruction) of the DNRC/MICT No. 93/02, the challenge would be to determine the prac-

tical significance of the expression "act filed" referred to in article 11 of that Normative Instruction. Article 32 of the abovementioned Federal Law sets forth which acts and documents can be submitted to filing by the Boards of Trade:

Article 32 – The Registry Comprises

I ... (omissis)...

II – The filing:

...

e) of acts or documents, by legal determination, are assigned to the Public Registry of Companies and Related Activities or those that may be of interest to businessmen and commercial companies (underscore)

Therefore, if the owner of the marketing/distribution rights designates its sole representative or if it is itself the sole agent to market its product, it would be reasonable to admit, under the logical point of view, that they would be the only ones able to "attest" their exclusivity or that of their sales representative. In short, that is what IN 93/02, of the DNRC/ MICT intended to say when it mentioned "act filed". The act would be, therefore, the manufacturer's or official distributor's declaration (or the Publisher or owner of the patent) stating that So and So Inc. has exclusivity to market such and such products. The same reasoning can be applied by analogy in cases where the attestation of exclusivity is sourced from Trade Unions, Federations and Employers' Confederations and the equivalent entities.

Considering that the Boards of Trade and also other entities listed in the provision under study, limit themselves to reproducing the content of the statements of manufacturers and distributors, and considering that the TCU believes that the proceedings which confirm the veracity of claims can be carried out by the manufacturer themselves, one cannot deny that their declaration or the commercial representation agreement itself has enormous proving force. Therefore, what would be the purpose of requiring that one of these entities issue the attestation? The answer seems relatively simple: since the granting of exclusivity is a legal act restricted to the manufacturer/distributor and supplier (exclusive), the record of the manufacturer's attestation in such entities would give the attestation publicity in the business environment related to the area of the object of exclusivity, making their legal reflexes opposable to third parties.

4.3 THE MISTAKEN IMPRESSION THAT THE ATTESTATION SHOULD BE GIVEN BY AN ENTITY OF THE LOCATION WHERE THE BIDDING WOULD OCCUR.

Another important issue concerns the place of dispatch of the attestation. In literal interpretation, obviously, the applicator from the norm would be driven to only accept as valid the attestation issued by entity headquartered “where the bidding would occur”. However, it is known that no legal standard must have literal treatment under penalty of narrowing its application. Even more. The standard could take the applicator to undertake a result impossible or even damaging to the right the same standard tutored legal. That is the perfect lesson of Carlos Maximiliano in verbis:

“The Law should be construed intelligently: not the way the legal order may involve an absurd, prescribe inconveniences, meet the inconsistent findings or impossible. This also prefers the exegesis resulting in efficient legal providence or the valid act, that makes that void, harmless, or this, legally void “(**Hermeneutics and application of the right**, Forensics, 1993, p. 180).

Firstly, one cannot demand of entrepreneurial society double record. By the constitutional principle of free enterprise, a company based in a State can exercise its activity perfectly anywhere in the Country,

