

PUBLIC PROCUREMENT IN BRAZIL FEDERAL GOVERNMENT: A PERSPECTIVE FROM THE AGENTS RESPONSIBLE FOR ITS REGULATION AND OPERATION

Alexandre Ribeiro Motta

MSc Candidate, University of Campinas (UNICAMP), Brazil. Former head of the Department of Logistics and General Services (DLSG) and Subsecretary of Planning, Budget, and Administration (SPOA), both positions at the Brazilian Ministry of Planning, Budget, and Management.

ABSTRACT. This paper analyzes the Brazil federal procurement system, based on interviews with leaders of the agency responsible for formulate the procurement policy, and with leaders and former leaders responsible for its implementation in some of the most important ministries. The work aims to reflect on the maturity of Brazilian federal procurement system in relation to their commitment to combat corruption and waste. Interviews indicate that the observed system proves to be well structured, particularly with respect to legislation, which prioritizes the fight against corruption. However, regarding the search to avoid waste, it was noted that Brazil still needs further improvements, especially in terms of workforce.

INTRODUCTION

The debate about the quality of public spending is not new and has no borders. The way public resources are used is always a very important question in any society and there are multiple dimensions through which this issue can be addressed. In Brazilian federal government, the field of public procurement had significant changes in the last two decades. In this way, the major landmarks were a more comprehensive and consistent legislation, recently followed by the intensive use of information technology (World Bank, 2004). However, such actions have been characterized by the predominance of the debate on transparency and fight against corruption, leaving little space for serious discussion about operational improvements. Reflections on streamlining processes, work force qualification, costs or waste reductions in public procurement, have not been frequent.

This paper seeks to contribute to the operational debate, focusing on the Brazilian federal procurement system, trying to reflect on their maturity in relation to its main commitments: fight against corruption and waste.

The strategy adopted here was to use a conceptual matrix inspired by the document "Framework for assessing the acquisition function at federal agencies" (U.S. Government Accountability Office, 2006), which uses four basic dimensions in the assessment of the acquisitions in U.S. government agencies. The version used in this work, consist of three dimensions, which serve as the cornerstones and guiding the discussion. The first dimension focused is "Organization and Systems", that analyzes the procurement organizational structure in Brazil federal government, throwing light on it and revealing its main actors. "Legislation, Standards and Procedures" is another dimension by which it is possible the Brazilian purchasing process flow, denoting its goals. Finally, "Workforce" presents the people involved in the procurement function, the knowledge deemed important in their formation and also helps to verify the importance attributed to purchasing professionals.

Using the conceptual matrix mentioned, this paper is divided into two parts. The first section presents the basic characteristics of Brazilian federal procurement system. In the second part, based on interviews of public procurement professionals, there is a critical analysis of that system.

METHODS

In this work was used a combination of two qualitative methodologies: literature review and semi-structured interviews (Godoy, 1995a and 1995b; Duarte, 2004; Boni and Quaresma, 2005; Davis-Sramek and Fugate, 2007). Regarding the interviews, two groups of professionals were created, both with people who work directly in Brazilian federal procurement system, in important positions, having different perceptions on the subject and being able to contribute to a better understanding of it. The "Normative Group" is constituted by five professionals occupying strategic positions at the Department of Logistics and General Services (DLSG), organization responsible for regulating and monitoring Brazilian federal purchases. The "Operative Group", in turn, is formed by eight Subsecretaries, or former

Subsecretaries of Planning, Budget and Management (SPOAs). These professionals are, or were, responsible for implementing the federal government purchasing policy in each ministry. The complete list of interviewees can be seen in Appendix I.

To constitute the Operative Group, were chosen SPOAs from ministries with large amounts of purchases or high institutional visibility like Planning, Budget and Management (MP), Finance (MF), Health (MS), Transportation (MT), Justice (MJ), Education (MEC) and Agricultural Development (MDA), as well as the Secretariat of Administration of the Presidency. According to the newsletter Comprasnet 2008, using data from the Integrated Financial Management System (SIAFI), these ministries were responsible for 57.48% of the purchases settled in that year (SLTI, 2008).

The Interview Protocol/Guide used, as seen in Appendix II, has five parts as follows: “Qualification and employment history”, “Knowledge about Logistics / Supply Chain Management / Procurement”, “Knowledge about international experiences of procurement”, “Knowledge about Brazilian experience in federal procurement” and “Vision of the future of federal procurement”. The purpose of this set of questions was: a) assess the respondents’ familiarity about the procurement function and international experiences of public procurement; and b) take their views on Brazilian federal procurement experience. Were also raised questions about the future federal procurement activity. Noting that two respondents had their interview specifically targeting the areas in which their contributions could be of greater depth: Cleber Bueno, at the time of the interviews an outsourced employee of DLSG and Cesar Clesito Arcoverde Fechine, Manager of Strategic Information of DLSG, respectively working with qualification of personnel and information management. The other respondents answered questions from the full protocol. Moreover, in order to avoid any embarrassment, will not be made direct references to interviewees.

