

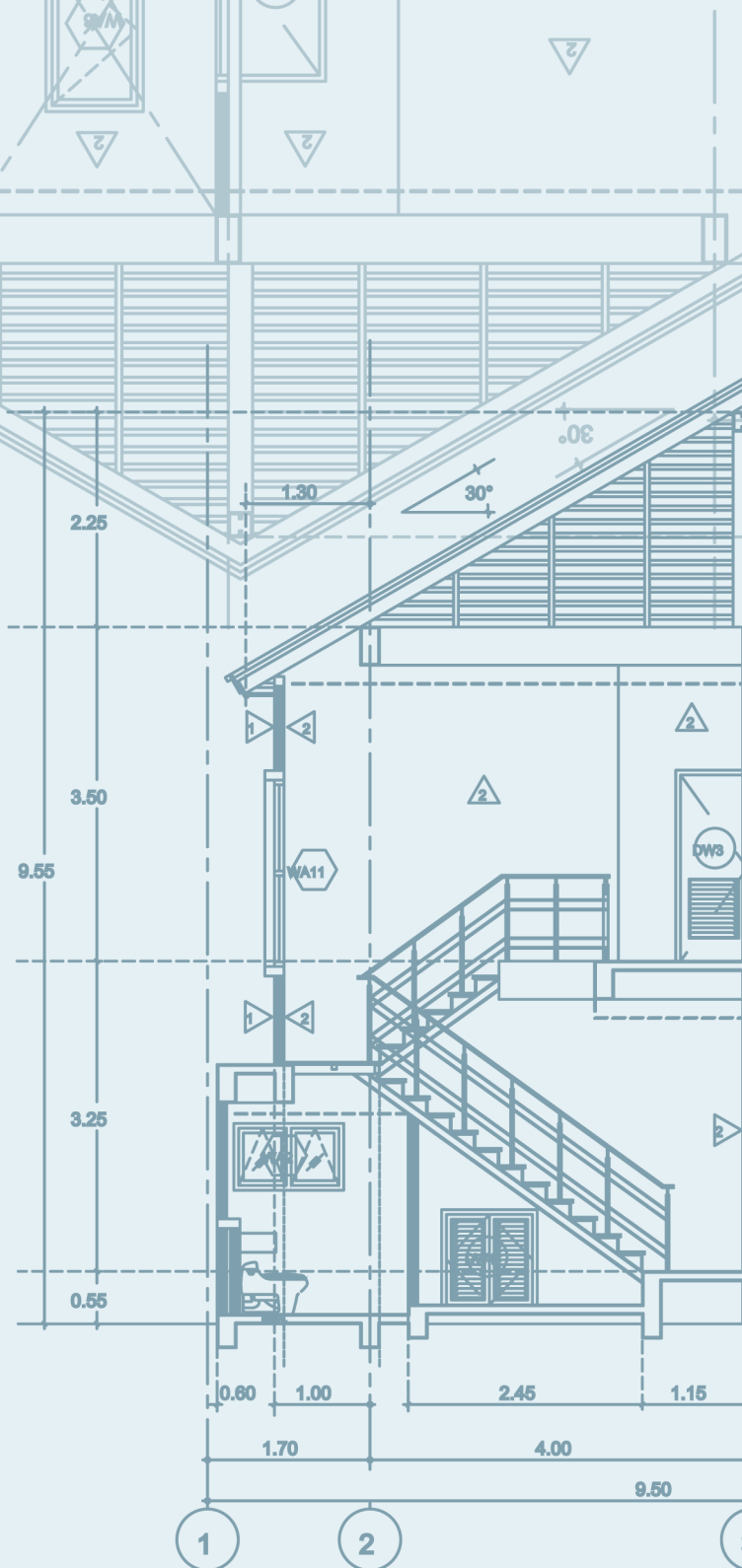
The background of the entire page is a detailed architectural blueprint in a light blue color on a dark blue background. The blueprint features various technical drawings, including floor plans with rooms and corridors, a large circular structure with radial lines (possibly a dome or a large well), and a complex network of lines and symbols representing infrastructure. The drawings are oriented diagonally across the page.

**VIEIRAREZENDE**  
ADVOGADOS

Yearbook 2021  
**INFRASTRUCTURE**

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# Introduction

Vieira Rezende is a full service Law Firm, composed by professionals with a multidisciplinary practice, representing clients in a wide range of sectors in both industrial and services activities in Brazil.

After the consolidation of the Corporate area, enhancing the Firm' capabilities towards a full-service practice, accumulating tremendous experience during the years of privatization and public service concession, participating in historic operations such as the privatization of Vale, the privatization of the electricity sector and the telecommunications sector, as well as the restructuring of the financial and steel sectors.

# Practice Areas

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# Our partners | *Infrastructure & Projects*



## **Celso Contin**

Celso has extensive experience in structured finance operations, mergers and acquisitions and transactions involving real estate assets. Represents for years some of the largest foreign and domestic banks and companies in complex operations involving companies and assets in Brazil.

[Full biography here](#)



## **Cláudio Guerreiro**

Cláudio is a member of the board of directors of the firm and the leading partner in the corporate area. He is a reference in advising on aspects related to the use of natural resources, especially mining, water and sanitation. Cláudio has extensive experience in the corporate and administrative areas representing large corporate groups in M&A operations and infrastructure projects.

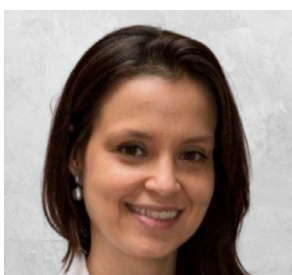
[Full biography here](#)



## **Claudio Pieruccetti**

Claudio has extensive experience in litigation and arbitration (civil and corporate), including commercial contracts, civil liability, corporate and corporate disputes. He has extensive experience in administrative law, including bidding, public procurement, concessions and public-private partnerships. He is a partner in the Litigation & Arbitration practice of Vieira Rezende and the Rio de Janeiro State Attorney since 2004.

[Full biography here](#)



## **Maria Virginia Mesquita**

Maria Virginia has extensive experience in the areas of infrastructure, public law and regulatory & public affairs. She advises companies in public tenderings, PFI contracts, construction contracts, compliance and integrity in the infrastructure industry, as well as acting on M&A and Project Finance in regulated sectors. Maria Virginia is recognized for her diverse experience, involving transactional areas, public administration and multilateral agencies.

[Full biography here](#)



## **Marina Aidar**

Marina has extensive experience in financing structuring. Advises national and international banks and companies in complex operations, including international lending, project financing in regulated sectors and issuance of debt securities in the capital markets. Marina is recognized for her pro-deal position in negotiations, representing the interests of her clients.

[Full biography here](#)

# Main normative rulings

## Laws and provisional measures

# 01

### Law 14,118/2021

March 1, 2021

Establishes the Green and Yellow House Program (Programa Casa Verde e Amarela): amends Laws 8036, of May 11, 1990, 8100, of December 5, 1990, 8677, of July 13, 1993, 11,124, of June 16, 2005, 11,977, of July 7, 2009, 12,024, of August 27, 2009, 13,465, of July 11, 2017, and 6766, of December 19, 1979; and repeals Law 13,439, of April 27, 2017.

[Read more](#)

### Law 14,120/2021

March 2, 2021

Amends Laws 9991, of July 24, 2000, 5655, of May 20, 1971, 9427, of December 26, 1996, 10,438, of April 26, 2002, 10,848, of March 15, 2004, 12,111, of 9 December 2009, 12,783, of January 11, 2013, 13,203, of December 8, 2015, and Decree-Law 1383, of December 26, 1974; transfers to the Federal Government the shares held by the National Commission of Nuclear Energy (Comissão Nacional de Energia Nuclear – CNEN) representing the share capital of Indústrias Nucleares do Brasil S.A. (INB) and Nuclebrás Equipamentos Pesados S.A. (Nuclep); among other provisions.

[Read more](#)

### Law 14,133/2021

April 1, 2021

Law of Bidding Procedures and Administrative Contracts.

[Read more](#)

### Law 14,134/2021

April 9, 2021

Provides for the activities related to the transport of natural gas, provided for under Article 177 of the Federal Constitution, and on the activities of disposal, treatment, processing, underground storage, packaging, liquefaction, regasification and sale of natural gas; amends Laws 9478, of August 6, 1997, and 9847, of October 26, 1999; and repeals Law 11,909, of March 4, 2009, and the provisions of Law 10,438, of April 26, 2002.

[Read more](#)

### Law 14,146/2021

April 27, 2021

Exempts consumers in municipalities in the state of Amapá covered by the state of public calamity from the payment of electricity bills, as specified; amends Law 10,438, of April 26, 2002, 10,848, of March 15, 2004, and 12,111, of December 9, 2009; among other provisions.

[Read more](#)

# 01

## Main normative rulings

### *Laws and provisional measures*

#### **Provisional Measure 1,052/2021** *May 19, 2021*

Amends Laws 12,712, of August 30, 2012, 7827, of September 27, 1989, 10,177, of January 12, 2001, and 9126, of November 10, 1995, allowing the Federal Government to participate, as a shareholder, in the total limit of R\$11,000,000,000.00 (eleven billion reais), in a fund that aims to enable the structuring and development of concession projects and public-private partnerships of the Federal Government, the States, the Federal District and the Municipalities.

[Read more](#)

#### **Law 14,174/2021** *June 18, 2021*

Amends Law 14,034, of August 5, 2020, to extend the term of emergency measures for Brazilian civil aviation due to the covid-19 pandemic.

[Read more](#)

#### **Provisional Measure 1,055/2021** *June 28, 2021*

Establishes the Chamber of Exceptional Rules for Hydroenergy Management with the purpose of establishing emergency measures to optimize the use of hydroenergy resources, and to cope with the current situation of water scarcity, in order

to ensure continuity and safety of the electroenergy supply in the country.

[Read more](#)

#### **Provisional Measure 1,031/2021, converted into Law 14,182/2021** *July 13, 2021*

Provides for the denationalization of the company Centrais Elétricas Brasileiras S.A. (Eletrobras), and amends Laws 5899, of July 5, 1973, 9991, of July 24, 2000, and 10,438, of April 26, 2002.

[Read more](#)[Read more](#)

#### **Law 14,184/2021** *July 14, 2021*

Amends Law No. 11,508, of July 20, 2007, for the purpose of modernizing the legal framework of Export Processing Zones (Zonas de Processamento de Exportação – ZPEs). The Executive Branch is authorized to create, in the less developed regions, Export Processing Zones (ZPEs), subject to the legal regime established by this Law, with the purpose of developing the export culture, strengthening the balance of payments, and promoting technological dissemination, reduction of regional imbalances and the economic and social development of the country.

[Read more](#)



# Main normative rulings

# 01

## *Laws and provisional measures*

### **Provisional Measure 1,065/2021** *August 30, 2021*

Provides for the operation of the railway transport service, transit and railway transport, and the activities carried out by railway managers and independent railway operators, establishes the Railway Authorization Program, among other provisions.

[Read more](#)

### **Law 14,215/2021** *October 7, 2021*

Establishes transitional rules applicable to partnerships entered into by the government during the validity of restrictive measures related to the fight against covid-19 pandemic, among other provisions.

[Read more](#)

### **Law 14,216/2021** *October 8, 2021*

Establishes exceptional measures due to the Emergency in Public Health of National Importance (Emergência em Saúde Pública de Importância Nacional – Espin) resulting from human infection by the coronavirus SARS-CoV-2, to suspend compliance with judicial, extrajudicial or administrative measure that results in collective forced

removal or eviction in any private or public property, exclusively urban, and granting of injunction in any eviction action provided for under Law 8245, October 18, 1991, and to stimulate the execution of settlements in lease/Leasing agreements.

[Read more](#)

### **Law 14,217/2021** *October 14, 2021*

Provides for exceptional measures for the acquisition of goods and supplies, and for the engagement of services, including engineering, aimed at coping with the covid-19 pandemic.

[Read more](#)

### **Provisional Measure 1,047/2021, converted into Law 14,222/2021** *October 18, 2021*

Creates the National Nuclear Safety Authority (Autoridade Nacional de Segurança Nuclear – ANSN); amends Laws 4118, of August 27th, 1962, 6189, of December 16th, 1974, 6453, of October 17th, 1977, 9765, of December 17th, 1998, 8691, of July 28, 1993, and 10,308, of November 20, 2001; and repeals Law 13,976, of January 7th, 2020.

[Read more](#)[Read more](#)

## Laws and provisional measures





# Main normative rulings

## Decrees

# 01

### **Decree 10,600/2021** *January 15, 2021*

Regulates Law 14,118, of January 12, 2021, which establishes the Green and Yellow House Program (*Programa Casa Verde e Amarela*).

[Read more](#)

### **Decree 10,602/2021** *January 18, 2021*

Amends Decree 10,356 of May 20, 2020, which provides for the industrial policy for the communication and information technology industry.

[Read more](#)

### **Decree 10,610/2021** *January 28, 2021*

Approves the General Plan of Goals for the Universalization of the Public Switched Telephone Service Provided under the Public Regime.

[Read more](#)

### **Decree 10,624/2021** *February 10, 2021*

Provides for the qualification of a federal public enterprise of the railway industry under the Investment Partnership Program of the Presidency of the Republic. (South Network railway sector, belonging to

the former Rede Ferroviária Federal S.A., and under the responsibility of the concessionaire Rumo Malha Sul S.A.).

