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CHANGES TO PROCESSING LAW No. 14,133/21: ADVANCES OR DECREASES?

MODIFICATIONS TO THE BIDDING LAW No. 14,133/21: ADVANCES OR SETBACKS?

Edirlan Almeida Santos[47]
Rodrigo Santos Meira[48]

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SUMMARY
The present work evaluates the new Bidding Law No. 14,133/2021, having as its research problem the following question: did the new bidding law bring advances or setbacks compared to the previous legislation? The Public Administration must always prioritize serving the interest of the community and, by law, must manage public funds in an efficient, clear and transparent manner. Knowing that the misuse of your resources can lead to penalties, provided for by law. Therefore, the principles that govern Public Administration must be strictly observed, whether in accordance with Law No. 14,133/21 or*caput*of art. 37 of the Federal Constitution, or in any other legal provision, essential to the exercise of public administration, especially when it concerns the bidding process. Given this, the objective of this research is to analyze the new bidding law 14,133/2021, and question whether it presents advances or setbacks for the Brazilian legal system, and its validity, which will come into force in just under a year. For this, exploratory descriptive research was used, as well as a qualitative method, with a comparative bias. It was clear that the objective of a clear and concise public tender was to allow the process of contracting works, services, purchases and assignments to be conducted in a democratic and fair manner throughout the process. This helps the State to apply and allocate public resources in the most beneficial way possible for public administration. **Key words:**Public administration. Advances. New Law. Setbacks. Principles. Public Tender.

ABSTRACT
The present research deals with the new Bidding Law nº 14,133/2021, having as a research problem, the following question: did the new bidding law bring advances or setbacks? The Public Administration must always prioritize the service of collective interest and, by law, must manage public funds in an efficient, clear, and transparent manner. Knowing that the misuse of its resources can lead to penalties, provided for by law. In this way, the principles that govern Public Administration must be strictly observed, in the provisions of Law No. regarding the bidding process. Therefore, the objective of the present research is to analyze the new bidding law, nº 14.133/2021, and to question whether it presents advances or setbacks for the Brazilian legal system, given that its validity will be completely in a little less than one year . For this, bibliographic research was used, classified as descriptive and explanatory, as well as a qualitative method. It was evident that the objective of a clear and concise public tendency was to allow the process of contracting works, services, purchases, and assignments to be conducted in a democratic and fair manner throughout the entire process. This helps the State to apply and allocate public resources in the most beneficial way possible for the public administration. **Keywords:** Advances. New Law. Setbacks. Principles. Public Bidding. Public administration.

1. INTRODUCTION

This work deals with the news brought about by Law 14,133/2021, which revoked the previous Tenders and Contracts Law, Law 8,666/1993. The objective of the research is to see whether these changes brought benefits to the public procurement process.

Contracts between the Public Administration and individuals require the guarantee of a fair dispute for all interested parties, able to compete on an equal footing, without favoritism, respecting the principle of impersonality.

Please note that the conditions relating to bidding procedures will be established in accordance with the terms of the Law. In obedience to this legal description, Law No. 8,666/93, better known as the Bidding Law, was enacted, updated by Laws No. 8,883, of June 8, 1994, 9,648, of May 27, 1998 and by Law 9,854, of October 27, 1999, and today its most recent update is Law 14,133/2021. After more than a year after the new bidding law was enacted, it is necessary to reflect on whether there have been advances or setbacks in relation to the previous diploma. It is necessary to demonstrate the points in a comparative study.

The question of research refers to the new Tender Law No. 14,133/2021: it brought advances or setbacks in comparison

47 Graduating in Law from Faculdade Santo Agostinho, Master
48 and PhD student in Law from the University of Brasília

with previous legislation? It is already known that the Public Administration must always prioritize serving the interest of the community and, by law, must manage public funds in an efficient, clear and transparent manner. But did the new law manage to improve the bidding process?