PROCUREMENT IN BRAZILIAN FEDERAL GOVERNMENT: AN OVERVIEW

Organization and Systems

In 2008 the Brazilian direct federal administration purchases reached around U.S. \$10.518 billion, from that amount approximately,

\$5.234 billion have been implemented through Electronic Reverse Auctions. Data from the Integrated General Services Administration System (SIASG), software that controls the federal purchases, indicate the existence, until June 2008, of more than 287 thousand registered suppliers and 3,876 purchasing units, known as the General Services Administrative Units (UASG's) which are located throughout the country and abroad.

In Brazil, the unit responsible for establishing the procurement policy of the federal government is the Ministry of Planning, Budget and Management (MPOG). Operationally, the formulation and implementation of the procurement is done within the General Services System (SISG). This system covers the civilian agencies of the Federal Government and deals with a wide range of activities, among which the procurement process. The Central Organization of the SISG is the Secretariat of Logistics and Information Technology (SLTI). The role of SISG is to organize the entire regulation process about acquisitions in direct federal government. In practical terms, the actual performance of this role is done by the Logistics and General Services Department (DLSG), unit subordinate to SLTI.

Among the operational tasks that have marked the work of DLSG, stands out the monitoring of purchases made by UASGs. Such monitoring takes place through SIASG, to which the all the UASGs are electronically connected. The SIASG software is quite complex, with several modules. All purchases made under direct federal administration, must be registered at SIASG. Purchases made by virtual processes, such as Electronic Reverse Auctions are also carried through the system. SIASG is integrated to other federal government systems, streamlining the consultation process on suppliers fiscal regularity. Going well beyond simply collecting data in real time, this system represents one of the most important tools available to the Brazilian Federal Government, allowing full control over purchase.

In the ministries there are two most common forms of organizational structure for carrying out SISG functions. The best known is through a Subsecretariat for Planning, Budget and Administration (SPOA). The Ministries of Finance and MPOG are examples of this kind of structure. Another organizational way often found, is separate the secretariats into two different bodies, one dealing with SISG functions and the other working with planning, budget and finance. In these cases the structures are usually referred to as the Subsecretariat for Administrative Affairs (SAA) and Subsecretariat of Planning and Budget (SPO). We can cite the Ministries of Education and Health as examples

of this type of structure. In all cases, the secretaries are subordinate to the Executive Secretary of each ministry. This figure is a kind of vice-minister, whose function is to coordinate internally the ministry, focusing especially on administrative issues. In operational terms, each governmental organization (ministries, agencies, etc..) conducts its purchases through one or more UASG, which are under the command of a General Coordinator, which in turn is subordinate to the SPOAs or SAAs.

A peculiarity of Brazilian case is the existence of an informal group that brings together most of SPOAs ministries: the so-called Forum of SPOAs. There is no precise record regarding its creation, but about 15 years ago are promoted monthly meetings bringing together SPOAs and equivalent positions. Traditionally, the coordination is carried out by the SPOA MPOG. Forum was originally created as a space for exchange of operational information and the dissemination of good management practices.

Legislation, Standards and Procedures

The Brazilian procurement process is parametrized by Law No. 8666 of 1993, and more recently by Law No. 10520 of 2000, also known as Reverse Auction Law, by having established this type of procurement. These laws cover all the direct and indirect public administration and federative levels in all branches. Only state-owned joint capital corporations and more recently the governmental agencies may establish their own standards for purchases. On the federal level is still necessary to consider a significant amount of additional regulation¹. Public organizations, seeking to establish a clear flow of action and the standardization of procedures, may establish additional internal standards about the various stages of the bidding process.

The Article 3 of Law No. 8666/93 makes clear that the bidding in Brazil has two basic objectives. First, ensure the equality among the bidders, which means equal conditions of competition. The second goal is to select the most advantageous proposal to the government. It is also clear in the same article the legal principles that guide the public procurement in Brazil. The combination and rigid interpretation of these principles have led to formation of a culture of severe punishment for any deviation from established procedure, but without the same rigor about the results. Indeed, there is even some complacency with the incompetence of obtaining results favorable to the government.

In Brazilian case, the acquisition is carried out through public bidding, operated by a bidding committee or in case of presential or electronic reverse auction by an auctioneer, both positions necessarily designated by a competent authority. According to the Federal Court of Accounts (TCU), the external audit organization linked to the Federal Legislative Branch², the bidding procedure can be divided into two phases, internal and external. The internal phase, which has a preparatory character, starts with the definition of what is needed (TCU, 2006).

The demanding sector must specify what will be purchased, in a clear, precise, succinct and objective way. It is also necessary to justify the purchase. In the Procurement of services and engineering works, the document containing the specification of the object to be bid is called Basic Project (Projeto Básico). In these cases there will also be the need to provide an Executive Project (Projeto Executivo)³. When the acquisition is of common products, using the Reverse Auction, the document needed is a Reference Term (Termo de Referência).

It realizes that the proper specification of the product or service is of crucial importance to an advantageous acquisition for the government. This task, which initially may seem simple, in fact it is not. Building specifications of quality depends on a well trained workforce.

Another important step in the preparation of bidding is the market research, necessary to justify the projection of the acquisition reference price, i.e. the maximum price which the government is willing to pay for the object to be purchased. Current law does not determine a specific procedure for the conduct of such research, but TCU's decision states that at least three proposals must be collected (Vieira et al., 2005).

Once completed the legal rites, made the description of the object through a basic project or reference term and taking the projection of the reference price, should be set the procurement method by which the dispute will take place, as well as its selection criteria.