[Read more](#)

### **Decree 10,633/2021** *February 19, 2021*

Provides for the qualification of a federal public enterprise of the railway industry under the Investment Partnership Program of the Presidency of the Republic (West Network railway sector, belonging to the former Rede Ferroviária Federal S.A., and under the responsibility of the concessionaire Rumo Malha Oeste S.A., for Rebidding purposes).

[Read more](#)

### **Decree 10,635/2021** *March 23, 2021*

Provides for the qualification of enterprises in the road, port and airport transport industries under the Investment Partnership Program of the Presidency of the Republic, and on the inclusion of federal public enterprises in the port and airport industries in the National Denationalization Program.

[Read more](#)

# 01

## Main normative rulings

### Decrees

#### Decree 10,647/2021 *March 12, 2021*

Provides for the qualification of a federal public enterprise of the road industry under the Investment Partnership Program of the Presidency of the Republic (road sector BR-163/MS, in the stretch between the boarder of the states of Mato Grosso and Mato Grosso do Sul and the border of the states of Mato Grosso do Sul and Paraná, for Rebidding purposes).

[Read more](#)

#### Decree 10,648/2021 *March 15, 2021*

Establishes the Policy for Modernization of Federal Road Transport Infrastructure (inov@BR) and qualifies it under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

#### Decree 10,653/2021 *March 22, 2021*

Provides for the qualification of federal public projects and enterprises in the electricity industry under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

#### Decree 10,657/2021 *March 25, 2021*

Establishes the Policy to Support the Environmental Licensing of Investment Projects for the Production of Strategic Minerals (Strategic Pro-Minerals), provides for its qualification under the Investment Partnership Program of the Presidency of the Republic, and establishes the Interministerial Committee for the Analysis of Strategic Mineral Projects.

[Read more](#)

#### Decree 10,665/2021 *March 31, 2021*

Amends Decree 4550, of December 27, 2002, which regulates the sale of electricity generated by Eletrobrás Termonuclear S. A. (Eletronuclear), by Itaipu Binacional, among other provisions.

[Read more](#)

#### Decree 10,669/2021 *April 8, 2021*

Provides for the inclusion of *Empresa Brasil de Comunicação S.A.* in the National Denationalization Program, and amends Decree No. 10,354, of May 20, 2020.

[Read more](#)



# Main normative rulings

## Decrees

# 01

### **Decree 10,670/2021** *April 8, 2021*

Provides for the qualification of Centrais Elétricas Brasileiras S.A. (Eletrobras) under the Investment Partnership Program of the Presidency of the Republic, and its inclusion in the National Denationalization Program.

[Read more](#)

### **Decree 10,672/2021** *April 12, 2021*

Amends Decree 8033, of June 27, 2013, which regulates the provisions of Law 12,815, of June 5, 2013, and the other legal provisions governing the operation of organized ports and port facilities.

[Read more](#)

### **Decree 10,674/2021** *April 14, 2021*

Provides for the inclusion of Empresa Brasileira de Correios e Telégrafos in the National Denationalization Program.

[Read more](#)

### **Decree 10,677/2021** *April 19, 2021*

Provides for the qualification of touristic enterprises under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,678/2021** *April 19, 2021*

Provides for the qualification of the policy of incentive for partnerships with the private sector to study housing alternatives for social leasing under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,693/2021** *May 5, 2021*

Provides for the qualification of the planned hydroelectric plants UHE Ercilândia and UHE Apertados under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,700/2021** *May 17, 2021*

Provides for the qualification of a stretch of highway BR-235/PE under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

# 01

## Main normative rulings

### Decrees

#### Decree 10,707/2021

May 28, 2021

Regulates the contracting of capacity reserves, in the form of power, as provided for under Art. 3 and Art. 3-A of Law 10,848, of March 15, 2004, and amends Decree 5163, of July 30, 2004, and Decree 5177, of August 12, 2004.

[Read more](#)

#### Decree 10,710/2021

June 1, 2021

Regulates Article 10-B of Law 11,445, of January 5, 2007, to establish the methodology for proving the economic and financial capacity of utilities service providers for the supply of drinking water or sewage, considering the regular contracts in force, with a view to enabling the achievement of the universalization goals provided for in the head provision of Art. 11-B, of Law 11,445, of 2007.

[Read more](#)

#### Decree 10,712/2021

June 8, 2021

Regulates Law 14,134, of April 8, 2021, which provides for the activities related to the transportation of natural gas, as set out in Art. 177 of the Constitution, and for the activities of disposal, treatment, processing, underground storage, packaging,

liquefaction, regasification and sale of natural gas.

[Read more](#)

#### Decree 10,733/2021

June 28, 2021

Declares that the real estate private properties consisting of land, improvements and accessions, including the useful domain of the land subject to emphyteutic rent that constitute the complementary areas necessary for the implementation and completion of the Integration Project of the São Francisco River with Hydrographic Basins of the Northern Northeast and its associated works, located in the states of Ceará, Paraíba, Pernambuco and Rio Grande do Norte, are of public interest, for the purposes of expropriation or institution of an access easement, in favor of the Federal Government.

[Read more](#)

#### Decree 10,738/2021

July 2, 2021

Provides for the qualification of enterprises in the electricity industry under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)



# Main normative rulings

## Decrees

# 01

### Decree 10,741/2021

July 6, 2021

Provides for the inclusion of public fishing terminals in the National Denationalization Program.

[Read more](#)

### Decree 10,744/2021

July 9, 2021

Provides for the qualification of sections of the West-East Integration Railway under the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

### Decree 10,753/2021

July 26, 2021

Provides for the qualification of the concession of the Waterway Access Channel of the Port Complex of Paranaguá and Antonina, state of Paraná, under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

### Decree 10,762/2021

August, 3, 2021

Amends Decree 9915, of July 16, 2019, which provides for the qualification of Angra 3 Thermonuclear Power Plant in the Investment Partnership Program of the Presidency of the Republic.

[Read more](#)

### Decree 10,767/2021

August 13, 2021

Provides for the qualification of warehouses and real estate properties in the domain of Companhia Nacional de Abastecimento (Conab) under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

### Decree 10,781/2021

August 27, 2021

Approves the 2nd Amendment to the International Concession Contract, entered into by and between the Federative Republic of Brazil and the Republic of Argentina, through the Brazilian-Argentine Joint Commission, with the concessionaire Mercovia S.A.

[Read more](#)

### Decree 10,787/2021

September 8, 2021

Amends Decree 5879, of August 22, 2006, and Decree 9022, of March 31, 2017, to provide for the allocation and use of funds for studies and research to plan the expansion of the energy system.

[Read more](#)

# 01

## Main normative rulings

### Decrees

#### Decree 10,791/2021 *September 13, 2021*

Creates Empresa Brasileira de Participações em Energia Nuclear e Binacional S.A.

[Read more](#)

#### Decree 10,798/2021 *September 17, 2021*

Regulates Art. 23 of Law 14,182, of July 12, 2021, to provide for the conditions for the extension of the period of supply of the energy purchase contracts of the Incentive Program for Alternative Sources of Electric Power.

[Read more](#)

#### Decree 10,799/2021 *September 17, 2021*

Amends Decree 9612, of December 17, 2018, which provides for public telecommunications policies.

[Read more](#)

#### Decree 10,821/2021 *September 29, 2021*

Repeals item I of par. 2 of Article 18, of Annex I to Decree 10,610, of January 27, 2021, which approves the General Plan of Goals for the Universalization of the Switched Landline Service Performed under the Public Regime.

[Read more](#)

#### Decree 10,838/2021 *October 19, 2021*

Regulates Art. 6 and Art. 8 of Law 14,182, of July 12, 2021, to provide for the programs for the revitalization of water resources of the São Francisco River and Parnaíba River Basins, and those in the area of influence of the reservoirs of Furnas Hydroelectric Power Plants.

[Read more](#)

#### Decree 10,858/2021 *November 18, 2021*

Provides for the qualification of federal public enterprises in the port transport industry under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

#### Decree 10,863/2021 *November 22, 2021*

Establishes, for the process of denationalization of Empresa Gestora de Ativos S.A. (Emgea), the time frame for the beginning of the counting of the period set out in the head provision of Art. 3, of Decree 9589, of November 29, 2018.

[Read more](#)



# Main normative rulings

## Decrees

# 01

### **Decree 10,864/2021** *November 22, 2021*

Provides for the qualification of a federal public enterprise of the road industry under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,865/2021** *November 22, 2021*

Provides for the qualification of federal public enterprises in the waterway industry under the Investment Partnerships Program of the Presidency of the Republic, and on the inclusion thereof in the National Denationalization Program.

[Read more](#)

### **Decree 10,872/2021** *November 30, 2021*

Provides for the qualification of studies related to public enterprises in the road industry under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,885/2021** *December 7, 2021*

Excludes the Brazilian Mint from the National Denationalization Program and from the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

### **Decree 10,893/2021** *December 14, 2021*

Regulates par. 1-C of Art. 26, of Law 9427, of December 26, 1996, which establishes the National Electric Energy Agency (Agência Nacional de Energia Elétrica – ANEEL), and regulates the regime of concessions for public electricity services.

[Read more](#)

### **Decree 10,894/2021** *December 15, 2021*

Provides for the inclusion of the Organized Port of São Sebastião in the National Denationalization Program.

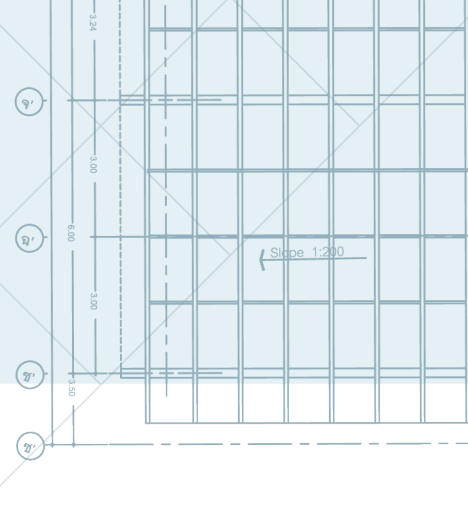
[Read more](#)

### **Decree 10,902/2021** *December 20, 2021*

Provides for the qualification of an enterprise of the electricity sector under the Investment Partnerships Program of the Presidency of the Republic.

[Read more](#)

# 02 | Main legislative propositions



## Bill 591/2021

Provides for the organization and maintenance of the National Postal Service System.

[Read more](#)

## Bill 4,121/2021

Authorizes the Federal Executive Branch to promote bids for the execution of sponsored concession contracts in projects of the airport industry in the State of Amazonas.

[Read more](#)

## Bill 4,546/2021

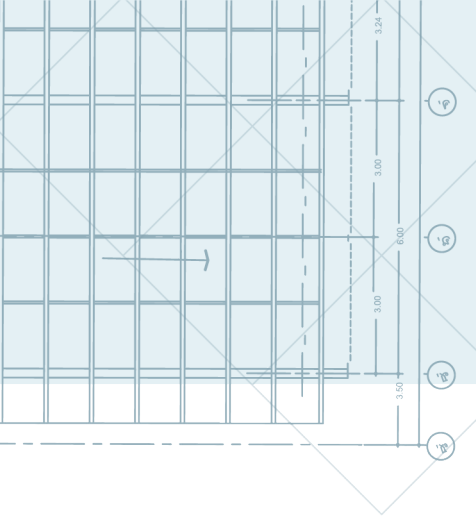
Establishes the National Water Infrastructure Policy, provides for the organization of the operation and performance of water services, and amends Laws 9433, of January 8, 1997, and 9984, of July 17, 2000.

[Read more](#)

## Bill 3,278/2021

Updates the legal framework of the National Urban Mobility Policy; amends Law 12,587, of January 3, 2012, Law 10,636, of December 30, 2002, and Law 10,257, of July 10, 2001.

[Read more](#)



# Relevant decisions of the Federal Accounting Court (TCU)

# 03

## Decision 66/2021 Full Court

(Inquiry, Rapporteur Minister Augusto Nardes) Administrative Contract. Amendment. Limit. Budget. Restriction. Suppression. Addition. Offsetting. Inquiry. The total or partial reestablishment of the quantity of an item previously suppressed under an amendment to the contract based on Art. 65, Par. 1 and 2, of Law 8666/1993, due to budgetary constraints, provided that the same conditions and initial prices agreed upon are complied with, does not characterize the offsetting prohibited under TCU case law, as per Decisions 1536/2016-Full Court and 2554/2017-Full Court, since the subject matter of the bidding procedure is unchanged, and, therefore, in addition to the reestablishment, new increases on the original value of the contract are possible, subject to the limits set out in Art. 65, Par. 1, of Law 8666/1993.

## Decision 3,233/2020 Full Court

(Audit, Rapporteur Substitute Minister Augusto Sherman) Administrative Contract. Advance payment. Requirement. Performance bond. The lack of specific and sufficient requirement, in the form of insurance or bonds, for the authorization of

advance payments contractually provided is against the provisions of Article 38 of Decree 93,872/1986; Arts. 40, XIV, letter d, and 65, II, letter c, of Law 8666/1993; and Arts. 31, Par. 1, II, letter d, and 81, V, of Law 13,303/2016 (Law of State-Owned Companies).