As a hypothesis, it is clear that the news in the new bidding modalities, with the new exemption conditions, are extremely positive. There are also new ways to remedy defects in the process, as long as public administration is more advantageous. On the other hand, it is not yet known how the new law will address two points: first, there are no incentives to report irregularities observed in the bidding procedure; second, the role of contract inspector, an essential role in combating corruption, does not have clear responsibilities.

Thus, the research is justified by the need for deeper studies on the new features of the new Tenders and Contracts Law, in order to glimpse possible advances and setbacks. The main objective is to carry out a critical comparative analysis to demonstrate advances and omissions, which the new law brought, using qualitative analysis (explanatory descriptive) as a methodology, using as a study both the text of the law and the analysis of the various scholars on the subject. . Evidently, there is still no way to provide jurisprudence on the topic given the fact that the new law will only come into force in 2023.

> It is noteworthy, therefore, that this work aims to clarify the central themes of the new law mentioned above, considering that it will come into force, completely repealing the old Law No. 8,666/93, and its relevance lies in the importance of the theme for public administration and society, in the incessant search to combat bidding fraud, and the optimization of public resources, in order to defend society from deviations published daily in the media.

There are big news that need to be discussed. The values for exemption from bidding were increased, as well as the modalities that fall under the exemption, as stated in art.74 of Law 14,133/202, the exclusive supplier; renowned artist; technical services of a predominantly intellectual nature; accreditation, that is, when one seeks to accredit several interested parties without there being competition between them; and acquisition/rental of property whose installation/location characteristics make your choice necessary.

> In article 75, with regard to the possibilities of exemption from bidding, attention turns to exemption in case of emergency or public calamity, provided for in section VIII, the major change of which is in the maximum term of the urgent contract, which now it is one year, and no longer 180, with extensions still prohibited, as well as the controversial prohibition on the rehiring of a company already contracted based on the emergency.

Thus, the work is divided into three large parts: this introduction, full of methodological explanations that explain the research plan; the second part, in which comparative explanations are developed between the new law and the previous one, with a view to organizing the ideas into six parts; Finally, the work concludes with the possibility of criticizing the most interesting points with a view to establishing a relationship between the new law and the old one, making considerations that summarize the answer.

two. COMPARATIVE STUDY: BIDS YESTERDAY AND TODAY

2.1. GENERAL ASPECTS OF THE BIDDING

Public bidding is a constitutional instrument, provided for in art. 37, XXI, of the Magna Carta, which defines it as "administrative procedure through which the Public Administration selects the most advantageous proposal for the contract of interest" (MEIRELLES, LOPES, 1999). This process basically has two phases: internal and external. The attention of legal operators and public agents has focused on the external phase, which begins with the publication of the notice and goes until the approval and award of the object to the winning bidder. However, practical experience in tackling the issue shows that the internal phase deserves special attention, if not greater than the external phase. This is because in the internal phase is the moment when the Administration will identify its needs and define the object of the contest, the quality criteria and all other parameters of the purchases, works and services that it wishes to acquire and contract, with the aim of materializing programs and public policies.

The bidding, as it is linked to the dictates of the law, must follow the constitutional principles of legality, impersonality, morality, efficiency and publicity. In addition to the specific principles for bidding acts such as administrative probity, binding to the call for proposals, and objective judgment. These principles guarantee

transparency and fairness in the bidding process, as well as the selection of the most advantageous proposal for the Administration (PIETRO, 2022).

However, bidding is nothing more than the procedure in which the Public Administration contracts services, works or purchases, through a process described in law, respecting the rules previously imposed in the call notice instrument, in compliance with the Principle of Advertising, aiming at best price and quality, in compliance with the principle of efficiency, a principle enshrined in the Federal Constitution.