Brazilian law has five procurement methods: Convite (Invitation), Tomada de Preços (Price Taking), Concorrência (Competition), Concurso (Contest)⁴ and Pregão (Reverse Auction). The estimated value for the purchase is the basic reference for the method choice, except in the case of Reverse Auction, which can be used for any value purchases of common goods⁵ or services. Table 1 shows the values to be used in the choice of a procurement method.

Object Type	Invitation	Price Taking	Competition
Engineering works and services	≥ 8,606 until 86,060	> 86,060 until 860,600	> 860,600
Common products and services	≥ 4,590 until 45,900	> 45,900 until 441,276	> 441,276

Table 1 – Procurement methods and their values (U.S. \$)

Source: TCU (2006, p. 28).

The Invitation, the Price Taking and Competition are the most common methods, all contained in Law No. 8666/93. These arrangements are similar in general, differing more clearly in complexity, as in the Invite compared to Price Taking and Competition. Another aspect of differentiation refers to the minimum periods required by law to judge the bidders complaints and administrative procedures, which directly impacts on the time duration of each acquisition. In this sense, according Tescarolo (2005, p.56), depending on the section criteria, an Invitation can last between 30 and 45 days, a Price Taking, something between 60 and 90 days and a Competition, between 90 and 150 days. But although not common, these time limits may be exceeded because of judicial disputes.

After defining the procurement method, should be chosen the selection criteria, which almost always is the lowest price, where the winning bidder is the one who submitted the proposal in accordance with the notice or invitation specifications and presents the lowest price bid. But there are other ways to judge the proposals. In case of best technique criterion, mostly used when the nature of the object is predominantly intellectual, the notice will establish the maximum price to be paid. However, the concept of best technique only serves to define a group of bidders that more adequately meets the quality requirements at the notice. The subsequent price proposal will be the final decisive criterion. The last option is the best technique and price criterion:

"Selection Criteria in which the most advantageous bid for the administration is chosen based on the highest weighted average, considering the marks obtained in the proposed price and technique. It is obligatory on the procurement of information technology goods and services, which need to be

done by price taking and competition". (TCU, 2006, p.49)

The External Phase "... begins with the disclosure of the call act and goes until the provision contract of the good, the execution of the work or the services" (TCU, 2006, p.114). The call act can be a notice, in case of Price Taking, Competition, Contest and Reverse Auction, or an Invitation. It is through it that the authorities shall inform the parties that public sector want to buy a product, service or work. The TCU (2006, p.394) define the notice as the "... law of the bidding. Lists all the conditions of the notice which must be strictly observed by the public organization and the bidder, under penalty of become void all acts taken thereunder, including the contract".

Any action that may connote a disrespect of the bidding principles almost always condemned the whole process to nullity, which means rework and new costs. For this reason, in both the internal and external phase, there is a great concern to let the bidding process "impeccable" in formal terms.

Using as an example a procurement process with lowest price selection criteria, achieved through Competition, is possible to follow the next steps of the external phase. At the date and time marked the bidders presents to the Commission two sealed envelopes containing its documentation and proposed price. Initially is opened the documentation envelope, when the habilitation is evaluated. All participants can view the documents submitted by the other bidders. Of course this stage is considered one of the most complex and lengthy process of bidding, as the smallest error, mistake or omission will be used by bidders in an attempt to disqualify the others, action which can trigger a series of complaints, substantially delaying the process. If any bidder is disable the envelope containing the proposed price will be returned still sealed.

The next step is the competition moment, where the envelopes containing the price proposals are opened⁶ and again suffer the scrutiny of all bidders, and may also pass through the same routine of complaints, noting that such administrative actions, when related to the price evaluation or qualification/disqualification of bidders have suspensive effect, in other words, stop the bidding process until his appreciation. In case of lowest price bids, the winner will be the bidder whose proposal complies with all requirements of the notice and has the lowest proposed price.

Note that in a lowest price bidding the quality of product or service purchased is inextricably depends on the object description. However the procurement law, turning to transparency, the fight against corruption and equality, limits the freedom of public officials in the object description, as we can see through Law No. 8666/93, Art. 3, §1, Item I, that is forbidden to public officials:

"Admit, establish, add or tolerate, in call acts, terms or conditions that compromise, restrict or frustrate its competitive nature and establish preferences or distinctions on grounds of place of birth, domicile or headquarters of the bidders or any other circumstance impertinent or irrelevant to the specific object of the contract".

In case of common products and services the descriptions are relatively simple. However, any requirement to expand the quality or skill/qualification level of suppliers is a possible limitation of the competitive condition. What is the appropriate level of quality to not jeopardize the competition? What items are inappropriate or irrelevant to the proper skill/qualification of any supplier? The current interpretation of the procurement law, subliminally implies that specifications with high standards, possibly resulting in reducing the number of bidders, are possible acts of bad faith rather than legitimate attempt to protect public interest.

In high monetary values procurement process, often suppliers disqualified for not complying with the full requirements of the notice, try to contest it seeking to reduce the level of requirement of the object or items for habilitation or qualification. This behavior is encouraged by the almost nonexistent administrative costs compared to the gains if the complaint is accepted.