## Decision 3,251/2020 Full Court

(Interlocutory Appeal, Rapporteur Minister Raimundo Carreiro) TCU jurisdiction. Regulatory agency. Scope. Discretion. Cost-effectiveness. Tariff. The TCU may determine corrective measures to any measure adopted within the discretion of regulatory agencies, provided that this measure violates the legal system, which includes the principles of the cost-effectiveness of the Government and the sliding-scale rates in the performance of public services.

## Decision 3,260/2020 Full Court

(Complaint, Rapporteur Substitute Minister André de Carvalho) Bidding process. Estimated budget. Price. Minimum limit. Remuneration. Workforce. Measurement. Result. The establishment of minimum remuneration for the workforce is prohibited in the invitation to bid when the services performed by the contractor need to be measured and paid according to results.

# 03

## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 119/2021 Full Court

(Complaint, Rapporteur Substitute Minister Marcos Bemquerer) Bidding process. Exemption from bidding process. Emergency. Requirement. Price. Justification. In no-bid contracts based on emergency (Art. 24, IV, Law 8666/1993), it is up to the manager to demonstrate the impossibility of waiting for the time necessary to carry out a bidding procedure, in view of the risk of harm or compromise of the safety of people and public or private properties, in addition to justifying the choice of supplier and the agreed price.

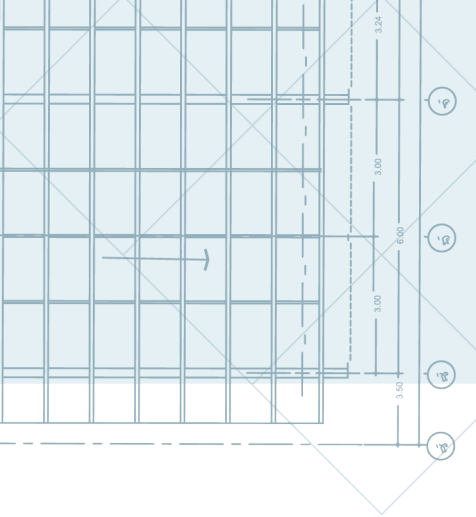
### Decision 4,040/2020 Full Court

(Special Rendering of Accounts, Rapporteur Minister Walton Alencar Rodrigues) Administrative Contract. Overcharging. Financial compensation. Damage to the public treasury. Once overcharging is found, it is legitimate to offset debts and credits existing between the Government and the contracted company, in view of the indisputable existence of reciprocal debts

and the difficulties inherent to the action for damages to public treasury, based on Art. 54 of Law 8666/1993, which provides for the supplementary application of rules of private law to administrative contracts, as is the case of the offsetting, set forth in Art. 368 of Law 10,406/2002 (Civil Code).

### Decision 4,042/2020 Full Court

(Motion for Review, Rapporteur Minister Walton Alencar Rodrigues) Liability. Declaration of ineligibility. Scope. Fraud. Legal entity. Shareholder. It is applicable to declare the ineligibility of a company that participates in a bidding process using human resources and materials of another company, previously declared as ineligible, in order to circumvent the penalty, which characterizes bid rigging, not being necessary the existence of common shareholders for the application of the sanction.



# Relevant decisions of the Federal Accounting Court (TCU)

# 03

## Decision 4,047/2020 Full Court

(Complaint, Rapporteur Minister Benjamin Zymler) Liability. Declaration of ineligibility. Timeframe. *Res judicata*. Starting day. Exception. Records. Registration. The counting of the deadline for compliance with the sanctions of declaration of ineligibility imposed by the TCU (Art. 46 of Law 8443/1992) begins when the Court decision becomes *res judicata*. However, since the company was erroneously included in the ineligible party records before that date, the period of undue registration must be considered in the fulfillment of the penalty.

## Decision 4,051/2020 Full Court

(Complaint, Rapporteur Minister Augusto Nardes) Bidding process. Exemption from bidding process. Emergency. Requirement. Proof. Technical qualification. The emergency contracting of a company that has not previously proven its technical capacity to perform the subject matter of the contract is contrary to the provisions of Art. 26, sole paragraph, II, of Law 8666/1993.

## Decision 4,063/2020 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Decision.

Competitiveness. Disqualification.

Materiality. Principle of selection of the most advantageous proposal. Principle of binding invitation to bid. Price offer. It is undue to disqualify, based on an extremely restrictive interpretation of the invitation to bid, a proposal more advantageous to the Government containing a single item, corresponding to the small portion of the subject matter tendered, with a value above the established limit, as it is contrary to the principle of the selection of the most advantageous proposal.

## Decision 4,551/2020 Full Court

(Audit, Rapporteur Substitute Minister André de Carvalho) Bidding process. State-owned company. Invitation to bid. Risk matrix. Engineering works and services. Economic-financial balance. Amendment. For state-owned companies, it is mandatory to include a clause providing for the risk matrix in contracts for engineering works and services, regardless of the performance regime (Art. 69, X, of Law 13,303/2016), as a guarantee of maintenance of the contractual economic-financial balance, and in order to establish the conditions for the possible execution of an amendment.

## Decision 169/2021 Full Court

(Inquiry, Rapporteur Minister Raimundo Carreiro) Administrative Contract. Performance bond. Requirement. Additional guarantee. Calculation. Inquiry. The calculation of the additional guarantee provided for under Art. 48, Par. 2, of Law 8666/1993 that suits better to the bidding purpose to meet the public interest in the search for the most advantageous proposal, based on the logical and systematic interpretations regarding the text of this provision, is as follows: additional guarantee = (80% of the lowest of the values of letters "a" and "b" of Par. 1 of Art. 48) – (value of the corresponding proposal).

## Decision 179/2021 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Decision. Principle of binding invitation to bid. Bidder. Questions. The clarifications provided by the Government throughout the bidding procedure are binding in nature, and it is not possible to admit, when analyzing the proposals, any distinct interpretation, under penalty of violation of the invitation to bid.

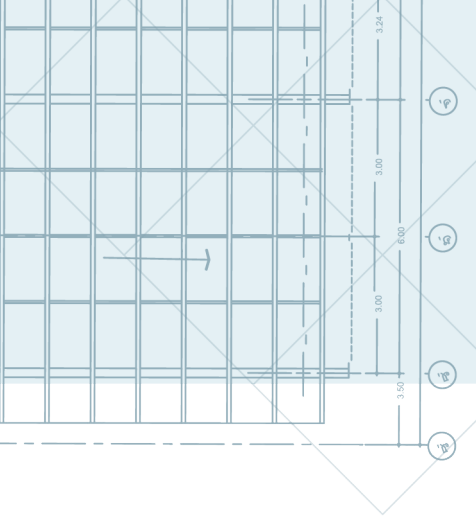
## Decision 180/2021 Full Court

(Complaint, Rapporteur Minister Raimundo

Carreiro) Procedural Law. Complaint. Admissibility. Private interest. Public interest. Principle of insignificance. Bidding process. The complaint formulated by a company (Art. 113, Par. 1, of Law 8666/1993) pointing to defects in its disqualification in a bidding process whose winner has offered prices a little higher than that of the complainant is be acceptable, as there is no clear public interest in the negligible materiality.

## Decision 1,668/2021 Second Chamber

(Special Rendering of Accounts, Rapporteur Substitute Minister Marcos Bemquerer) Liability. Agreement. Entity ruled by private law. Voluntary transfers. Debt. Joint and several liability. Consideration. Any legal entity ruled by private law receiving voluntary transfers of federal funds is jointly and severally liable with its managers for the damage caused to the public treasury in the use of these funds (TCU Precedent 286). However, with regard to liability for the damage related to the consideration, if there is no evidence of profiteering by the manager, the debt must be imposed only to the entity ruled by private law.



# Relevant decisions of the Federal Accounting Court (TCU)

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## Decision 233/2021 Full Court

(Motion for Review, Rapporteur Minister Raimundo Carreiro) Liability. Declaration of ineligibility. Fake document. Certificate of technical capacity. Fraud. The presentation of a certificate with false content characterizes, by itself, the practice of bid rigging, and leads to the declaration of ineligibility of the fraudster company to participate in any bidding process in the Federal Government, since the administrative violation provided for in Art. 46 of Law 8443/1992 consists of formal or mere conduct wrongdoing, without the need to achieve the result.

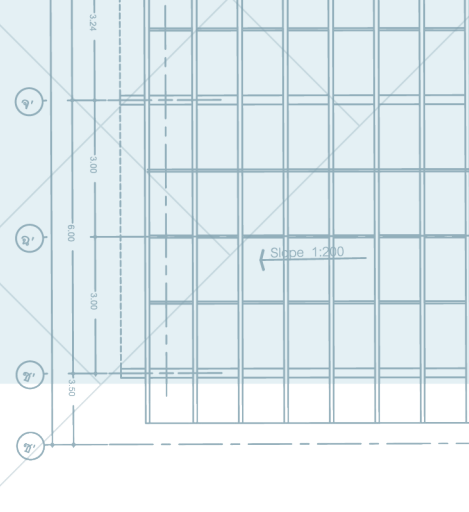
## Decision 3,002/2021 Second Chamber

(Special Rendering of Accounts, Rapporteur Substitute Minister Marcos Bemquerer) Liability. Administrative contract. Subcontracting. Debt. Quantification. The full subcontracting of the subject matter, with the mere placement of a person between the

contracting government and the company effectively performing the service (the subcontractor), leads to a debt, which corresponds to the difference between the payments received by the contractor and the amounts paid by it upon fully full subcontracting the services. The contractor and the managers who allowed full subcontracting shall be jointly and liable for the debt.

## Decision 503/2021 Full Court

(Complaint, Rapporteur Substitute Minister Augusto Sherman) Bidding process. Legal qualification. Articles of incorporation. Subject matter of the bidding. Consistency. For the purposes of legal qualification in bidding processes, there must be consistency between the subject matter of the bidding and the activities provided for in the articles of incorporation of the bidding companies.



## Decision 503/2021 Full Court

(Complaint, Rapporteur Substitute Minister Augusto Sherman) Bidding process. Technical qualification. Certificate of technical capacity. Time. Experience. Justification. Continuous services. In bidding processes for continued services, for technical and operational qualification purposes, the requirement of at least three years of previous experience (sub-items 10.6, b, and 10.6.1 of Annex VII-A of IN-Seges/MPDG 5/2017), a time lapse generally longer than the effective date of the contract, must have adequate reasoning, based on previous studies and on the past experience of the contracting authority, indicating that such a period is indispensable in order to ensure the performance of the service in accordance with the specific needs of the authority, in view of the essentiality, quantity, risk, complexity or any other particularity thereof.

## Decision 505/2021 Full Court

(Complaint, Rapporteur Substitute Minister Marcos Bemquerer) Bidding process. Technical qualification. Professional supervisory council. Proof. Compliance. Bidders shall not be required, for the qualification purposes, any proof of payment of annual fees to the professional council to which the company and the professionals

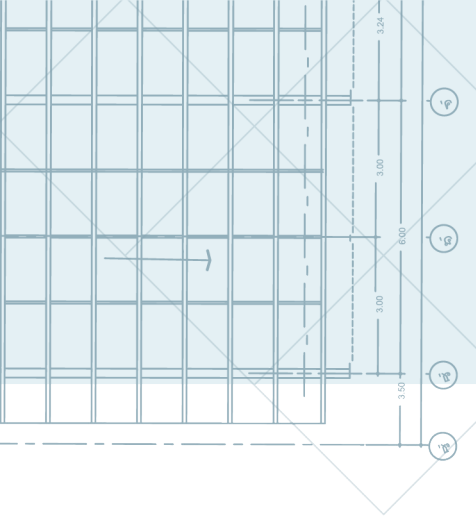
supervisory are connected, since this requirement is not provided for by law.

## Decision 505/2021 Full Court

(Complaint, Rapporteur Substitute Minister Marcos Bemquerer) Bidding process. Technical qualification. Professional supervisory council. Place. Requirement. Moment. The requirement of registration with the relevant professional supervisory authority of the place of performance of the services must occur at the time of the execution of the contract, not in the technical qualification phase, in order to avoid that participation in the bidding process becomes restricted to those already registered at the place and any unnecessary burden imposed on interested parties (Art. 37, XXI, of the Federal Constitution, and TCU Precedent 272).

## Decision 569/2021 Full Court

(Special Rendering of Accounts, Rapporteur Substitute Minister Augusto Sherman) Agreement. Real estate properties. Land regularization. Loan for use. Administrative easement. The regularization of the land to be affected by the subject matter of the agreement can take place through the imposition of administrative easement or the execution of a loan for use with the assignment of possession to the municipality.



# Relevant decisions of the Federal Accounting Court (TCU)

# 03

## Decision 781/2021 Full Court

(Audit, Rapporteur Minister Walton Alencar Rodrigues) Administrative Contract. Amendment. Limit. Prohibition. Offsetting. Addition. Suppression. Reductions or suppressions of quantities arising from any contractual amendment change shall be considered individually, i.e., the set of reductions and the set of additions must always be calculated over the original value of the contract, by applying to each of these sets, individually and without any kind of offsetting between them, the limits of amendments set out in Art. 65, Par. 1, of Law 8666/1993.

## Decision 845/2021 Full Court

(Audit, Rapporteur Minister Augusto Nardes) Administrative Contract. Engineering works and services. Measurement. Local government (Public works). Payment. The payment of the item "local government" inconsistently with the performance of the contracted services characterizes an irregular settlement of expenses, contrary to the provisions of Arts. 62 and 63 of Law 4320/1964.