Therefore, it is known that bidding is a type of administrative procedure through which a public entity, exercising its administrative function, opens to interested parties, respecting the rules of the call for proposals, the formulation of proposals from which it will choose and accept the most appropriate one. to carry out contractual negotiations between them. As Carvalho Filho says:

For the Public Administration to fulfill its role of providing quality services to the population, it is necessary for it to obtain goods and services from third parties. As Carvalho Filho (2011, p.225) rightly observes: "(...) she carries out multifarious and complex activities, and always with her eyes focused on public interest. To achieve this, you need to make use of services and goods provided by third parties."

Another important aspect is the supremacy of the public interest, a basic principle of Public Administration. The public manager must aim at the principle of the supremacy of the public interest (or the Unavailability of the Public Interest), which refers to the hierarchy between the collective interest to the detriment of the private interest. This supremacy aims to protect the common good, ensuring a stable social order and the effectiveness of public service provision.

Paulo and Alexandrino demonstrate concern about the topic. "Therefore, when performing this role, at certain times, there will certainly be a conflict between public interest and private, individual interest. In the face of this conflict, the public interest must prevail."(PAULO, Vicente;Marcelo Alexandrino,2022, p.129).

In addition to the basic principles mentioned above, the bidding must also follow related principles, such as: the principle of competitiveness, indistinctness, inalterability of the notice, secrecy of proposals, procedural formalism, prohibition on offering advantages, obligation. All these principles must be faithfully followed when carrying out the bidding process.

2.2. CHANGES IN THE NEW LAW

But what would be the big changes in the new bidding law? Immediately, we can mention the new bidding modality and the inversion of phases in the procedure for concluding more complex contracts, as well as the incorporation of competitive dialogue, also known as competitive dialogue.

Let's go to them. First, Law 8,666/1993 provides as bidding modalities competition, price taking, invitation, auction and contest, the first three of which are basically differentiated by the criterion of the estimated value of the object of the contract, according to article 23 of the aforementioned diploma with values duly updated by Decree No. 9,412/2018. The other modalities, auction and competition, do not use the value of the object as a criterion for its definition, being conceptualized as follows: i) Auction is the type of bidding between any interested parties for the sale of movable assets unusable for the administration or legally seized products or seized, or for the sale of real estate provided for in art.19, to whoever offers the highest bid, equal to or greater than the valuation value (art.22, §5, of Law 8,666/93); ii) Competition is the type of bidding between any interested parties to choose a technical, scientific or artistic work, through the institution of prizes or remuneration to the winners, according to criteria set out in the notice published in the official press at least 45 (forty-five) days in advance. days (art.22, §4, of that Law). In 2002, a new type of bidding called auction emerged, intended for the acquisition of common goods and services, whatever the value.

Provided for in Law 10,520/2002, the auction brought as a novelty the inversion of phases, so that the bidder's qualification is made only after the proposals have been opened and classified, as well as the phase of awarding the object to the winner is given before approval by the head of the bidding body, unlike what occurs in Law 8,666/1993.

The new law incorporates the inversion of phases for all types of bidding, based on the good experience of the auction. In this way, the proposals presented by the competitors will first be judged, observing the criteria defined in the notice, and only after the classification will the winning bidder's qualification documents be verified. According to art. 17, §1º, of Law 14.133.2021, "The phase referred to in section V of the caput of this article may, through a motivated act with explanation of the resulting benefits, precede the phases referred to in sections III and IV of the caput of this article, as long as it is expressly provided for in the bidding notice".

Since the publication of Law No. 10,520/2002, due to the speed of the procedure and the increase in bidders through

of the electronic auction, favoring the efficiency and competitiveness of the contest, the auction has become the modality most used by the Public Administration of all Brazilian federative entities. It is no surprise, therefore, that some of its positive innovations were taken advantage of by the law under discussion, as was the case with the positive advantages arising from the RDC Law (Differentiated Public Procurement Regime) (Law nº 12,462/2011).