But besides listed elements, the Brazilian legislation is shown out of compass with the modern concepts on purchases, in which the idea of smallest price was changed as main element by the concept of best value. In the Brazilian case, even in best technique and technique and price bids, the price variable still has decisive role (Meirelles, 1999⁷ apud. Miranda, 2005).

Retaking the external phase flow, its conclusion happens when the competent authority, that has the last word on the evaluation

accomplished by the bidding committee, confirms the final classification obtained through the mentioned judgment (Approval) and formally assigns the object to the winner, call him for the signature of the contract (Award).

Analyzing the Brazilian public purchase process, it is possible to identify that the procurement law is concerned about efficiency. However, it is buried under the weight of the fight against corruption. There is no visible balance (WORLD BANK, 2004).

Workforce

In Brazil, the functions of procurement and contract management do not have a specific career, at the same time, the legislation establishes the need for periodic replacement of bidding committee members. Thus, to define precisely the size of the workforce engaged in acquisition activities is very difficult. However, with reference to the estimate of one of the interviewees of the Standard, that there are about 6,000 civil servants working actively in the role of heralds, and they usually accumulate the role of committee chairs bidding, and also assuming that at least 3 more people involved in support activities, it is possible to estimate approximately 24,000 workers involved in the purchasing function at the federal level coming from different careers and some occupants of commissioned positions, known as Management and Advisory Positions (DAS)⁸. In procurement activities there is still a considerable amount of temporary employees, although in recent years this practice is being reduced. This situation is complex, since for legal reasons the temporary employees may not perform some exclusive public officials acts.

Almost all the civil servants who works at the Direct Administration of Federal Government, in the purchasing process, comes from the Executive Branch General Plan of Jobs (PGPE). According to data obtained in September 2009 from the Integrated System of Human Resource Management (SIAPE), software that controls Brazilian federal government workforce, the PGPE has 43,251 active employees, of which only 6,063 have bachelor's degree, while 31,477 finished high school (SRH, 2009a, p. 50). The salaries of civil servants with bachelor's degree starts at approximately U.S. \$19,900 per year, and at the end of his career, can reach about \$32,750 (SRH, 2009b, p. 374). Another important concern is the aging of the administrative staff in general. In the case of PGPE, 55.8% of active employees have over 51 years.

However, the problems related to purchasing function workforce are not restricted to their base, there are also questions about the leadership. It is important to remember that in Brazilian federal administration, the management positions are held by DAS's. The DAS's level 6 are usually used for National Secretaries, while level 5 are for Subsecretaries or Directors and level 4 to General Coordinators. The DAS's levels 1, 2 and 3, have lower wages, and are also for minor positions. The General Coordinator of Logistics, directly responsible for purchases are subordinated to the SPOA's, which means that their jobs are a DAS 4, which represents not only less prestige for its occupants, but lower salaries and less decision power. These elements, taken together, ultimately define the profile of professionals who have the interest in occupying these positions.

Generally better prepared civil servants at federal public administration, are those who come from careers so-called "Typical of State". These careers have received all attention during Brazilian state reform⁹, and have been highly valued, creating a separate status for its occupants, with a salary substantially higher than that of other civil servants who are not part of such careers, like those from PGPE. To understand the level of importance given to such careers, just look at the salaries of the "Management Group", which brings together the careers of Finance and Control, Planning and Budget, Foreign Trade and Public Policy & Government Management, which are all "Typical of State" and have the same salary: about U.S. \$93,350 per year in the beginning of the career and reaching approximately \$130,500 in retirement (SRH, 2009b, p. 46). Of course such careers are very popular, enabling the selection of excellent professionals, whose subsequent training will also be more intense and long.

Given the conditions described, the recruitment of higher level professionals to procurement jobs is considerably restricted. The use of professionals from the private sector is unlikely, due to wage issues¹⁰ and especially the great difficulty in adapting professionals unaware regarding the legislation and unfamiliar with the bureaucratic complexity of the procurement process in Brazilian public sector. Public employees better paid and generally better prepared, have no interest in carrying out procurement activities. The remaining alternative is to seek PGPE staff. For them a DAS 4 represents a very large improvement in salary, but also it is higher the risk of losing a good operator, without gaining a good boss.

REFLECTIONS ON BRAZILIAN FEDERAL PROCUREMENT SYSTEM

Organization and Systems

Initially, through the interviews of the Normative Group, it was possible to confirm that the quantity and diversity of topics covered by SISG, compared to DLSG lack of staff, have restricted the action of the Department on the formulation of procurement policies. In fact, when asked about the logistics policy implemented by the Brazilian government, there was no uniformity in the responses. One of the respondents in that group even said that intensify the use of Electronic Reverse Auction, was the logistics policy of the federal government. An interviewee, commenting about the DLSG performance, said the department "... become a great IT manager", referring to the complexity of the SIASG monitoring process, as well as the others systems under the department responsibility. This view is reinforced through various interviews of the Operative Group, which consider the work of DLSG poor in terms of policy-making, despite recognizing the importance of some recent regulations and the human limitations already discussed.

On the issue of organizational structure, note that in Brazilian case, the sectors responsible for purchasing function have intermediate hierarchical positions. However, in interviews conducted in the Normative and Operational Groups, only two professionals, both belonging to the second group, made mention of the need to increase the hierarchical status of the function. The argument of one of them was that "... the SPOA can not plan at all, because it is in a wrong level. The SPOA is a DAS 5¹¹, linked to the Executive-Secretary, so he will not be able to conduct planning in ministries" (Interview conducted by the author).