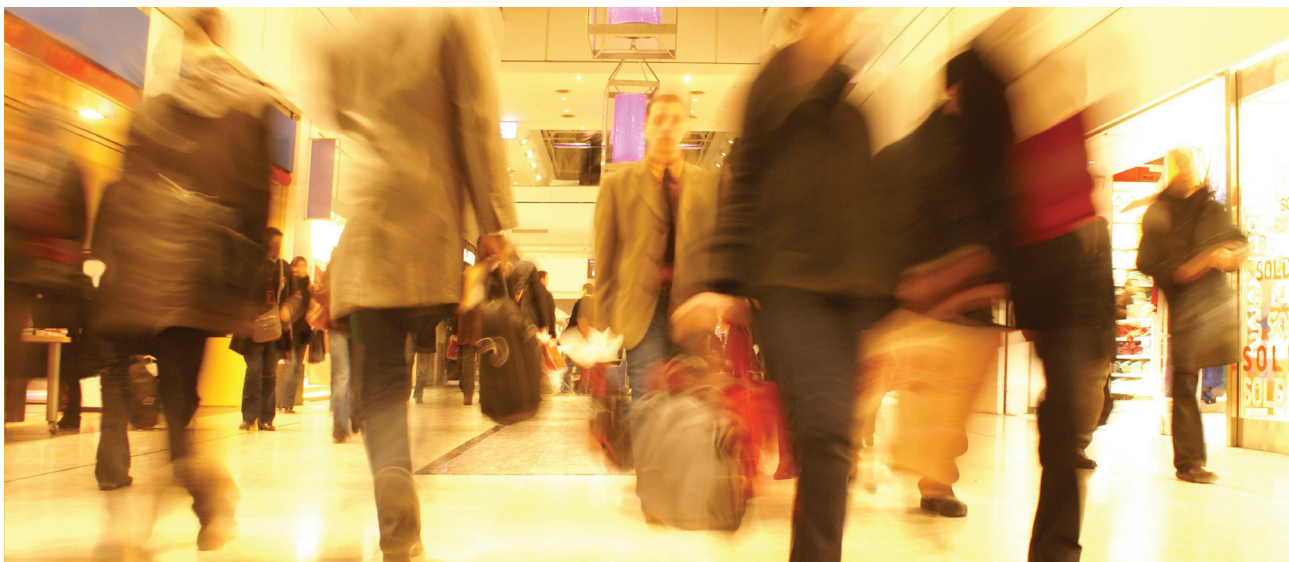
regardless of registration otherwise at its headquarters. Thus, it cannot be forced to keep records in all States where it operates. On the other hand, more often the attestations will have national scope, being enough to the point of proof. See the Normative Orientation 56/2010 issued by the AGU/NAJ/MG, whose understanding goes in that same direction:

The attestations shall be issued by the local entity of the contracting party headquarters, this rule being excepted in cases where the exclusive supplier has no commercial representation in the area or the exclusivity is nationwide.” (highlighted)

The correct interpretation, therefore, is that only be required the attestation to be from the place where the hiring will be formalized if the holder of the exclusivity has the same local representation. However, attestation of exclusivity by an entity based in another location will be admitted if this entity has national scope, even if the holder of the exclusivity has headquarters in the hiring location, as would be the case of attestations issued by national Trade Unions or Confederations based in place different from the public agency or entity.

4.4 WHAT “EQUIVALENT ENTITIES” ARE

Finally, we must clarify the scope of the expression above to identify stone bearing the name of which entities in substitution of the entities listed in the target provision of the present work, the agencies and entities of Public Administration can receive attestations of exclusivity.



Article 25, (I) of the General Law of Bids refers to entities that bring together entrepreneurs, with the exception of the Board of Trade, which is state regulator of body corporate records, but that meet mission analogous to first. As seen previously, the central idea of the attestations to be issued by one of these entities is to promote advertising, especially within the business community that belongs to with exclusivity. It would not admit another interpretation, due to the inaccuracy of the expression. Thus, one must consider that “equivalent entities” should be associations that bring together the business community or associations representing the business community, like the Trade Unions, Federations and Confederations of Employers relating to the segment to which the object of the hiring belongs with.

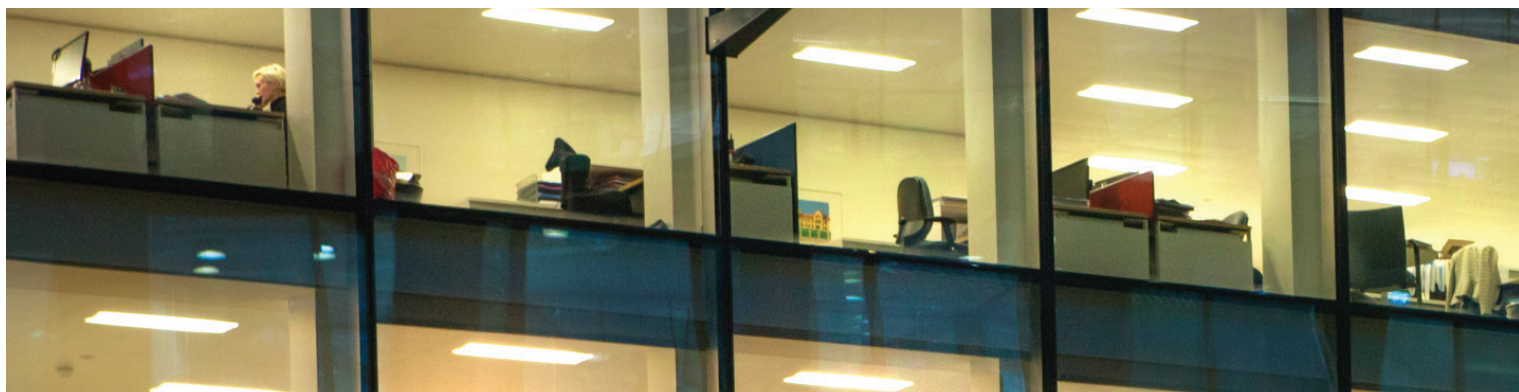
For Jacoby “in addition to the trade association, to the Club of Retailers could be 12 considered equivalent entities. Cite also other entities, such as the Brazilian Chamber of the Book-CBL, for books and periodicals; the Brazilian Association of Pharmaceutical Commerce-ABCFARMA; the Association of Software Companies and Computer-ASSEPRO. It will not be possible, however, for admitting attestations issued by clubs or entities of