From this provision, it is also clear that the auction and competition are differentiated due to "performance and quality standards that can be objectively defined by the notice, through usual market specifications". Thus, the auction will be used if these standards are usually practiced in the market; otherwise, the modality will be competition.

Note that there is no reference to the estimated price of the object to differentiate them. In relation to the competition modality, the law incorporated the doctrinal and jurisprudential understanding that the winning bidder cedes to the Public Administration all property rights relating to the project and authorizes its execution in accordance with the dictates of convenience and opportunity, thereby allowing the Public Authority to make changes in the project at its free discretion, observing administrative principles (see articles 30 and 93 of Law 14,133/2021).

As for the auction, there were also new additions. Contrary to what was provided for in Law 8,666/1993, "the auction can be committed to an official auctioneer or to a servant designated by the competent authority of the Administration, and regulations must provide for its operational procedures"

Another innovation of this project in relation to the auction is the way in which the official auctioneer is selected, which is now done through bidding in the auction mode and the criterion for judging commissions is the one with the greatest discount, prioritizing the principles of economy and efficiency. It can be seen that the pricing and invitation modalities were removed, as well as that a new modality was inserted.As provided in art. 31, §1 of Law 14,133/2021:

If you choose to hold an auction through an official auctioneer, the Administration must select it through accreditation or bidding in the auction mode and adopt the criteria for judging the greatest discount for the commissions to be charged, using the percentages defined by law as the maximum parameter. which regulates the aforementioned profession and observing the values of the goods to be auctioned.

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2.3 COMPETITIVE DIALOGUE: THE NEW BIDDING MODE OF LAW 14,133/2021.

Imported from European law, where it is established with recognized success in public procurement, the Brazilian legislator starts to provide for the so-called competitive dialogue, in line with consensual administration, being defined by article 6, item XLII, as the

> Bidding modality for contracting works, services and large purchases in which the Public Administration carries out dialogues with previously selected bidders using objective criteria with the aim of developing one or more alternatives capable of meeting their needs, with bidders submitting a final proposal after the dialogue ends. (MARRARA, 2017)

That is, competitive dialogue is intended for complex Public Administration contracts using dialogue with the private sector as an instrument. It works like this: the entity or public body that wishes to bid defines its needs and the criteria that will be used to previously select competitors. Those selected then participate in sessions with the aim of promoting the exchange of information and presenting solutions to problems related to the complex object of the bidding. After the dialogue with the definition of the most appropriate solution, the bidders present their proposals (MARRARA, 2017).

In its article 31, the Law restricts the use of competitive dialogue to only some contracts, that is, when the object is related to technological or technical innovation; when the body or entity cannot meet its needs satisfied without adapting solutions available on the market; and technical specifications cannot be defined with sufficient precision by the Administration (BRASIL, 2021).

It is enough to read this provision to realize that the modalities of auction and competition are totally different from competitive dialogue, both in relation to the procedure and the object to be tendered, with no trace of approximation between the three, except for the end last of seeking the selection of the most advantageous proposal for the Administration.

Taking stock of the positive points of competitive dialogue in comparative law, Thiago Marrara (2017) concluded:

Of the numerous bidding modalities provided for in European Directive 2014/24 for state acquisition of works, services and goods, 'competitive dialogue', a name contained in the official Portuguese version of the regulations, deserves special attention, but which, in Brazil, has become ' competitive dialogue'.