As observed in the interviews from Operative Group, the Forum of SPOAs attempts to overcome a problem in Brazilian federal procurement system: the low integration between DLSG and SPOAs. In general, the opinions from that group, converge to a consensus that the Forum has acquired more visibility within the government in recent years, and there should be more synergy between it and the organizations responsible for specific federal government policies.

Legislation, Standards and Procedures

This item is the result of a set of questions present in the qualitative interviews conducted in the Normative and Operational Groups, both composed by civil servants responsible annually for billions of dollars in government purchases. The purpose of the questions was to analyze the familiarity of the most strategic staff dealing with concepts used by private sector in the purchasing function¹². It was questioned too the agents' knowledge about international experiences in government procurement.

Addressing first the issue of familiarity with purchase techniques used by private sector, only three in ten SPOAs from the Operative Group, said they had knowledge of such concepts. At Normative Group, although the questions about familiarity have been directed to three of five respondents, one said he had no knowledge about the concepts surveyed. However, despite the low familiarity, there was consensus in both groups about the importance of use of such concepts in the procurement system of Brazilian federal government.

Taking as reference that the procurement process can be divided into three parts: develop a business strategy, and contract management (Kelman, 2003), it is simple to verify that in Brazilian case, the legislation central concern is the supplier selection process. This conclusion was reinforced by the interviews of the Normative Group, when there was consensus about the fact that the procurement process has three steps, although denominated as follows: pre-purchase, purchase and post-purchase. That is, for the DLSG the choice of supplier acts as a kind of axis of the acquisition process by subordinating the other phases and reducing its importance. It is possible that this phenomenon results from interpretations of Brazilian procurements and contracts legislation, which in turn reflects the predominance of a continuous fight against corruption. In this sense, the lack of a comprehensive purchase policy have generated bizarre situations in which, despite compliance with the law, purchases are made in which the results are unsatisfactory in terms of value for money. In the words of one of the interviewees from the Operative Group:

“Between knowing how to do a good purchase and how to complete the process without risk of punishment, the choice is inevitable. Who should be

worry about the guy¹³ do or do not a good purchase is the organization and not the guy. The guy is trying to worry about actually doing a good job, and do a good job with the assessment tools we have today, is to have audited accounts, because the logic is only to prevent any irregularities” (Interview conducted by the author).

The primary concern with the legislation enforcement and the absence of a comprehensive procurement policy, emerges again through the Operative Group interviewees difficulty to describe the process using a homogeneous set of stages. Only one respondent used DLSG nomenclature. Seven respondents converged on the need to plan the purchase as the first moment of the process, basically they used the idea of demand definition, but with their own terminology. This same group of respondents ends the acquisition process by the supplier choice, following the law. The contract management issue was reminded only by the SPOA and former SPOA from the MPOG, coincidentally this ministry created a General Coordination to specifically deal with this theme. Thus, it is possible to assume that the management contracts as an instrument to combat waste, is not yet part of the agendas of DLSG, or even the SPOAs.

The interviews also sought to encourage discussion in Normative and Operative Groups about the elements that characterize a good purchase. All interviewees indicated *Quality* as the main factor of a good acquisition. *Price*, in second place, was remembered by twelve of the thirteen respondents. In fact, those who mentioned *Quality* and *Price*, did so as an inter-relationship. Another factor discussed was the acquisitions *Speed*, i.e. the time between demand definition and goods or services availability. On the other hand, it is important to note that three respondents directly criticized the prevalence of price as the main criterion to suppliers choice in Brazilian procurement.

Two other respondents associated the difficulties in planning the acquisition to limitations in the current budget process. Remembering that in the last decades, a very common practice of Brazilian government is blocking, at the beginning of each year, resources originally budgeted. These resources are only released again in the last months of the year, providing a real shopping spree by the UASGs, who fear a definitive cut of these resources if they are not used until the end of the year. According to the SPOAs, this practice significantly impacts on the

quality of acquisitions. Finally, one of the respondents, discussing the operational aspects of acquisitions, said it is common that requesting organization provides an incorrect purchase specification (product or service quality, quantity and estimated price), which logically contributes to unsatisfactory acquisitions.

Respondents from the Operative Group were also asked about their knowledge about international experiences. Only two of them stated they knew other experiences. Regarding the Normative Group, although questions in this direction have not been formulated, it is important to remember that DLSG represents Brazil in international discussions on public procurement, and therefore has solid experience in such activities.

Workforce

Initially addressing the recruiting issue, it is possible to be noted in interviews, from both the Normative and Operative Groups, that there is a problematic situation to the acquisition function. It is not common that civil servants voluntarily apply to work in acquisition activities, especially in bidding committees. There are no scientific studies on this phenomenon, but the views put forward by respondents in both groups, linking the problem to a relationship between risk and return. On the risk side, it is necessary to consider that acquisition activities are complex in nature and in Brazilian case are still subject to a culture of suspicion, outlined by a permanent fight against corruption. In this framework, any paperwork error or mistake can be seen as virtual evidence of corruption. Furthermore, the area is strongly controlled by the watchdog organizations, which also does not attract new civil servants for the purchasing function. Moreover, the environment of distrust and control also creates a perception of risk to employees who already work in the area, discouraging any innovative movements, even in the quest for improve public spending quality.