Social promotion although arguably qualified for lack of legitimacy to represent a particular business segment.¹³

5. CONCLUSION

In consideration of the above, the direct procurement by non-requirement for tenders by bodies and entities of the Public Authorities, when applicable to contracting with a supplier or service provider must comply with the provisions of articles 25, I, l. 8,666/93, the following:

- a. the choice of the contractor had as exclusive should be due to the identification of its technical solution being the only one that meets the needs of the Administration;
- b. transient or circumstantial unfeasibility is acceptable, as in cases of exclusive representation only in a territory;
- c. that exclusivity shall be **attested** by one of the entities listed on the provision on the screen and that when receiving these attestations, agencies adopt measures to ascertain the veracity of what such entities declared;
- d. it is not necessary for the attesting entity to have headquarters at the contracting party's site, provided that it has national scope or that its recipient has headquarters in another location, in order to avoid forcing the company to double registration;
- e. to construe as “equivalent” the entities that have a social purpose analogous to Employers Unions, only those that can be considered reputable being acceptable.



NOTES

- 1 For Jesse Torres, "... the chances of items have no conceptual autonomy; to understand otherwise means to subordinating the caput of the article to its items, what outrages obvious rule of hermeneutics; being, as they should be, the items of an article subject to the head of this, the non-requirement for tender materializes only when the competition is impossible." (Comments to the law of tenders and public administration contracts, 8th. Ed, Renew, p. 342).
- 2 See note 1 of this study.
- 3 This classification is adopted by José dos Santos Carvalho Filho, who, citing Gasparini defends the thesis according to which the non-requirement would be applicable only in cases where the same is absolute. Administrative law manual, Lumen Juris, 11th. Ed., p. 224). Disagree, with all respect, to this theory because even with other competitors, it is possible that the supply be restricted to a particular individual, such as in cases of territorial exclusivity arising out of commercial representation, in which the owner of the distribution rights delivers a territorial range to an accredited company. Although there are other marketing the same product, by virtue of contractual exclusivity clause, they could not invade its commercial territory. A Publisher, which owns the rights to publishing and distribution of a literary work, can deliver a single bookstore right to only market it in the city where it is headquartered, notwithstanding other bookstores selling the same title in other municipalities.
- 4 Comments to the law of Administrative Contracts and Bids, Dialectic, 14th. Ed., São Paulo, 2010, p. 363.
- 5 Op. Cit.
- 6 It is customary in contracts of edition for the author to grant such rights to the publisher.
- 7 SOUTO, Mark Juruena Villela, Bids & Administrative Contracts. Rio de Janeiro, Terrace ADCOAS, 1998, p. 165.
- 8 Op. Cit., p. 124.9
- 9 MELLO, Celso Antônio Bandeira, Course on Administrative Law, 17th ed., Mackenzie, p. 382-384.
- 10 In this Sense: SON, Marshall, Justen Op. Cit., p. 365 and MOTTA, Carlos Pinto Coelho, citing Toshio Mukai. Effectiveness in Bids and Contracts. 10th. Ed. Belo Horizonte: Del Rey, 2005.
- 11 Jacoby, Jorge Fernandes, Ulysses Direct Procurement Without Bidding Belo Horizonte, ed. Forum, 9th, 2011, p. 594. It should also make it clear that in his work the author refers to art. 12 of 56/96, IN the DNRC/MICT, but which had been updated by IN above displayed, and the text was kept intact, just being renumbered to the art. 11.
- 12 Op. Cit., p. 597.
- 13 Fernandes, Jorge Ulysses Jacoby, Op. Cit., p. 598.