Behind this legislative option initially lies the observation that procedures marked by dialogue were more successful in promoting cross-border trade, that is, they were more capable of promoting effective competition between economic agents from the most diverse member countries of the European Union (MARRARA , 2017).
The great advantage of competitive dialogue lies in the possibility of opening bidding to the market even before defining the draft contract, moving away from the tradition of contracting by adhesion that characterizes administrative law. The modality in question, ultimately, gives the bidding much more than a mere function of selecting the economic agent that will be hired (MARRARA, 2017).
In it, bidding takes on a learning, development and innovation function. Through dialogue, the bidding begins to generate knowledge, new products and services for the benefit of the State, the effectiveness of its tasks and the fulfillment of collective needs (MARRARA, 2017).
The consensual administration proposed by the new institute is, therefore, very successful in European law, which is expected to also occur in Brazil with interested individuals participating in the definition of the necessary characteristics of the contracted object as well as in estimating the specific cost of the contract, previously influencing the values that will be proposed by the bidders themselves, so that the economic-financial balance of the future contract is more advantageous to the Public Authorities (MARRARA, 2017).
As a result, some of the recurring problems encountered in Brazilian contracting tend to end, such as the contracting of outdated objects due to the lack of specialized technical studies on the object required by the Public Administration (MARRARA, 2017).
It is not uncommon for winning bidders to receive information, after signing the contract, that the manufacturer of a certain product has discontinued production specifically for what was contracted, forcing changes in what must be delivered by the winner, which creates all kinds of problems (MARRARA, 2017).
Another problem that will come to an end is the individual solutions presented by suppliers as ideal for solving the problem, but which, in fact, only correspond to their isolated opinions, without support in studies and research, and which serve their own interests to the detriment of the public need. Therefore, there are numerous advantages of the new bidding modality.

However, its main challenges lie precisely in its essence: the difficulties of comparing only numerically (or objectively) proposals for different solutions to public needs, and of encouraging the participation of bidders, since they will be required to work without any guarantees. of remuneration. The success of competitive dialogue is, therefore, intrinsically linked to increased deference to the deliberations of the Public Administration during the bidding process, so that the current environment of distrust and insecurity that hovers over public contracts can be overcome (MARRARA, 2017).

2.4 ADVANCES IN ADMINISTRATIVE AND CRIMINAL SANCTIONS

With regard to sanctions and administrative infractions, Law No. 14,133/2021 significantly innovates compared to previous legislation, with harsher penalties.
The systems previously provided for by Law 8,666/93 and Law 10,520/2002 were unified by the new bidding law into a single list of four sanctions, provided for in article 156, namely, warning, fine, impediment to bidding and contracting and declaration of unsuitability to bid and contract.
The new bidding law better typifies conduct considered irregular, adding transparency, predictability and security to the legal relationships agreed between Bidder/Contractor and Administration.
It is considered a huge advance brought by the new law to establish parameters to be considered when measuring the penalties for decision-making activities. In art. 156, § 1, there are 5 circumstances that must be considered when applying sanctions, highlighting aggravating or mitigating circumstances and the implementation or improvement of an integrity program.
This innovation represents a major evolution, as it adds a pedagogical character to the sanctioning activity, encouraging the implementation and improvement of integrity programs.
Another new feature was the setting of a minimum and maximum fine parameter, which cannot be less than 0.5% nor more than 30% of the contract value.
In the end, the main highlight is the possibility of disregarding the legal personality, whenever abuse of the right is found to facilitate, cover up or conceal the practice of illegal acts or cause property confusion, according to art.156, § 1, of Law 14,133/2021.
It appears that the new Bidding Law, when compared to the previous legislation, in terms of administrative sanctions, is in fact a step forward. Given this, it is expected that decision-making and investigative activities will be strengthened,

giving greater tenacity and security, giving legal relationships between Bidder and Contractor more predictability, transparency and balance.

As for criminal sanctions, the Penal Code was modified by the new Bidding Law, in the case of crimes relating to bidding processes and administrative contracts, more stringent punishments are foreseen in cases of fraud.

2.5 EXEMPTION FROM BIDDING IN THE NEW LAW

Some new features occur in the new bidding modality, the new conditions of exemption with values and services with a greater amount of resources, while the old law brought 12 hypotheses, the new one brings more than 30, thus giving more freedom and reducing bureaucracy in the public sphere, also It is necessary to emphasize that the new law brought with it new ways to remedy defects in the process as long as public administration is more advantageous.