As described by one of the interviewees from Normative Group, the existing recruitment, excluding the unusual situation of voluntary choice, often occurs in two circumstances. In the first, which is similar to compulsory military service, there is a "rotation" defined by the civil servants from the unit. Each one has to work in the function for a certain period of time, after which will be replaced by another colleague, who has not worked in the purchasing function. The other form of recruitment is by punishment. In this case, employees who are considered unproductive or have difficult relationships with his colleagues, in sectors pointed as strategic, are "invited", induced or pressed to work in

acquisition areas. Of course the employee can refuse to serve in a specific unit, however his boss may put him "on availability", which in practical terms means that the organization rejects the employee, a humiliating situation in Brazilian public service, which also implies a reduction in salary.

Besides the issues about wages and recruitment, another very relevant problem in Brazilian federal procurement and a consensus in the Operative Group interviews, is the absence of a training and qualification policy. Note that in addition to several weaknesses already mentioned, there are no definitions about the professional and personal profiles to work in the acquisitions function. This situation reinforces the idea that public officials, to work in procurement jobs, needs only basic knowledge on legislation and about the SIASG's operation. civil servants with knowledge about Logistics and Supply Chain Management (SCM) are uncommon. Only recently DLSG has supported a training program in Logistics promoted by the National School of Public Administration (ENAP)¹⁴. However, this program is still embryonic and its content strongly focuses on legislation and IT. This is another indication that the fight against corruption has a central role in Brazilian federal procurement system.

In the Operative Group interviews also emerged suggestions to improve the procurement function performance. Initially, the respondents pointed out that the professionalization is a necessity. The main focus of argument was wages improvement as a mechanism of attracting better prepared servers, which would then be trained. It appears from the interviews that the increase in motivation would be a natural outgrowth of this movement. Moreover, regarding a strategic framework, respondents do not make clear whether the appropriate way would be more focused on waste combat, or would only intensify the current line of fight against corruption. The other possibility for improving the federal procurement system, is the creation of a specific management career, with an operational profile, overcoming the staff deficiencies, not just in the logistics sector, but in other areas such as human resources. On this subject, it is already in progress a Bill establishing a career of Analyst Executive (Draft Law No. 3952/08). However, this initiative will not solve the existing problem of PGPE, the civil servants will remain in its current condition.

Finally, for an analysis about the importance of human resources to the procurement function, it is useful seek inspiration in the private sector. In it, despite the freedom with which an acquisition is implemented, the focus on results is the central element around which the

procurement is structured. In the private sector, larger international companies use norms, standards and policies that establish parameters for acquisition, making the work of purchasing professionals easier and more efficient. In this context, the procurement professionals are the key players because they are responsible for achieving the expected results. In Brazil, the evidence presented indicate an excessive focus on legal procedures, as its implementation must guarantee a good acquisition with the best possible value for money. Moreover, there are internal human conflict that hardly will allow an overhaul of Brazilian federal procurement system without their proper approach and solution. In the words of one of the interviewees of the Operative Group: "It is not possible to structure this area overnight, ... and it will not done with outsourcing or machines. The reality is that we need people trained and motivated " (Interview conducted by the author).

CONCLUSION

Over the past two decades, the Brazilian federal procurement had a clear evolution. The acquisition process is formally very transparent, especially due to the use of information technology. Nevertheless, in terms of public spending efficiency, the situation is still worrying. Even taking into account the recent years advances, there are limitations regarding waste prevention and combat. The tools and strategies of Brazilian federal procurement system operate primarily on supplier selection. However, the acquisition planning and contract management, very important questions today, receive little attention.

Moreover, the Brazilian federal procurement system apparently does not give strategic importance to professionals involved in the procurement process. As noted throughout the paper, the logistics functions, i.e. purchasing, materials management and contract management, are performed by any person at any time, simply by giving them a fast training about legislation and IT. Like observed in interviews, at present circumstances few civil servants are willing to work in the acquisitions function, closely awaiting an opportunity to exchange activity. These civil servants poorly trained and unmotivated are responsible for billions of dollars in purchases every year.

This paper is not intended to diminish the importance of continuing legal and technological improvements, but to draw attention to the fact that, in Brazil, such advances are not enough. In other words,

the advent of computers and powerful calculation software never exempted the engineering students to have solid and deep knowledge about mathematics. Indeed, it is the mastery of such knowledge that provides the maximum use for tools. In this sense, the Brazilian federal procurement strategy, as noted, does not make use of theoretical knowledge accumulated by the purchasing function, or even was inspired by its application. Build a logistics policy, which clearly goes beyond the binomial "law/IT", highlighting the importance of knowledge about purchasing, as well as recognizing the role of skilled, trained, paid and motivated professionals to conduct procurement process, seems the next frontier to be achieved by Brazilian federal procurement.

