

## **Transparency Measures and Open Government in Brazil**

By Rafael Tonicelli de Mello Quelho

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In Brazil, public procurement is regulated by the Public Procurement Act (PPA or Law N. 14,133/2021), which was recently reformed by the legislature. This statute provides a detailed set of procedures and guidelines to public procurement and administrative contracts and is used by the federal government and by subnational entities (states and municipalities). These guidelines and procedures closely follow best practices that have prospered in other parts of the world. Besides the PPA, the integrity of public procurement heavily relies on transparency measures that have been adopted by the Brazilian Government in the last decades.

In this short paper, I outline some of the most relevant transparency measures employed by the federal government to mitigate corruption risks in public procurement.

Preserving the integrity of public records constitutes the first important step in public transparency. Regarding that, Law N. 12,527/2011 regulates Open Government and how information is publicized. The Office of the Comptroller-General (CGU) is the agency that oversees if government agencies are following the provisions of the statute ([here](#)). Each agency is required to keep a document retention schedule and the amount of time a document is maintained will depend on its category. Also, whether a document will be made public or not will be determined by its category (public, secret, or ultra-secret).

Additionally, in accordance with Law N° 12,527/2011, each public agency keeps an ombudsman office to process requests for information. Each ombudsman office has dedicated personnel and is constantly supervised by the CGU. The requested information must be supplied to the person in 20 days. The basic rule is to make information available, unless it is harmful to national security, or when it is detrimental to the privacy rights of someone.

A successful initiative of the Brazilian Government was the creation of the “Portal da Transparência” (Portal of Transparency) ([here](#)) in 2004. It is a user-friendly website that contains relevant information on the use of public funds (public procurement information, revenues, expenditures, social welfare

programs, etc.). The Government also makes available machine-readable data, so civil society organizations may use data analytic tools to detect irregularities.

In the Portal of Transparency, one can find public databases, where the Federal Government publishes a list of legal and natural persons that suffered penalties for committing acts against the Public Administration. These databases are the following: CEIS (National Registry of Disreputable and Suspended Companies), CNEP (National Registry of Sanctioned Companies) and CEAF (Registry of Federal Government's Dismissed Staff).

- **CEIS** ([here](#)): it publishes a list of legal and natural persons punished by one of the three branches (Executive, Legislative and Judiciary) in one of the three government levels (federal, state and local), which have restrictions to be hired or to participate of a bidding process with the Public Administration.
- **CNEP** ([here](#)): it publishes a list of companies that suffered a sanction of the Clean Company Act (Law N. 12,846/2013). It includes sanctions applied by any of the three branches and any of the three levels of government.
- **CEAF** ([CEAF](#)): it publishes a list of former civil servants expelled from the Public Administration for committing illicit acts when they served the Federal Government.

These databases prevent the government from committing any kind of contradictory behavior. For instance, a company may have been debarred by a municipality for fraud in public procurement. As a consequence, according to the Brazilian law, it will not be allowed to participate in a public bidding at any level of government. If this company tries to participate in a bid of the federal government, the bid official will easily detect this undue attempt by simply consulting the public databases.

The implementation of transparency measures is vital for mitigating the risks of public procurement because it allows civil society to consult relevant data and help public officials in the challenging task of detecting illicit activities. In the particular case of Brazil, a country of continental dimensions, the oversight exercised by civil society is extremely welcome and helpful. As we could see in the mentioned examples, the information technology tools available facilitates this process.