## Decision 894/2021 Full Court

(Motion for Review, Rapporteur Minister Benjamin Zymler) Bidding process. Award in public tender. Adhesion to contract on award in public tender. Quantity. Limit. Control. It is up to the authority managing the contract on award in public tender to control the authorizations for adhesion, so that the quantity of each item awarded and contracted by the adhering parties do not exceed the limits provided for in Art. 22, Par. 3, 4 and 4-A, of Decree 7892/2013.

## Decision 921/2021 Full Court

(Motion for Review, Rapporteur Minister Walton Alencar Rodrigues) Liability. Declaration of ineligibility. Scope. Invitation (Bidding process). Proposal. Abstention. The declaration of ineligibility (Art. 46 of Law 8443/1992) may be applied to the company that was invited to participate in the bidding process and refrained from submitting a proposal to deliberately benefit third parties, characterizing a neglectful conduct with the aim of unlawfully interfering in the bidding procedure.

# 03

## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 1,175/2021 Full Court

(Audit, Rapporteur Substitute Minister Marcos Bemquerer) Bidding process. State-owned company. Engineering works and services. Semi-integrated contracting. Justification. The absence of justification for the adoption of a regime for the performance of works other than the semi-integrated contracting in a bidding procedure conducted by a state-owned company is contrary to Article 42, Par. 4, of Law 13,303/2016 (Law of State-Owned Companies).

### Decision 1,766/2021 Full Court

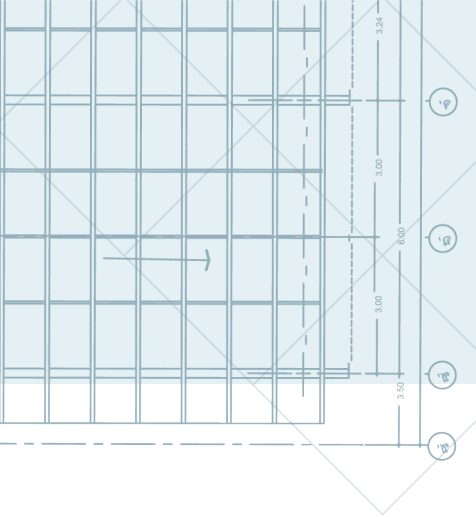
(Denationalization, Rapporteur Minister Walton Alencar Rodrigues) Denationalization. Public concession. Concessionaire. Inspection. Third party. Conflict of interest. Reduction. In concession contracts, it is possible for the concessionaire to hire a third party to assist in the monitoring and inspection of the concession, in order to subsidize the government with information regarding the performance of the concessionaire. In such cases, it is necessary to establish mechanisms for reducing conflicts of interest, and rules subjecting the documents and opinions prepared by the third party to validation by a technical authority from the government.

### Decision 2,435/2021 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Procurement. Intent to appeal. Admissibility. Merit. Anticipation. In the electronic procurement or auction, the appreciation of the admissibility of the intentions to appeal must evaluate only the presence of the prerequisites to appeal (loss of suit, timeliness, standing to appeal, interest and motivation), and any denial thereof based on prior examination of the merits of the claim constitutes an irregularity.

### Decision 2,435/2021 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Technical qualification. Certificate of technical capacity. Documentation. Exhaustive list. Contract. Invoice. It is illegal to demand that technical capacity certificates must be accompanied by copies of invoices or contracts supporting them, since the list of qualifying documents contained in Articles 27 to 31 of Law 8666/1993 is exhaustive.



# Relevant decisions of the Federal Accounting Court (TCU)

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## Decision 2,443/2021 Full Court

(Complaint, Rapporteur Substitute Minister Augusto Sherman). Bidding process. Bidder's qualification. Documentation. Verification. New document. Prohibition. Scope. The prohibition of the inclusion of new documents, provided for in Art. 43, Par. 3, of Law 8666/1993, and Art. 64 of Law 14,133/2021 (the new Government Procurement Law), does not reach any document intended to certify the qualification status existing prior to the opening of the public session, presented in the verification stage.

## Decision 2,319/2021 Full Court

(Complaint, Rapporteur Minister Bruno Dantas) Bidding process. International bidding process. Invitation to bid. Price offer. Principle of equal protection. In international bidding processes, state-owned enterprises must provide, in their bidding and contract regulations, a rule to equate proposals, based, for example, on the precept contained in Art. 52, Par. 4, of Law 14,133/2021, with a view to ensuring the fair comparison of the proposals of foreign bidders with those of national bidders, in compliance with the principle of equal protection set out in Art. 37, XXI, of the Federal Constitution, and in Art. 31, head provision, of Law 13,303/2016.

## Decision 2,331/2021 Full Court

(Audit, Rapporteur Substitute Minister Augusto Sherman) Administrative Contract. Differentiated Regime for Public Contracts (RDC). Integrated contracting. Basic project. Budget. Detailing. In the use of the Differentiated Regime for Public Contracts (Regime Diferenciado de Contratação – RDC), the non-requirement, by the contracting authority, of the presentation of the detailed budget for the work, which must be part of the basic project as an indispensable condition for approval thereof, including in the context of integrated contracting, is contrary to the provisions of Art. 2, IV and V, and sole paragraph, VI, along with Art. 9, Par. 1, all of Law 12,462/2011.

## Decision 2,269/2021 Full Court

(Denunciation, Rapporteur Minister Benjamin Zymler) Bidding process. Procurement. Proposal. Quality. Evaluation. Moment. Verification. The verification of minimum quality requirements in a procurement process must be carried out at moment of analyzing the winning bidder's tender, rather than in the phase of acceptability of tenders, when there is still no identification of bidders and, therefore, it is not possible to make any further verifications, which may be necessary and are allowed, in accordance with Art. 43, Par. 3, of Law 8666/1993, secondarily applied in the scope of procurement.

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## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 2,291/2021 Full Court

(Audit, Rapporteur Minister Bruno Dantas) Bidding process. Technical qualification. Certificate of technical capacity. Technical-operational capacity. Quantity. Sum. The prohibition, with no technical justification, to the sum of certificates to prove the minimum quantities required in the technical-operational qualification is contrary to the principles of motivation and competitiveness.

### Decision 2,129/2021 Full Court

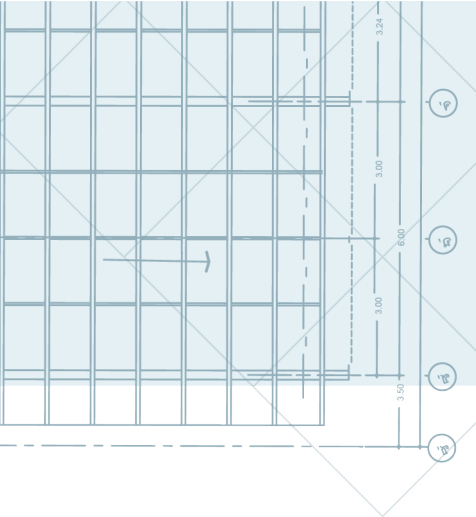
(Complaint, Rapporteur Minister Benjamin Zymler) Bidding process. Bidder's qualification. Documentation. Third party. Prohibition. Personal property. In a bidding procedure for the supply of furniture, the bidder shall not be required to submit documents relating to the furniture manufacturers, such as Ibama clearance certificate, environmental operating license, chain of custody environmental certificate. The exhaustive list of elements for qualification (Arts. 27 to 31 of Law 8666/1993) refers to documents of the person interested in participating in the bidding process, and not of third parties outside the bidding process and outside the consequent contractual relationship.

### Decision 2,129/2021 Full Court

(Complaint, Rapporteur Minister Benjamin Zymler) Bidding process. Tender. Certification. ABNT. Quality. Declaration. Report. Justification. The requirement to comply with ABNT technical standards, quality statements, certifications, technical reports and certificates of compliance is irregular without demonstrating the essentiality of these requirements to ensure the sufficient quality and performance of the subject matter to be contracted.

### Decision 2,132/2021 Full Court

(Complaint, Rapporteur Substitute Minister Augusto Sherman) Bidding process. Auction. Tender. Withdrawal. Moment. Limit. Electronic procurement. In the electronic procurement, the withdrawal of any tender can only take place until the opening of the public session (Art. 26, Par. 6, of Decree 10,024/2019), with the provisions of Art. 43, Par. 6, of Law 8666/1993 – according to which the withdrawal of a tender is allowed until the qualification phase – not being applicable.



# Relevant decisions of the Federal Accounting Court (TCU)

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## Decision 2,032/2021 Full Court

(Denationalization, Rapporteur Minister Raimundo Carreiro) Bidding process. Invitation to bid. Amendment. Republishing. Term. Tender. The amendment to a clause of the invitation to bid capable of affecting the formulation of bidders' tenders without the republication of the invitation and reopening of deadlines for the submission of new tenders is contrary to the principles of transparency, the binding invitation to bid and equal protection.

## Decision 1,984/2021 Full Court

(Audit, Rapporteur Minister Augusto Nardes) Administrative Contract. Amendment. Requirement. Principle of the binding invitation to bid. Integrated contracting. RDC. Contractual performance regime. The option for using of the Differentiated Regime for Public Contracts must be expressly included in the invitation to bid, and the contract executed under Law 8666/1993 is not allowed to be amended, by means of an amendment thereto, for the adoption of provisions set forth in Law 12,462/2011, as for example in the integrated contracting regime, because it is contrary to Art. 1, Par. 2, of Law 12,462/2011 and Art. 65, II, letter b, of Law 8666/1993, as well as the principles of legal certainty, equal protection and the binding invitation to bid.

## Decision 1,984/2021 Full Court

(Audit, Rapporteur Minister Augusto Nardes) Administrative Contract. Amendment. Limit. Executive project. Addition. Justification. Deficiencies of the executive project do not constitute an exceptional fact or condition capable of justifying contractual amendments exceeding the limits established by Art. 65, Par. 1 and 2, of Law 8666/1993.

## Decision 1,984/2021 Full Court

(Audit, Rapporteur Minister Augusto Nardes) Administrative Contract. Amendment. Requirement. Project. Deficiency. Justification. Discount. The use of project deficiencies as an exceptional fact or condition capable of allowing the non-maintenance of the discount presented in the original proposal of the contractor is contrary to the provisions of Art. 14, sole paragraph, of Decree 7983/2013.

## Decision 11,242/2021 First Chamber

(Special Rendering of Accounts, Rapporteur Minister Jorge Oliveira) Agreement. Party. Obligation. Documentation. Interruption. Term. Rendering of accounts. Any act that makes the responsible party aware of any measure relating to the rendering of accounts interrupts the counting of the deadline for keeping the documentation of the agreement.

## Decision 10,397/2021 Second Chamber

(Special Rendering of Accounts, Rapporteur Substitute Minister Marcos Bemquerer) Administrative Contract. Overcharging. Subcontracting. Damage to the public treasury. Quantification. Market price. Upon full subcontracting of the subject matter, in which the contractor acts as a mere intermediary between the Government and the company effectively performing the services (the subcontractor), overcharging must be quantified according to market prices and not simply by the difference between the payments received by the contractor and the amounts paid by it to the subcontractor.

## Decision 1,928/2021 Full Court

(Audit, Rapporteur Minister Benjamin Zymler) Bidding process. Lease (Bidding process). Real estate properties. Build to suit lease. Value. Amortization. Reversible properties. Art. 47-A, Par. 3, of Law 12,462/2011 (RDC), according to which the value of the built to suit lease may shall not exceed, per month, 1% of the value of the leased property, is only applicable to contracts in which there is no provision

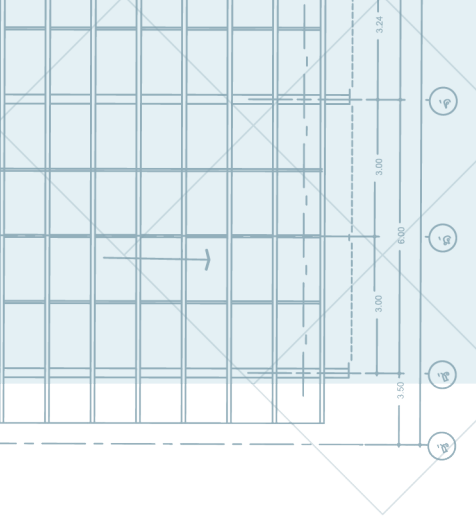
for the reversal of the property to the Government at the end of the lease. In cases where there is reversal, part of the so-called lease value corresponds to the amortization of the property, built in a financed manner, so that a higher percentage over the value of the property means greater monthly amortization, which entails a shorter contractual duration.

## Decision 1,939/2021 Full Court

(Complaint, Rapporteur Minister Bruno Dantas) Bidding process. Award in public tender. Contract award. Registration. Remaining bidder. Global price. Unit price. Contracting from the reserve list in any award in public tender requires the maintenance of the conditions offered by the winning bidder, including as to unit prices, and not only the adoption of the same global price.

## Decision 1,946/2021 Full Court

(Motion for Rehearing, Rapporteur Minister Jorge Oliveira) Bidding process. Engineering works and services. Price. Reference. Railway. Sicro. BDI. The amounts informed in the Road Cost System (Sistema de Custos Rodoviários – Sicro) for the BDI and for unit service costs.