NOTES

1. An overview of this legal structure can be obtained by visiting the Brazilian federal government procurement home page (<http://www.comprasnet.gov.br/>) and choosing the menu "LEGISLAÇÃO" (only in Portuguese).
2. It watches and prepares annual reports on the management of all federal organizations and Branches. Internally to the Executive Branch, the same function is developed by Office of the Federal Controller.
3. According to TCU (2006, p. 67) "... is the set of elements necessary and sufficient to achieve the work to be performed, with maximum level of detail possible in all its stages. "
4. It will not be discussed in this paper. It is a method used only for the choice of technical, scientific or artistic works, in which the winner receives a prize previously stipulated.
5. "Are considered common goods and services those whose standards of performance and quality can be objectively defined in the notice, through usual specifications used in the market" (TCU, 2006, p.36).
6. In a bid using best technique or best technique and price, the envelope to be opened after qualification will be that which contains the technical proposal, and only then the price proposal.
7. MEIRELLES, Hely Lopes. **Licitação e contrato administrativo**. 12^o ed. São Paulo: Malheiros, 1999.
8. The DASs vary from level 1 to 6, with increasing changes in authority and salary. These positions are free to appointment and dismissal, their occupants can be public employees or not. When the appointed be a public employee, there are three possible scenarios of payment: 1) he

may elect to receive only his original salary, 2) he may elect to receive only the salary of the DAS, or 3) he may decide to receive his original salary plus 60% of the DAS salary. According to data from the Integrated System of Human Resource Management (SIAPE), for July 2009, the DAS salary table is the following (per year): 1) U.S.\$ 15,910; 2) U.S.\$ 20,265; 3) U.S.\$30,397; 4) U.S.\$ 51,466; 5) U.S.\$ 67,592; and 6) U.S.\$ 84,071 (SRH, 2009b, p. 474). As will be seen ahead, the salary issue is a significant question in Brazilian federal procurement.

9. See BRESSER PEREIRA, L.C. **Reforma do Estado para a Cidadania**: a reforma gerencial brasileira na perspectiva internacional. São Paulo: Ed. 34; Brasília: ENAP, 1998. 368p; and PAES DE PAULA, A.P. **Por uma Nova Gestão Pública**. Rio de Janeiro: Ed. FGV, 2005. 201p.
10. According to information published in October 22, 2009, in O Estado de São Paulo Journal, a Purchasing Manager has average salary, in the private sector, of about U.S. \$ 87,542 per year. In the federal government the equivalent position would be General Coordinator of Logistics, ranked as DAS 4.
11. The respondent points out that a DAS 5 would be a lower hierarchical level in relation to other strategical positions of the ministry, which usually occupy DAS 6 (National Secretaries) or higher (Executive Secretaries).
12. For further study see: BAILY, P.; FARMER, D.; JESSOP, D.; JONES, D. *Compras: princípios e administração*. São Paulo: Ed. Atlas, 2008 e ELLRAM, L.; CARR, A. *Strategic Purchasing: a History and Review of the Literature*. *International Journal of Purchasing and Materials Management*, v.30, n.2, p. 9-19, Spring 1994. Available at: <<http://www.reedsresearch.com/EllramCarr1994.pdf>>. Accessed: January 21, 2009.
13. Purchaser.
14. See <http://www.ena.gov.br/index.php?option=content&task=view&id=456>.

REFERENCES

- Boni, V.; Quaresma S. J. (2005). “Aprendendo a entrevistar: como fazer entrevistas em Ciências Sociais”. *Revista Eletrônica Em Tese*, v.2, n.1(3), p. 68-80. [On-line]. Available at <http://www.emtese.ufsc.br>. [Retrieved August 23, 2008]

- Davis-Sramek, B.; Fugate, B. S. (2007). "State of Logistics: a visionary perspective". *Journal of Business Logistics*, v.28, n.2, p. 1-33.
- Duarte, R. (2004). "Interviews in qualitative research". *Revista Educar*, n.24, p. 213-225. [On-line]. Available at <http://ojs.c3sl.ufpr.br/ojs2/index.php/educar/article/viewFile/2216/1859>. [Retrieved January, 2010]
- Godoy, A. S. (1995a). "Introdução à Pesquisa Qualitativa e suas Possibilidades". *Revista de Administração de Empresas*, v.35, n.2, p. 57-63. [On-line]. Available at http://www.producao.ufrgs.br/arquivos/disciplinas/392_pesquisa_qualitativa_godoy.pdf. [Retrieved April 1, 2009]
- Godoy, A. S. (1995b). "Pesquisa Qualitativa: tipos fundamentais". *Revista de Administração de Empresas*, v.35, n.3, p. 20-29.
- Kelman, S. (2002). "Remaking Federal Procurement". Cambridge: JFK School of Government, Harvard University, (*Working Paper n°3*). 66p. [On-line]. Available at <http://www.hks.harvard.edu/visions-publication/kelman.pdf>. [Retrieved April 27, 2008]
- Miranda, H.S. (2005). "Licitações e Contratos Administrativos". - 2ª. ed, rev. atual. e ampl. - Brasília: Senado Federal, Subsecretaria de Edições Técnicas. 364p.
- SLTI (2008). *Informativo Comprasnet*. [On-line]. Available at http://www.comprasnet.gov.br/publicacoes/boletins/-2008_12.pdf. [Retrieved April 12, 2009]
- SRH (2009a). *Boletim Estatístico de Pessoal*, v. 14, n. 161. Brasília, Ministério do Planejamento, Orçamento e Gestão. Periodicidade irregular, 488p. [On-line]. Available at http://www.servidor.gov.br/publicacao/boletim_estatistico/bol_estatistico_09/Bol161_set2009.pdf. [Retrieved January, 2010]
- SRH (2009b). *Tabela de Remuneração dos Servidores Públicos Federais*, v. 49. Brasília, Ministério do Planejamento, Orçamento e Gestão. Periodicidade irregular, 488p. [On-line]. Available at http://www.servidor.gov.br/publicacao/tabela_remuneracao/tab_remuneracao/tab_rem_09/tab_49_2009.pdf. [Retrieved January, 2010]
- Tescarolo, F.S. (2005). "A Política de Gestão de Suprimentos no Governo de Minas Gerais: uma avaliação a partir da percepção dos seus gestores". 56p. Dissertação (Mestrado em Gestão Empresarial) – Escola Brasileira de Administração Pública e de Empresas,