It is important to clarify that the bidding, despite being mandatory, there are cases in which it may not be carried out, without violating constitutional principles. The law lists these hypotheses as being: exemption (to favor the Administration's interest) and non-enforceability (when there is no competition condition). And in law 14,133, there were significant advances, because, in the old law, dismissal was treated in a sensitive way by managers, who, out of precaution, fear or lack of knowledge of the technical staff, put out a bidding process, where it could clearly be dismissed. Here are some of the most significant changes in the new law.

The values for exemption from bidding were increased, as well as the modalities that fall under the exemption, as stated in art.74 of Law 14,133/202, the exclusive supplier; renowned artist; technical services of a predominantly intellectual nature; accreditation, that is, when one seeks to accredit several interested parties without there being competition between them; and acquisition/rental of property whose installation/location characteristics make your choice necessary.

And in article 75, with regard to the possibilities of exemption from bidding, attention turns to exemption in case of emergency or public calamity, provided for in section VIII, the major change of which is within the maximum term of the urgent contract, which is now one year, and no longer 180, with extensions still prohibited, as well as the controversial prohibition on rehiring a company already contracted based on the emergency.

2.6 CRITICAL ANALYSIS OF THE NEW LAW

Firstly, it is important to highlight that there is no real incentive to report irregularities observed in the bidding procedure and in public contracts. Although the wording of the bill gives legitimacy to all people to report the deviant behavior noticed to the person responsible, this diction in the law seems more like a dead letter. This is because the new law does not go further, it does not move forward to actually encourage these reports to be made, providing for the possibility of anyone reporting the deviation, but in a more pragmatic way, as if just “for the record”. (PIRONTI, 2019, ONLINE),

Such a loose prediction proves to be inefficient as, the way it is written, citizens will have no interest in being a whistleblower, for fear of the consequences and retaliation they may suffer.

Ideally, rewards would be offered to the whistleblower who wishes to combat corruptive behavior, some economic advantage or otherwise that would enhance the desire to defend the public interest to the detriment of the private one. However, this gain for the whistleblower cannot be such that it encourages empty, false denunciations, just for the taste of the reward, since, in this case, the private interest would override and, consequently, we would be getting closer to the exchange of favors that as much as you want to fight(CARVALHO, 2021, p.149).

Considering that, in practice, what is perceived are complaints based exclusively on the interests of competing bidders, another important measure that should be provided for in the law is the penalization of complaints that are not backed by true information or that, at least, are supported by a minimum of solidity, as exists in other countries, such as the United States.(CARVALHO, 2021, p.149)

Another point that has been heavily criticized by legal scholars and practitioners is the issue of monitoring contracts. The law even advances in some things related to the activity of monitoring, but it was very timid at this point, which opens space for corruptive and/or inappropriate actions.

For example, the fact that the law does not specify what the duties of an inspector are. There is not even a mention of a first information about what is expected from this professional's performance, the moment of the procedure in which he/she must be designated, in the form of designation, of your choice or expected profile.

It is important that the infraconstitutional legislator highlights at least a base list, indicating the minimum number of activities that are the responsibility of the inspector, so that, depending on the type of contract, new tasks are added. And it is necessary that the formalization of the professional's designation exists and is public, as what we currently observe in practice is that there are many cases in which the person is not even aware that they are formally in the position of inspector before the contracting body. This is when they do not discover it only after some irregularity committed in his name comes to light (CARVALHO, 2021, p.149).

Therefore, the inspector needs not only to have the profile to occupy the position, but also to be prepared from the point of view of his knowledge to monitor the execution of the contract, to face the difficulties and irregularities he will encounter. Furthermore, your previous life must be investigated, because the requirement of a good, smooth, honest record is inherent to the inspector's role, which is currently not required by law.

Despite being important and consistent, the new law's innovations are very timid, needing to be expanded at certain points and more effective at others.