# Relevant decisions of the Federal Accounting Court (TCU)

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## Decision 1,875/2021 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Estimated budget. Price. Reference. Comprasnet. Survey. Exception. Supplier. Price surveys for the provision of goods and services in general must be based on a "price basket," and preference must be given to prices charged within the Government, from other bidding processes. The price survey carried out exclusively with suppliers must be used as a last resource, in case there are no prices obtained in previous public contracting or reference price baskets (Normative Instruction Seges-ME 73/2020).

## Decision 2,458/2021 Full Court

(Administrative, Rapporteur Minister Augusto Nardes) Bidding process. No-bid contracting. Principle of transparency. Exemption from bidding process. National Public Procurement Portal. Federal Official Gazette. The exemption from bidding process provided for in Art. 75 of Law 14,133/2021 (new Government Procurement

Law) may be used by authorities not linked to the General Services System (Sistema de Serviços Gerais – Sisg), on a provisional and exceptional basis, until the necessary measures are completed to effectively access the functionalities of the National Public Procurement Portal (Portal Nacional de Contratações Públicas – PNCP) (Art. 174 of the aforementioned law). In this case, in order to reinforce transparency necessary for no-bid contracts, the Federal Official Gazette (Diário Oficial da União – DOU) must be used as a complementary mechanism to the agency's digital portal, until effective integration between internal systems and the PNCP.

## Decision 2,459/2021 Full Court

(Motion for Review, Rapporteur Minister Augusto Nardes) Liability. Fault. Gross error. Law of Introduction to Brazilian Law Rules (Lindb). Services. Quantity. Justification. Absence. For the purpose of exercising the sanctioning power of the TCU, the preparation of documents serving as grounds for contracting services with no justification for the quantities to be acquired can be characterized as a gross error (Art. 28 of Decree-Law 4657/1942 – Lindb).

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## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 2,460/2021 Full Court

(Special Rendering of Accounts, Rapporteur Minister Bruno Dantas) Procedural Law. Evidence (Law). Burden of proof. Reference. Sicro. Price. Challenge. The official cost tables adopted as parameters for the measurement of the regularity of contracted prices for public works are assumed as reliable, and it is up to the interested party to challenge them to prove inapplicability thereof.

### Decision 2,524/2021 Full Court

(Complaint, Rapporteur Minister Benjamin Zymler) Bidding process. Technical qualification. Certification. Bidder's qualification. Subject matter of the bidding. The requirement, in the qualification phase, of certifications related to the subject matter of the bidding is contrary to Art. 30 of Law 8666/1993 and Art. 37, XXI, of the Federal Constitution.

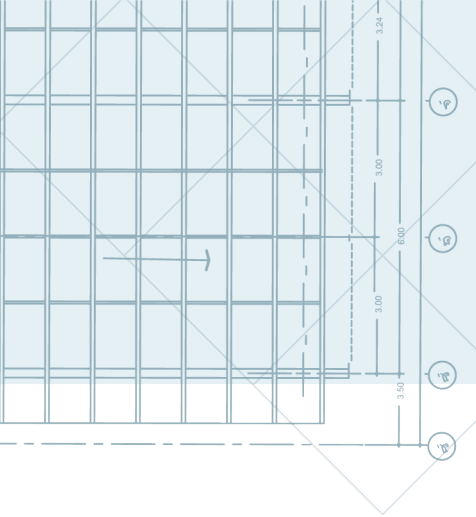
### Decision 2,527/2021 Full Court

(Motion for Review, Rapporteur Minister Raimundo Carreiro) Administrative Contract. Amendment. Limit. Addition. Engineering works and services. Inspection. The amendment of any work supervision contract beyond the statutory limit of 25%

established in Article 81, Par. 1, of Law 13,303/2016, and Art. 65, Par. 1, of Law 8,666/1993, is irregular, even if there is any extension of the period in the performance of the supervised work, and timely measures must be adopted with a view to new contracting, provided that there is unmistakable proof of the disadvantage thereof.

### Decision 2,527/2021 Full Court

(Motion for Review, Rapporteur Minister Raimundo Carreiro) Administrative Contract. Amendment. Requirement. Engineering works and services. Inspection. Extension. Addition. Economic and financial balance. In work supervision contracts executed under Law 8666/1993 containing any provision for payment per man-month or related to the mere permanence of labor or provision of equipment, if it is necessary to extend the contract falling short of the statutory limit of contractual amendment, a unilateral quantitative amendment to the subject matter must be promoted with a view to eliminating jobs, based on Art. 65, I, letter b, of Law 8666/1993 or, also, renegotiation of the form of payment agreed upon (Art. 65, II, letter c, of such law), in order to maintain the economic and



# Relevant decisions of the Federal Accounting Court (TCU)

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financial balance of the contract in order to reduce or suppress the remuneration of the contractor, according to the minimum labor required to provide the services. If, nevertheless, such measures prove unsuccessful to avoid any contractual amendments beyond the statutory limit (Art. 65, Par. 1 and 2, of Law 8666/1993), a new bidding procedure must be carried out, unless there is unmistakable proof of the disadvantage thereof.

## **Decision 2,527/2021 Full Court**

(Motion for Review, Rapporteur Minister Raimundo Carreiro) Bidding process. Engineering works and services. Inspection. Measurement. Criterion. Justification. In any bidding procedures for the contracting of construction management and supervision services, justifications for choosing the measurement criteria must be presented, especially in cases where the adoption of measurement criteria based on product delivery or results achieved is applicable, according to the duty of motivation of administrative acts.

## **Decision 2,529/2021 Full Court**

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Division of the subject matter in portions. Obligation. Competitiveness. Restriction. Justification. Principle of efficiency. Economy of scale. It is up to the manager to demonstrate that the absence of the division of the subject matter of the bidding in portions does not unduly restrict the competitiveness of the bidding process, and brings gains to the Government. The provision that prohibits the restriction of competitiveness (Art. 3, Par. 1, I, of Law 8666/1993) is not an end in itself, and the constitutional principle of administrative efficiency (Art. 37, head provision, of the Federal Constitution) must also be complied with, as well as the gain of scale in consolidated contracts (Art. 23, Par. 1, in fine, of Law 8666/1993), must also be observed.

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## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 2,533/2021 Full Court

(Audit, Rapporteur Minister Jorge Oliveira) Bidding process. Exemption from bidding process. State-owned company. Concession of public service. Price. Supplier. Justification. In cases of exemption from bidding based on Art. 32 of Law 9074/1995, the constitution and fact-finding for the relevant administrative proceeding must comply with the general Government principles, particularly those of equal protection, transparency and morality, as well as the provisions of Art. 30, Par. 3, II and III, of Law 13,303/2016 (Law of State-Owned Companies), which requires the disclosure of the reasons for choosing the supplier or service provider, in addition to the justification for the price agreed upon.

### Decision 2,595/2021 Full Court

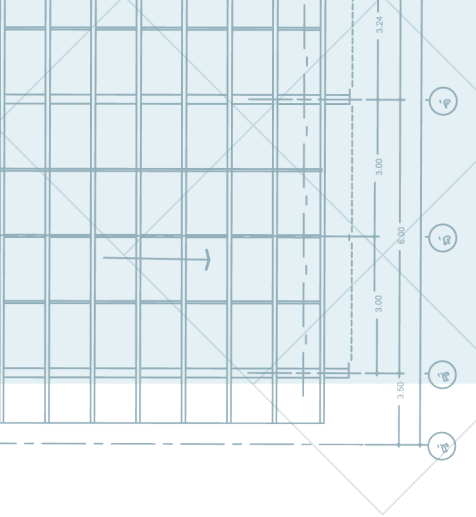
(Audit, Rapporteur Minister Bruno Dantas) Bidding process. Technical qualification. Certificate of technical capacity. Evidence. Technical-operational capacity. Quantity. Maximum limit. The requirement of proof of technical qualification (Art. 30 of Law 8666/1993) containing quantities higher than 50% of the expected performance, with no specific motivation, constitutes undue restriction to competitiveness.

### Decision 2,595/2021 Full Court

(Audit, Rapporteur Minister Bruno Dantas) Bidding process. Engineering works and services. Estimated budget. Private sector. Cost system. Referential. It is irregular to use private systems as a reference of costs for contracting engineering works and services without evaluating their consistency with market parameters, and without carrying out adequate price surveys, for comparative purposes, since it is contrary to Art. 6, IX, letter f, of Law 8666/1993, and the principles of efficiency and cost-effectiveness.

### Decision 2,599/2021 Full Court

(Complaint, Rapporteur Minister Bruno Dantas) Liability. Fault. Gross error. Principle of motivation. Law of Introduction to Brazilian Law Rules. Legal opinion. Disregard. For the purposes of liability towards the TCU, the decision of the manager who disregards, with no proper motivation, the opinion of the legal department of the authority or entity that he/she directs may be characterized as gross error (Art. 28 of Decree-Law 4657/1942). Such conduct reveals a performance below the expected from the average manager, which constitutes serious fault, subject to a fine.



# Relevant decisions of the Federal Accounting Court (TCU)

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## **Decision 18,144/2021 Second Chamber**

(Complaint, Rapporteur Substitute Minister André de Carvalho) Bidding process.

Technical qualification. Certificate of technical capacity. Reference. Quantity.

Term. It is mandatory to establish objective parameters for analysis of the proof (certificates of technical-operational capacity) that the bidder has already provided services and goods that are relevant goods and consistent in characteristics, quantities and deadlines with the subject matter of the bidding (Art. 30, II, of Law 8666/1993).

## **Decision 2,615/2021 Full Court**

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Technical qualification. Professional supervisory council. Requirement. State-owned company. In any bidding carried out by a state-owned company, the requirement of proof of registration with two professional supervisory councils is irregular, as a qualification criterion, since the requirement of registration with the relevant professional entity, for the purpose of proving technical qualification, must be limited to the council

that oversees the basic activity or the predominant service of the bidding (Art. 1 of Law 6839/1980 along with Art. 58, II, of Law 13,303/2016).

## **Decision 2,622/2021 Full Court**

(Complaint, Rapporteur Substitute Minister Augusto Sherman) Bidding process. Auction. Negotiation. Obligation. In the auction modality, the negotiation with the winning bidder in order to obtain a better proposal for the Government must be carried out even if the amount offered is lower than that budgeted by the authority or the entity promoting the bidding procedure (Art. 38, head provision, Decree 10,024/2019).

## **Decision 2,660/2021 Full Court**

(Motion for Review, Rapporteur Minister Benjamin Zymler) Administrative Contract. Contract extension. Requirement. Discretionary act. Undisputable and enforceable right. There is no undisputable and enforceable right to the extension of a contract executed with the Government, but rather mere expectation of a right, since the decision on the extension of the contract is offered at the discretion of the Government.

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## Relevant decisions of the Federal Accounting Court (TCU)

### Decision 2,660/2021 Full Court

(Motion for Review, Rapporteur Minister Benjamin Zymler) Bidding process. Tender. Disqualification. Verification. Email. Documentation. State-owned company. The absence of availability, to the bidder with the best position in the bidding procedure, of alternative means for resending the documentation originally sent, in response to verification, by email classified as spam by the e-mail server of the entity promoting the bidding process, is contrary to Art. 31 of Law 13,303/2016 (Law of State-Owned Companies), as well as the principles of efficiency, cost-effectiveness and selection of the most advantageous proposal.

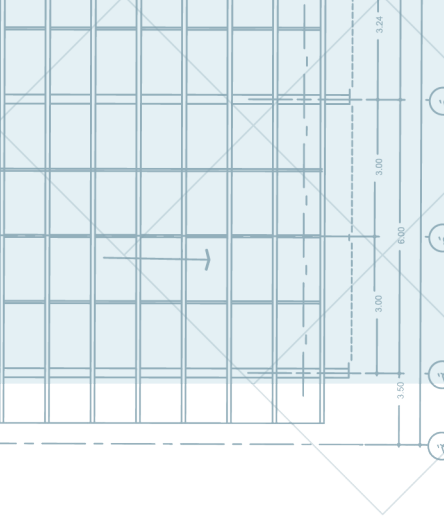
### Decision 18,379/2021 Second Chamber

(Special Rendering of Accounts, Rapporteur Minister Augusto Nardes) Administrative Contract. Economic and financial balance. Price. Price adjustment. Market price. Exchange variation. The mere variation in market prices, resulting, for example, from exchange variations, is not sufficient to determine the economic and financial balancing of the contract; it is

essential to have one of the hypotheses provided for in Art. 65, II, letter d, of Law 8666/1993. The difference between the adjusted contractual prices and the market prices is a predictable situation, since the contractual indices hardly ever reflect market evolution in an accurate manner.

### Decision 2,699/2021 Full Court

(Complaint, Rapporteur Minister Raimundo Carreiro) Bidding process. Procurement. Intent to appeal. Admissibility. Merit. Anticipation. The immediate rejection of the intention of appeal in an electronic procurement process is contrary to Arts. 2, Par. 1, and 4, XVIII and XX, of Law 10,520/2002, and 44, Par. 3, of Decree 10,024/2019, since the registration of the intention to appeal must meet the requirements of loss of suit, timelessness, standing to appeal, interest and motivation, and shall not have its merits judged beforehand.



# Relevant decisions of the Federal Accounting Court (TCU)

# 03

## Decision 2,704/2021 Full Court

Court (Complaint, Rapporteur Substitute Minister Augusto Sherman) Bidding process. Estimated budget. Preparation. Reference. Survey. Price. Cost-effectiveness. State-owned company. The price survey for the preparation of the estimated budget for a bidding process promoted by a state-owned company shall not be restricted to quotations from potential suppliers, and other sources must be used as a parameter, such as similar contracts executed by other state-owned companies, with the purpose of complying with the principle of cost-effectiveness and avoid any overcharged operations (Art. 31, head provision, of Law 13,303/2016).