- Fundação Getúlio Vargas, Belo Horizonte. [On-line]. Available at <http://www.dominiopublico.gov.br>. [Retrieved November 04, 2008]
- TCU (2006). “Licitações & Contratos: orientações básicas”. - 3ª. ed, rev. atual. e ampl. - Brasília : TCU. 409p. [On-line]. Available at http://portal2.tcu.gov.br/portal/page/portal/TCU/comunidades/biblioteca_tcu/biblioteca_digital/LICITACOES_CONTRATOS_3AED.pdf. [Retrieved January 30, 2009]
- U.S. Government Accountability Office (2006). “Framework for Assessing the Acquisition Function at Federal Agencies”. *Journal of Public Procurement*, v.6, Issues 1&2, p.131-176.
- Vieira, A.P.; Vieira, H.P.; Furtado, M.R.; Furtado, M.R.R. (2006). “Gestão de Contratos de Terceirização na Administração Pública: teoria e prática”. Belo Horizonte: Fórum. 260p.
- World Bank (2004). *Brazil – Country Procurement Assessment Report*. Washington D.C.. 91p. [On-line]. Available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/P/IB/2004/05/21/000012009_20040521094555/Rendered/PDF/284460BR.pdf. [Retrieved November 21, 2008]

APPENDIX I

Interviewees

Normative Group:

1. **Loreni Foresti Fracasso**: Head of the Department of Logistics and General Services (DLSG);
2. **Carlos Henrique de Azevedo Moreira**: Operations Manager of the DLSG;
3. **Allan Kardec**: Regulatory Manager of the DLSG;
4. **Cesar Clesito Arcoverde Fechine**: Manager of Strategic Information of the DLSG;
5. **Cléber Bueno**: Outsourced employee of the DLSG.

Operative Group:

6. **Francisco Franco**: former SPOA of the Ministry of Planning, Budget and Management;
7. **Gildenora Milhomem**: former SPOA of Ministry of Finance;
8. **Silvio Petrus**: former SPOA of Ministry of Education;

9. **Ulysses**: SPOA of Ministry of Planning, Budget and Management;
10. **Tadeu Jucá**: SPOA of Ministry of Health;
11. **Estevan Pedrosa**: SPOA of Ministry of Transports;
12. **Laerte Meliga**: SPOA of Ministry of Finance;
13. **Cilair Rodrigues de Abreu**: former SPOA of Ministry of Agrarian Development.

APPENDIX II

Interview Script

Qualification and employment history:

1. Name, academic degree and professional experience related to the topic.

Knowledge about Logistics/Supply Chain Management/Procurement:

2. What is your familiarity with the concepts of Logistics, Supply Chain Management, or purchase, used in the private sector?
3. In your opinion, how could be classified the use of such private concepts at public sector: possible/impossible, appropriate/inappropriate or desirable/undesirable?
4. In your opinion, what concepts from Logistics, Supply Chain Management, or purchases, could be adapted to the public sector?
5. In your opinion, the acquisitions can be classified as events or processes? If they are processes which would be its phases?
6. In your opinion, what makes a good acquisition? (price, speed, ...)

Knowledge about international experiences of procurement:

7. Do you have knowledge about the experience of U.S. federal government procurement? If so, what are your impressions?
8. Do you have knowledge about the experience of procurement in some other country? Which countries? What are your impressions?

Knowledge about Brazilian experience in federal procurement:

9. Given the following four dimensions of analysis: a) Organization and Leadership b) Legislation and Standardization c) Human Resources d) Information Management. What is your view on

the Brazilian federal government procurement with reference to each of these?

10. In your opinion, what are the strengths of federal procurement?
11. In the light of the definition of good acquisition made earlier, how can we classify the Brazilian federal government procurement? (satisfactory / unsatisfactory) The procurement system fulfills its role?
12. What are the biggest problems facing to achieve a good acquisition?
13. What are the major innovations at federal procurement in recent years?
14. What is your opinion about Electronic Reverse Auction?
15. What is your opinion on the Public-Private Partnerships?
16. In your opinion, what has been the role of DLSG in the federal procurement system?
17. What is your opinion on the Forum of SPOA? There are discussions about procurement?
18. There is interplay between the DLSG and Forum SPOA?

Vision of the future of federal procurement:

19. In your view, what is the future of federal purchases? What needs to be improved and / or innovations that need to be made? What needs to be done to improve?
20. Do you have any additional comments you would like to do? Do you remember something you consider important and that was not mentioned?