An example of this is the inversion between the judgment/classification and qualification phases, so that the latter comes after the former, with the winning bidder only being qualified after the classification of the proposals. We understand that the ideal would be for the law to extinguish the phase of enabling the bidding procedure, postponing it until the moment of contracting. In other words, the period for the winner to present the documents should be after the approval of the bidding result, since they constitute a requirement for the preparation of the contract and not for finalizing the bidding procedure. (CARVALHO, 2021, p. 37).

As for the innovation of competitive dialogue, it is certainly one of the most consistent innovations with detailed rules of its requirements and procedure. However, for this new type of bidding to be efficient, it will largely rely on the commitment and training of public agents to promote an enriching dialogue between bidders and the competitiveness of the event, under penalty of being fruitless and benefiting individuals to the detriment of the interest public (CARVALHO, 2021, p. 49).

CONCLUSION

In preparing this article, the main changes, advances and possible setbacks of the New Bidding Law, nº 14,133/2021, were investigated in relation to the old Law, nº 8,666/93. With the general objective of analyzing what were the advances and what were the setbacks.

Initially, a brief explanation was made about what bidding is, its concept and historical evolution. Next, a comparison was made between the New Tender Law and the old one and its main changes. Afterwards, we sought to analyze how the New Law can improve public procurement processes.

In Law No. 14,133/2021, a new type of bidding was foreseen (the Competitive Dialogue) and two other types were removed (Invitation and Price Taking). The new law brought innovations and made the process more cohesive, many principles that were already applied by the audit courts were incorporated into the text. The bidding phases have undergone important changes, in addition to many other legislative developments that have a significant impact on public contracting.

Law No. 14,133/2021 is in force together with No. 8,666/93, however, it must be said that the combination of the two is prohibited, and the Public Administration must choose one or the other, however, in the criminal sphere the new law revoked all the provisions of the old one, making only the new one come into force, and in this aspect the new law was reformulated, with new typifications, with harsher penalties, with significant advances, such as the activitysanctioning with a pedagogical nature, encouraging the implementation and improvement of integrity programs, contributing to the fight against corruption. Another important point was, when it comes to crimes relating to bidding processes and administrative contracts, stricter punishments are provided for, as in cases of fraud.

The exemption from bidding, with the real increase in possibilities, more than doubling the predicted hypotheses, meant that there was a significant advance, as, for a long time, due to managers' lack of knowledge or even fear of punishments and sanctions, it meant that this institute was little used and the new law comes with clearer innovations, giving public managers greater security in using the exemption.

In the critical part regarding the new law, it must be said that it was silent in some aspects, such as the lack of clarity of a real incentive for whistleblowers who managed to avoid the consummation of corruption in the bidding process. So much so that in the way it is positive there, coldly analyzing there is no clear benefit to those who report, quite the contrary, in the omission of the law, it even becomes dangerous for the complainant, due to the risk given the relevance of the complaints, their safety and exposure and the real chances of retaliation by the reported party, and then it could be the manager, or the beneficiary of the plot, whoever it is, the risk is greater than the benefit, and it's not worth risking so much for nothing.

The idea of the supervisory agent is valid, but the legislator failed to make it clear who it would be, what it would be like, what its legal duties, what level of knowledge and level of education is necessary to perform such a role. He was created in a valid way, however, leaving more doubts than certainty, and this could be a unique opportunity in the fight against contract fraud.

Therefore, it must be said that the new law brought many changes, and significant changes, with bold innovations, new modality, toughening of criminal clauses, with a greater margin for exemption. And with some omitted points, as in the case of the whistleblower, without a clear incentive, and about the supervisory agent.

With a complete analysis of the new law, it is necessary to recognize that it has brought advances in several aspects already mentioned, there is less than a year left for it to come into force in its entirety alone, and with total practice, in the near future it could be

analyzed with greater precision.

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