## Decision 2,822/2021 Full Court

(Complaint, Rapporteur Substitute Minister André de Carvalho) Bidding process. Award in public tender. Adhesion to the contract on award in public tender. Justification. Invitation to bid. The insertion of a clause in an invitation to bid providing for the possibility of adhering to a contract on award in public tender by authorities or

entities that have not participated in the contract planning ("adhering entity") requires specific justification, based on a technical study related to the subject matter tendered and duly registered in the contract planning document (Art. 9, III, Decree 7892/2013).

## Decision 18,587/2021 First Chamber

(Special Rendering of Accounts, Rapporteur Minister Vital do Rêgo) Administrative Contract. Liquidation of expenditure. Certificate. Principle of segregation of roles. The documents submitted to support the liquidation of the expenditure shall have proper confirmation the performance of the services by any person other than the one who authorized the payment, in view of the principle of segregation of roles.

# 04

## Decisions of the Superior Court of Justice (STJ)

### Special Appeal 1,729,544/MA

Art. 6 of Decree 20,910/1932 establishes that the failure to exercise the right to administratively claim the payment for the services performed within one year as from the end of the contract, this situation would not interrupt the course of the statute of limitations. (Special Appeal 1729544/MA, 2nd Panel, Rap. Justice Francisco Falcão, j. on March 9, 2021).

### Special Appeal 1,878,051/SP

Art. 833, IX, of the Procedural Code determines the impossibility to levy execution on *“public funds received by private institutions for compulsory use in education, health or social assistance.”* It is a case of mitigation of enforceability protection, pointing out the intention of the lawmaker - in an ex ante weighing decision and in a perspective of sociability – to honor public funds with social purposes and, consequently, safeguard the collective right of indeterminate subjects favored by investments in the areas of education, health or social assistance (Special Appeal 1.691.882/SP, Rap. Justice Luis Felipe Salomão, Fourth Panel, j. on February 9, 2021).

### SLS 805/MG

Regulatory Appeal in the Suspension of Injunction and Judgment. Energy Relocation Mechanism. Purpose of Balancing the Excess or Deficit in Energy Supply. Undisputable Proof of Violation of Legal Interests Protected under Applicable Legislation. Presumption of Legality of the Administrative Act of the Regulatory Authority. Negative Financial Impact to the Detriment of Consumers. Appeal Granted. 1. The acceptance of the request for suspension is conditional on the full demonstration that the maintenance of the appealed decision causes effective harm to public interest. 2. There was unequivocal violation of the legal interests protected by the applicable law. 4. Presumption of legality of the administrative act. 5. Proof that the maintenance of a non-operational plant in the MRE system causes serious harm to the administrative system and public economy. Regulatory appeal granted. (AgInt at SLS 2805/MG, Rap. Justice Humberto Martins, Special Court, j. on October 6, 2021).

## CC 177,437/DF

Positive Conflict of Jurisdiction. Arbitration Chamber and Federal Jurisdiction.

Arbitration clause. Art. 58 of the Bylaws of Petrobras. Submission of the Federal Government to Arbitration Proceedings. Impossibility. Exclusive Jurisdiction of the State. 1. According to the case law of this Court, the applicable law (Laws 13,129/2015 and 10,303/2001) *“does not authorize the use and extension of the arbitration procedure to the Federal Government as a controlling shareholder of Petrobras, whether due to the absence of an authorizing or statutory law (subjective right to arbitration), or due to the content of the indemnification claim that underlies this conflict of jurisdiction, which goes beyond the subject matter indicated in the arbitration clause under analysis (objective right to arbitration)”* (CC 150.131/ SP, Second Section, Rapporteur Justice Nancy Andrighi, Rapporteur for the Decision Justice Luis Felipe Salomão, Official Gazette of February 11, 2020).

2. In this case, both the assumptions that have backed the decision (subjective and objective) are adequate. 3. Conflict heard. The jurisdiction of the Federal Court of the 22nd Civil Court of São Paulo SJ/SP is established, the injunction previously granted being vacated and mooted the regulatory appeal brought against such decision. (Justice Nancy Andrighi, j. on September 20, 2021).

**SLS 2,994/PA**

the President of the Superior Court of Justice (STJ), Justice Humberto Martins, delivered a single-judge decision that suspended a decision of the Court of Appeals of Pará (TJPA) that determined the immediate eviction of an area of more than 10,000 hectares used by Brasil Bio Fuels (BBF) for the production of palm oil and biodiesel in the Region of Tomé-Açu, in the countryside of the state. After the filing of the Regulatory Appeal, trial by the special court is awaited.

**SLS 2,988/DF**

Justice Jorge Mussi, Vice-President of the Superior Court of Justice (STJ), granted a request of the National Electric Energy Agency (ANEEL) and suspended the decision of the Federal Regional Court of the 1st Region (TRF1) that ordered the agency to change the calculation of the Financial Compensation for the Use of Water Resources (Compensação Financeira pela Utilização de Recursos Hídricos – FURH) paid to the municipalities of Pilão Arcado/BA, Tucuruí/PA and Paranaita/MT, due to the flooding of part of their territory by reservoirs intended to generate electricity. According to the justice, the maintenance of the injunction could prejudice the public system and would represent improper intervention of the Judiciary in the administrative sphere, changing technical criteria whose definition is under the responsibility of the regulatory authority. After the filing of the Regulatory Appeal, trial by the special court is awaited.



# Decisions of the Federal Supreme Court (STF)

# 06

## ADI 6,482

The Federal Supreme Court (STF) declared the constitutionality of the exemption of concessionaires of telephone services and cable TV of consideration for the use of public places to install telecommunications networks and infrastructure. According to the decision, the matter is part of the Federal Government's private powers to legislate on telecommunications and has an undisputable general public interest, as it seeks to standardize the national implementation of the telecommunications system and promote the democratization of access to technology. (Rap. Justice Gilmar Mendes, Full Court, j. on February 17, 2021).

## ADI 5,551

Direct Action for the Declaration of Unconstitutionality aiming at the declaration of unconstitutionality of Provisional Measure 727/2016, converted into Law 13,334/2016, by means of which the Investment Partnership Program (Programa de Parcerias de Investimentos – PPI) was created to strengthen the interaction between the Government and private initiative through the execution of partnership contracts aimed at the performance of public infrastructure enterprises and other denationalization measures. In the trial court, this action was considered moot in relation to Articles

4, 5, 7 and 8, since these provisions were changed when the Provisional Measure became a Law, and that the enactment of this measure is justified by the economic crisis experienced in the country and the consequent need for strengthening in the activities performed between the Government and the Private Initiative. (Rap. Justice Carmen Lúcia, Full Court, j. on March 15, 2021).

## ADI 5,991

Direct Action for the Declaration of Unconstitutionality. Provisional Remedy not granted. Administrative law. Railway industry. Early extension of concession contracts. Alleged unconstitutionality of Par. 2 of item II of Art. 6, Par. 1, 3, 4 and 5 of Art. 25, and Par. 2 of Art. 30 of Law 13,448, of June 5, 2017. Direct action dismissed. The immutability of the subject matter of the concession does not prevent changes in the contract to suit the economic and social needs arising from the conditions of the public service granted and the long contractual term established, subject to the economic and financial balance of the contract and the relevant constitutional principles. 6. In cross-investment, there is no change in the subject matter of the concession, but rather a contractual amendment to adapt the adjustment to the changing needs of the public interest. Direct action for the declaration of unconstitutionality dismissed. (Rap. Justice Carmen Lúcia, Full Court, j. on January 7, 2021).

# 06

## Decisions of the Federal Supreme Court (STF)

### ACO 867

Constitutional and Administrative Law. Original Civil Action. Characterization of a port complex as Mixed Use Terminal. 1. Original Civil Action for recognition of the Port of Suape as a Mixed Use Terminal (currently a Private Use Terminal). 2. In accordance with Art. 21, XII, f, of the Constitution, and pursuant to Laws 8630/1993 and 10,233/2001, it is incumbent upon the Federal Government and Antaq to analyze the requirements for the reclassification of the grant. This is an eminently technical and discretionary decision. 3. Claim dismissed. (Justice Roberto Barroso, j. on 26 August 2021).

### ADI 4,970

Direct Action for the Declaration of Unconstitutionality. Conversion of Provisional Measure 462/2009 into Law 12,058/2009, with the addition of Par. 7 of Art. 18, of Law 9636/1998. Theme not relevant for parliamentary amendment. Law enacted before the trial of ADI 5127. No Formal Unconstitutionality. Assignment of the use of environmental spaces contiguous to federal government's properties under the regime of rent of lands (aforamento) or occupation. Requirement of compliance with public or social interest or economic exploitation of national interest.

1. Although the rule of item 7 of Art. 18 of Law 9636/1998 results from a parliamentary amendment that did not have thematic relevance in relation to Provisional Measure 462/2009, its formal unconstitutionality shall not be declared, as it became effective before the advent of case law settled in the decision of the Direct Action for the Declaration of Unconstitutionality 5127. 2. Interpretation in accordance with the Constitution of the Republic of Par. 7 of Article 18, of Law 9636/1998, added by Law 12,058/2009, to admit the assignment of airspace over public properties, of physical space in public waters, areas of lake beds, river beds and any water streams, ebbs and any other assets under the Federal Government's domain, contiguous to real estate properties of the Federal Government under the regime of rent of lands (aforamento) or occupation, provided that it is carried out to States, the Federal District, municipalities or non-profit entities in the areas of education, culture, social assistance or health, or to any individuals or legal entities, in this case with the demonstration of the public or social interest or of economic exploitation of national interest. 3. Direct Action for the Declaration of Unconstitutionality partially granted. (Rap. Justice Carmen Lúcia, Full Court, j. on September 15, 2021).

## Rcl 47,547 AgR

Constitutional and Civil Procedure.

Regulatory appeal in the complaint.

Nullity due to the lack of summons of the beneficiary of the appealed decision (Art. 989, Iii, Cpc). Inexistence. No Demonstration of Loss. Violation of decisions of this court in the trials of ADPFs 275, 387, 513 and 556. Application of the special judicial order regime to government-controlled private companies and state-owned companies providing public service of a non-competitive nature. Appeal not granted. 1. The reasons that could have been mentioned in the defense, in order to influence the decision regarding this Complaint, were presented in this Appeal, and there was no damage to the appellant. Therefore the rule according to which there will be no declaration of nullity when the actual damage caused to the party has not been demonstrated (pas de nullité sans grief). 2. Águas e Esgotos do Piauí S.A. (Agespisa) is a government-controlled private company, which performs essential public service with no competition, which attracts submission to the enforceability system applicable to the Public Treasury. 3. That line of reasoning inevitably leads to the conclusion that, in the present case, there was a violation of the guidelines issued by this Court, not only in ADPF 275 (where I was the

rapporteurs, Official Gazette of June 27, 2019) and in ADPF 387 (Rap. Justice Gilmar Mendes, Official Gazette of October 25, 2017), as well as ADPF 556 (Rap. Justice Cármen Lúcia, Official Gazette of March 6, 2020) and ADPF 513 (Rap. Justice Rosa Weber, Official Gazette of October 06, 2020), in the sense of the applicability of the special judicial order system to government-controlled private companies providing public service typical of the Government, under a non-competitive regime. 4. Appeal dismissed. (Rap. Justice Alexandre de Moraes, First Panel, j. on September 15, 2021).

## MS 35,435

Administrative Law. Writ of Mandamus. Decision of the Federal Accounting Court (TCU). Special Rendering of Accounts. Investigations related to fraud in the construction of Angra 3 Thermonuclear Power Plant. Plaintiffs who signed leniency agreements under Law 12,846/2013 executed with the Office of the Federal Controller General (CGU), the Office of the General Counsel for the Federal Government (AGU), or the Federal Public Prosecution Service (MPF). Multiple spheres of administrative liability. Need for institutional coordination between entities and harmonization of positive sanctions. Overlapping of the wrongdoings admitted

# 06

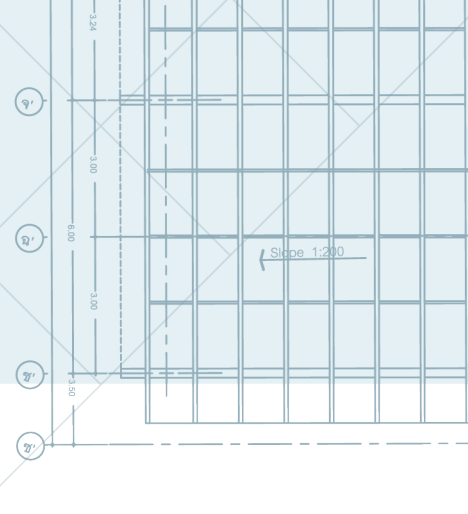
## Decisions of the Federal Supreme Court (STF)

by the defendants before the CGU/ AGU or MPF with the relevant objects of investigation by the TCU in external control. . Ineffectiveness of the leniency agreements. Imposition and threat of sanction of ineligibility provided for in Art. 46 of Law 8443/1992. Violation of the constitutional principle of legal certainty. Disproportionality. Writ granted. 1. The national legal system has seen a spread of Administrative Leniency Agreements, in parallel with the use of similar institutes in the criminal area. This movement was influenced by the international convergence effort in the adoption of judicial and legislative policies to combat corruption. 2. The coexistence of multiple leniency regimes requires a regulatory effort to align the reward incentives of the systems and the creation of cooperation mechanisms between the agencies responsible for enforcing the legislation. The following are important factors of incongruity of the regimes that may compromise the incentives of economic agents to collaborate with public authorities in the unveiling of wrongdoings: (i) the absence or

inaccuracy of legal provisions on the extent of leniency benefits to the criminal sphere and (ii) the plurality of methodologies for calculating the compensation of damages. 3. Based on a systematic interpretation of Law 12,846/2013, known as the Anti-Corruption Law, it is possible to understand that the law established a true regime for dual accountability of legal entities. Within this dual regime, the practice of so-called harmful acts to the Government as defined in Art. 5 of the law may give rise both to (i) administrative liability, which is regulated in Chapters III and IV of the law, and (ii) judicial liability, which is regulated in Chapter VI of the law. 4. When the execution of the Anti-Corruption Leniency Agreement involves the CGU and the AGU at the same time, the scope of the benefits operates both on the administrative liability regime, which is safeguarded by the CGU, and on the judicial liability regime, which is safeguarded by the AGU, in the federal sphere. 3. The plaintiffs signed leniency agreements with the CGU/AGU and the MPF containing express provisions to rule out the administrative sanctions provided

for under the Anti-Corruption Law, the sanctions provided for in items I to IV of Article 87 of Law 8666/1993, and also the effects and penalties set forth in Law 8429/1992. Furthermore, the agreements provided for the obligation to fully redress the damage. 4. Given the factual overlapping between the wrongdoings admitted by the defendants before the CGU/AGU and the object of investigation by external control, the possibility of the TCU imposing the penalty of ineligibility for the same facts that gave rise to the execution of a leniency agreement with the CGU/AGU is not consistent with the constitutional principle of legal certainty and the notion of proportionality of the penalty. 5. Although the Anti-Corruption Law (Law 12,846/2013) does not preclude the incidence of Law 8443/1992, in specific cases the imposition of ineligibility by the TCU could result in ineffectiveness of the clauses of leniency agreements that

provide for the exemption or mitigation of administrative sanctions established in Arts. 86 to 88 of Law 8666/1993, consequently emptying the normative force of Art. 17 of Law 12,846/2013. 6. Law 8433/1992 provides for other less burdensome means for the TCU to guarantee full redress of the damage to the public treasury, such as freezing the defendants' assets (Art. 44, Par. 2) and imposing a fine (Arts. 57 and 58). These sanctioning measures must be handled by the Accounting Court considering their proportionality and the impacts on the agreements signed with the Government. 7. Writ granted to rule out the possibility of the TCU declaring the ineligibility of the plaintiffs due to the facts covered by leniency agreement signed with the AGU/CGU or with the MPF. (Rap. Justice Gilmar Mendes, Second Panel, j. on March 30, 2021).

**ADI 5,549**

*“Public service. Land transportation. Amendment of the legal grant regime for the performance of regular public transport services for passengers not linked to the infrastructure operation from permission to authorization. Alleged failure to comply with the constitutional requirement of prior bidding. Law 10,233, Art. 13, IV and V, ‘e’; 14, iii, ‘j’. 1988 Federal Constitution, Arts. 37, head provision, and XXI; 175, head provision.”* – After the claim for admission of ANTT, AMOBITEC and APDA as amicus curiae was appreciated, the decision of the merits of the action is awaited.

**ADI 2,946**

The subject matter of this action, filed by the Federal Attorney General, is Article 27 of Law 8987/1995, which deals with the possibility of transferring the concession or corporate control of the concessionaire, which, the plaintiff argues, is allegedly unconstitutional, as it would formalize the transfer of the concession and permission of a public service without prior bidding.

After Justices Dias Toffoli, Gilmar Mendes and Nunes Marques stated their votes, the judgment was suspended. The resumption is expected so that the other votes can be rendered. (Rap. Justice Dias Toffoli, Full Court, j. on December 9, 2021).

**ACO 3,530**

Justice Alexandre de Moraes, of the Federal Supreme Federal (STF), ordered the Federal Government to extend, until September 30, 2022, an agreement signed with the state of Maranhão for the installation of cisterns and water technology systems, in order to serve agricultural communities. The rapporteur granted the provisional remedy sought by the state government in the Original Civil Action (ACO) 3530.

6<sup>th</sup> Round of Airport Concessions – South, North I and Central Blocks.

[Read more](#)

Concession of Highways BR-163/230/MT/PA – Stretch between Sinop/MT and Miritituba/PA.

[Read more](#)

IQI 03 – Leasing of liquid bulk at the Port of Itaqui/MA – Itaqui, São Luís, Maranhão.

[Read more](#)

IQI 11 – Leasing of liquid bulk at the Port of Itaqui/ MA – Itaqui, São Luís, Maranhão.

[Read more](#)

IQI 12 – Leasing of liquid bulk at the Port of Itaqui/MA – Itaqui, São Luís, Maranhão.

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IQI 13 – Leasing of liquid bulk at the Port of Itaqui/ MA – Itaqui, São Luís, Maranhão.

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1<sup>st</sup> Transmission Facility Concession Auction of 2021 (5 lots).

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5G – Auction of Radio frequency spectrum for fifth generation telecommunications networks.

[Read more](#)

IMB05 – Leasing of terminal for handling and storage of liquid bulk at the Port of Imbituba/SC.

[Read more](#)

ITG03 – Leasing of terminal for storage of solid mineral bulk at the Port of Itaguaí/RJ.

[Read more](#)

Existing Energy Auction (*Leilão de Energia Existente – LEE*) “A-4”/2021.

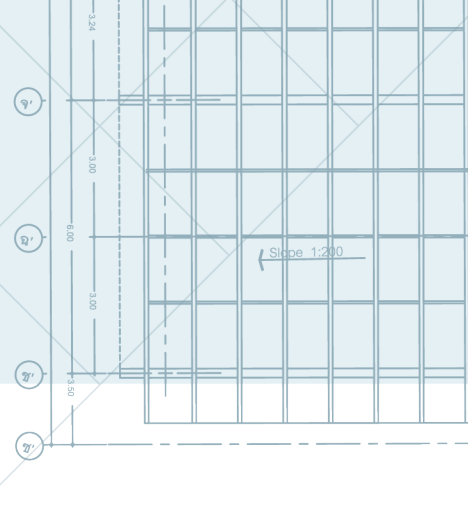
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Existing Energy Auction (LEE) “A-5”/2021.

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# 08

## Main 2021 projects



Auction of Supply to Isolated Systems/2021.

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New Energy Auctions (*Leilões de Energia Nova – LEN*) “A-3.”

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New Energy Auctions (LEN) “A-4”.

[Read more](#)

MAC13 – Leasing of terminal at the Port of Maceió/AL.

[Read more](#)

MCP02 – Leasing of terminal at the Port of Santana/AP.

[Read more](#)

MUC01 – Leasing of terminal at the Port of Mucuripe/CE.

[Read more](#)

PEL01 – Leasing of terminal for general cargo (wood chips and logs) at the Port of Pelotas/RS.

[Read more](#)

Oil and Natural Gas – Second Bidding Round under the Production Sharing regime for surplus volumes to those contracted under the Onerous Assignment regime in the areas of Sepia and Atapu.

[Read more](#)

Oil and Gas – 17<sup>th</sup> Round of Block Bidding in the Concession Regime.

[Read more](#)

POA01 – Leasing of terminal for handling and storage of solid plant bulk at the port of Porto Alegre/RS.

[Read more](#)

Highway – BR-116/101/SP/RJ (Dutra) – Rio de Janeiro to São Paulo.

[Read more](#)

SSD09 – Leasing of terminal for general cargo storage at the Organized Port of Salvador/BA.

[Read more](#)

STS08A – Leasing of terminal at the Port of Santos/SP.

[Read more](#)



## Main 2021 projects

# 08

TERSAB – Leasing of Salineiro de Areia Branca Terminal/RN.

[Read more](#)

Public Lighting – Campinas/SP.

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Public Lighting – Patos de Minas/ MG.

[Read more](#)

# 09

## Projects planned for 2021, but that did not occur

2<sup>nd</sup> Transmission Facilities Concession Auction of 2021 (5 lots).

[Read more](#)

MAC14 – Leasing of terminal for general cargo (wood chip and logs) at the Port of Maceió/AL.

[Read more](#)

MUC59 – Leasing of terminal for handling and storage of liquid bulk at the Port of Mucuripe/CE.

[Read more](#)

Oil and Natural Gas – Areas in Permanent Supply for exploration and production promoted by ANP – 2021 Cycle.

[Read more](#)

# 10 | Negotiations for extension of concessions in 2021

MRS Logística S.A. – Early extension of the concession contract. \*

[Read more](#)

FCA – Ferrovia Centro-Atlântica S.A.

[Read more](#)

\* Already approved by the National Land Transport Agency, but pending approval by the Federal Accounting Court.

# Projects in the PPI for 2022

# 11

**7<sup>th</sup> Round of Airport Concessions – Blocks RJ/MG, SP/MS and North II (16 airports).**

Invitation to Bid estimated for: 2022

Auction estimated for: Q3 2022

[Read more](#)

**Warehouses and Real Estate Properties of Conab.**

Invitation to Bid estimated for: Q1 2022

Auction estimated for: Q2 2022

[Read more](#)

**BR-060/153/262/DF/GO/MG (Rebidding).**

Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Auction estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

**BR-135/316/MA.**

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

## **BR-163/267/MS (Rebidding).**

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

## **BR-040/495/MG/RJ (Concer) – Juiz de Fora to Rio de Janeiro.**

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

## **Rebidding of Viracopos Airport, Campinas/ SP.**

Invitation to Bid estimated for: Q2 2022

Auction estimated for: Q3 2022

[Read more](#)

## **Rebidding of São Gonçalo do Amarante/ RN Airport (ASGA) in Natal/RN**

Invitation to Bid estimated for: Q1 2022

Auction estimated for: Q1 2022

[Read more](#)

## **Sanitary Sewer System – Volta Redonda/RJ.**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

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## **Public Lighting – Ariqueemes/RO.**

Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

## **Public Lighting – Barreiras/BA.**

Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

## **Public Lighting – Cachoeiro de Itapemirim/ ES.**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 1<sup>st</sup> half of 2022

[Read more](#)

## **Public Lighting – Camaçari/BA.**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

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## **Public Lighting – Colatina/ES.**

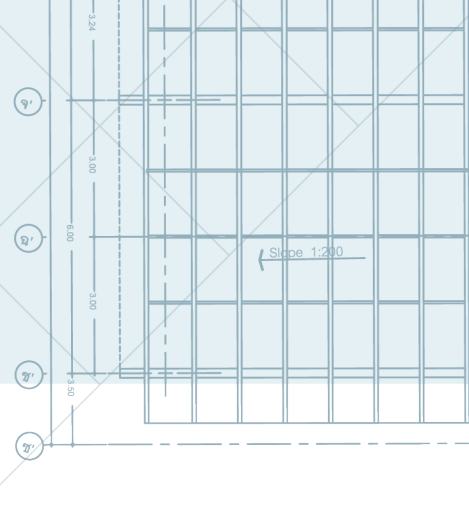
Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

# 11

## Projects in the PPI for 2022



### Public Lighting – Corumbá/MS.

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

### Public Lighting – Crato/CE.

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

### Public Lighting – Nova Iguaçu/RJ.

Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

### Public Lighting – Toledo/PR.

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 1<sup>st</sup> half of 2022

[Read more](#)

### Public Lighting – Valparaíso de Goiás/GO.

Invitation to Bid estimated for: 2<sup>nd</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

### BR-040/DF/GO/MG – Concession.

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

### Railway EF-170 – MT/PA – Ferrogrão.

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

### Highway BR 364/RO/MT – Porto Velho/RO to Comodoro/MT.

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

### Highway – BR-116/493 RJ/MG (Former CRT) – Rio de Janeiro to Governador Valadares.

Invitation to Bid: February 18, 2022

Auction: May 20, 2022

[Read more](#)

### Integrated Highways of Paraná - BR-153/158/163/272/277/369/373/376/476/ PR and relevant state highways.

Invitation to Bid estimated for: Q2 2022

Bidding estimated for: Q3 2022

[Read more](#)

## **SSD04 – Leasing of container terminal and general cargo at the Port of Salvador/BA.**

Invitation to Bid estimated for: Q2 2022

Bidding estimated for: Q3 2022

[Read more](#)

## **STS10 – Leasing of terminal for handling and storage of containerized cargo at the Port of Santos/SP.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **STS11 – Leasing of terminal for solid bulk at the Port of Santos/SP.**

Invitation to Bid estimated for: Q1 2022

Auction estimated for: Q2 2022

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## **STS53 – Leasing of terminal for storage of mineral bulk at the Port of Santos/SP.**

Invitation to Bid estimated for: Q2 2022

Bidding estimated for: Q3 2022

[Read more](#)

## **SUA07 – Leasing of terminal for solid bulk (sugar) at the Port of Suape/PE.**

Invitation to Bid estimated for: Q1 2022

Bidding estimated for: Q2 2022

[Read more](#)

## **VDC10 – Terminal of liquid and solid bulk at the port of Vila do Conde/PA.**

Invitation to Bid estimated for: Q2 2022

Bidding estimated for: Q3 2022

[Read more](#)

## **VDC10A – Leasing of terminal for liquid bulk at the Port of Vila do Conde/PA.**

Invitation to Bid estimated for: Q2 2022

Bidding estimated for: Q3 2022

[Read more](#)

## **Concession of 7 Public Fishing Terminals (Aracaju, Belém, Cananéia, Manaus, Natal, Santos, Vitória).**

Invitation to Bid: January 12, 2022

Auction: March 11, 2022

[Read more](#)

# 11 Projects in the PPI for 2022

## **Empresa de Trens Urbanos de Porto Alegre S.A. (Trensurb).**

Invitation to Bid estimated for: August 2022

Auction estimated for: October 2022

[Read more](#)

## **ILH01 – Leasing of multiple use terminal at the Port of Ilhéus/BA (vegetable bulk, mineral solid bulk, cargo and passengers).**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **IQI14 – Terminal of combustible liquid bulk of the Port of Itaquí/MA.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **MAC11 – Leasing of terminal at the Port of Maceió/AL.**

Invitation to Bid: Q1 2022

Bidding estimated for: Q2 2022

[Read more](#)

## **MAC12 – Leasing of terminal at the Port of Maceió/AL.**

Invitation to Bid: Q1 2022

Bidding estimated for: Q2 2022

[Read more](#)

## **MUC03 – Leasing of Solid Bulk Terminal of the Port of Mucuri/CE.**

Invitation to Bid: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **PAR09 – Leasing of terminal for handling and storage of vegetable bulk at the Port of Paranaguá/PR.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **PAR14 – Leasing of terminal for handling and storage of vegetable bulk at the Port of Paranaguá/PR.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **PAR15 – Leasing of terminal for handling and storage of vegetable bulk at the Port of Paranaguá/PR.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **PAR32 – Leasing of terminal at the Port of Paranaguá/PR.**

Invitation to Bid: February 4, 2022

Auction: April 1, 2022

[Read more](#)

## **PAR50 – Leasing of terminal at the Port of Paranaguá/PR.**

Invitation to Bid estimated for: Q1 2022

Bidding estimated for: Q1 2022

[Read more](#)

## **Irrigation Perimeter Irecê Lowland/BA – Grant of the property right to use steps 3 to 9 for implementation of irrigated agriculture enterprise.**

Invitation to Bid estimated for: October 20, 2021

Auction: March 15, 2022

[Read more](#)

## **PPP Regional Airports – Amazonas Block.**

Invitation to Bid estimated for: Q4 2022

Auction estimated for: Q4 2022

[Read more](#)

## **PPP for Communications Network Management – Air Force Command (*Comando da Aeronáutica – Comaer*).**

Invitation to Bid: 2021

Auction estimated for: 2022

[Read more](#)

## **RDJ06 – Leasing of terminal for handling and storing liquid bulk of the Port of Rio de Janeiro/RJ.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **RDJ06A – Leasing of terminal for handling and storage of liquid bulk of the Port of Rio de Janeiro/RJ.**

Invitation to Bid estimated for: Q3 2022

Bidding estimated for: Q4 2022

[Read more](#)

## **Solid Waste – Bauru/SP.**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

# 11 | Projects in the PPI for 2022

## **Solid Waste – Comares Consortium.**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Auction estimated for: 2<sup>nd</sup> half of 2022

[Read more](#)

## **Solid Waste – Convale Consortium (new bidding).**

Invitation to Bid estimated for: 1<sup>st</sup> half of 2022

Bidding estimated for: 1<sup>st</sup> half of 2022

[Read more](#)

## **Solid Waste – Teresina/PI.**

Invitation to Bid: 1<sup>st</sup> half of 2022

Bidding estimated for: 1<sup>st</sup> half of 2022

[Read more](#)

## **Maracanã Concession.**

Invitation to Bid estimated for: January 2022

Auction estimated for: 2022

[Read more](#)

# Negotiations for extension of concession 2022

# 12

## **Ferrovias Centro-Atlântica S.A. (FCA) – Early extension of the concession contract.**

Amendment estimated for: Q4 2022

[Read more](#)

## **Early Extension of Rumo Malha Sul Concession Agreement.**

Amendment estimated for: Q3 2022

[Read more](#)

## **Small Hydroelectric Power Plant – Agro Trafo**

[Read more](#)

## Denationalization – Companhia Docas do Espírito Santo (Codesa).

Invitation to Bid: January 21, 2022

Auction estimated for: March 30, 2022

[Read more](#)

## Denationalization of the Organized Port of São Sebastião/SP – Downtown, São Sebastião, São Paulo.

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

## Companhia Brasileira de Trens Urbanos (CBTU).

[Read more](#)

## CBTU-MG.

Invitation to Bid estimated for: June 2022

Auction estimated for: July 2022

[Read more](#)

## Dataprev – Empresa de Tecnologia e Informações da Previdência (Technology and Social Security Information Company).

[Read more](#)

## Mint (*Casa da Moeda*).

[Read more](#)

## Ceasaminas.

[Read more](#)

## Agência Brasileira de Fundos Garantidores e Garantias S.A. (ABGF).

[Read more](#)

## Ceagesp.

[Read more](#)

## Empresa Gestora de Ativos S.A. (Emgea).

[Read more](#)

# 13

## Possible privatizations

### Organized Port of Itajaí/SC.

Invitation to Bid estimated for: Q3 2022

Auction estimated for: Q4 2022

[Read more](#)

### Post office (*Correios*).

[Read more](#)

### Centrais Elétricas Brasileiras S.A. (Eletrobras) (Bill 5877/2019).

[Read more](#)

### Nuclebrás Equipamentos Pesados S/A (Nuclep).

[Read more](#)

### Empresa Brasileira de Comunicação (EBC).

[Read more](#)

### Federal Data Processing Service (*Serviço Federal de Processamento de Dados – Serpro*).

[Read more](#)

### Denationalization of Companhia Docas da Bahia (Codeba) and of the Organized Ports of Salvador, Aratu-Candeias and Ilhéus.

[Read more](#)

### Denationalization of the Organized Port of Santos/SP.

Invitation to Bid estimated for: Q4 2022

Auction estimated for: Q4 2022

[Read more](#)

### Telecomunicações Brasileiras S.A. (Telebras).

[Read more](#)

### Sale of Infraero's equity interest.

[Read more](#)



# Main state projects estimated for 2022

# 14

## São Paulo:

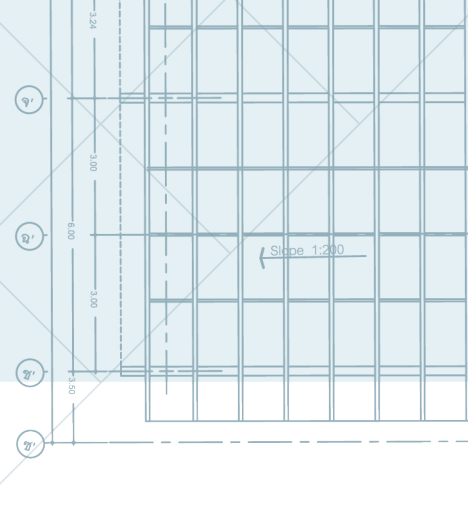
- Preliminary modeling approved for the granting of Coastal Crossings.
- Extension of subway Line 5-Lilac to Jardim Ângela: there will be two new stations and a bus terminal towards the southern end of the capital, in addition to the extension of an avenue with a bike path. The term of reference for contracting the functional project has already been approved by the STM.
- The Government of São Paulo signs a concession contract for Caminhos do Mar.
- Reserva Paulista Consortium was responsible for the winning offer of R\$111 million for the concession of the Zoo and the Botanical Garden of São Paulo.
- Expansion of Vila Prudente subway station complex: expansion of Lines 2-Green and 15-Silver demands escalators, restrooms, increase of circulation areas and creation of a commercial space. The investment values are expected to reach R\$ 54 million.

## Rio de Janeiro:

- A public consultation was initiated on the concession of highways RJ-122, RJ-158, RJ-160 and RJ-186 (Northwest Axis) and RJ-244.
- Creation of Facilita RJ (Rio de Janeiro State Government's Assets and Utilities Concession Plan): a program created by the Government of the State of Rio de Janeiro to boost the resumption of economic growth and offer better services and infrastructure to the population of Rio de Janeiro. [Click here to read more.](#)
- National Competitive Bidding 001/2021: preparation of the executive project and performance of containment and drainage works at Rua Manoel Elias Perroud, in Floresta neighborhood. It is currently in the process of analysis of the appeals against the decision to qualify the companies.
- Price Survey 001/2021: engagement of a specialized company for the preparation of the executive project and performance of renovation and revitalization works of Curupaiti, Brejal and Bela vista squares, in the municipality of Paraíba do Sul. – Contract already signed.

# 14

## Main state projects estimated for 2022



- **National Competitive Bidding 002/2021:** engagement of a specialized company for the preparation of the executive project and performance of infrastructure implementation works and road improvement in the access to the building complex Granja Disco, in the municipality of Areal. It is currently in the stage of analysis of the qualification documentation.
  - **Price Survey 002/2021:** engagement of a company specialized in engineering services management, in the performance of slope containment works at Duas Pedras/Lazareto, in Nova Friburgo. It is currently open for submission of new documentation, as well as filing of appeals against qualification-related decisions.
  - **Price Survey 003/2021:** invitation published to contract a specialized company for the elaboration of the executive project and performance of renovation and revitalization works of Julio Nora, Sacra Família and Wagner Medeiros squares, in the municipality of Engenheiro Paulo de Frontin.
  - **Price Survey 004/2021:** invitation published to contract a specialized company for the preparation of the executive project and performance of renovation and revitalization works of the bike path and sidewalk of Saco Beach, in Saco neighborhood, in the municipality of Mangaratiba.
- Bahia:**
- **Restoration in Microcoating in the stretch:** access BR-101 – Itabuna, with a total length of 1.90 km.
  - **Preparation of basic project for adequacy and reinforcement of the flexible floor of the movement area, night beaconing and navigation aids, implementation of the standard passenger terminal and complementary projects of the airport of Luís Eduardo Magalhães – Bahia (SWNB).**
  - **Preparation of inspection reports, diagnosis and engineering project for the structural recovery of Ponte Real, reinforcement of the foundation and containment, in the municipality of Santo Amaro.**
  - **Pavement of access to Wanderley Pinho Museum and access to Caboto district, in the municipality of Candeias, with a total length of 2.18 km.**



# Main state projects estimated for 2022

# 14

- Engagement of a specialized company to develop studies and basic projects for the implementation and rehabilitation of highways in the state of Bahia and to support SEINFRA/SIT in the performance of surveys, diagnostics, hydrological studies, geotechnical studies, surveys, traffic studies, environmental studies, topographic surveys, review, adequacy, quantitative surveys and budgets, inspections and projects of special works of art.
- Construction of the Passenger Terminal, implementation of air navigation assistance equipment and complementary services of the airport of Senhor do Bonfim/BA.
- Performance of restoration and maintenance services for the highways below, following the concept of contracts for highway restoration and maintenance – Crema.
  - Highway BA-460 – Stretch: BA/TO border – between BA-459 (Signs), 9.00km;
  - Highway BA-460 – Stretch: between BR-242 – between BA-459 (Signs), 45.69km;
  - Highway BA-459-A – Stretch: between BA-460 (Signs) – between BA-454, 92.59km;
  - Highway BA-459-B – Stretch: between BA-454 – between BR-242, 64.81km; and
  - Highway BA-463 – Stretch: São Desiderio – between BR-020 (Roda Velha), 125.84 km.

## Ceará:

- Seinfra includes values of natural gas services in cost table.

## Mato Grosso do Sul:

- Implementation and asphalt paving of MS-357 Highway, including special works of art: stretch – Highway MS-340 (end of the urban stretch of Ribas do Rio Pardo) – between Rodovia MS-338, sub-stretch Post 0+0.00 – Post 609+2.736, with an extension of 12.18 km, in the municipality of Ribas do Rio Pardo/MS.

# 14

## Main state projects estimated for 2022

- **Implementation and asphalt paving of Highway MS-338:** stretch – between BR-060 – between MS-357, sub-stretch: post 0.00 – port 2,265 + 0.00 (lot 01), with extension of 45.30 km, in the municipalities of Camapuã and Ribas do Rio Pardo/MS.
- **Performance of urban infrastructure works:** asphalt paving, rainwater drainage and functional restoration of the pavement (resurfacing), in several streets, in the municipality of Maracaju/MS.
- **Maintenance and conservation of wooden bridges on highways that are part of the unpaved road network of the 15th regional residence of Camapuã/MS.**
- **Construction of a concrete bridge over the Anhandui River:** with extension of 78.00m and width of 6.00m, coordinates 21°33'49.84"S, 53°52'24.80"O, located on CG 284 Vicinal Highway, on the border of the municipalities of Campo Grande/MS and Nova Alvorada do Sul/MS.

### Rio Grande do Sul:

- **Privatization process of the state-owned companies of the energy area linked to the Secretariat of Environment and Infrastructure of the State of Rio Grande do Sul:**
  - Companhia Estadual de Distribuição de Energia Elétrica (CEEE-D);
  - Companhia Estadual de Geração e Transmissão de Energia Elétrica (CEEE-GT);
  - Companhia de Gás do Estado do Rio Grande do Sul (Sulgás); and
  - Companhia Riograndense de Mineração (CRM).

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