

## The Use of Physical Trading in the Public Sector: A Case in the City Hall of Rio Brilhante / MS

Evone Bezerra Alves  
Antônio Carlos Vaz Lopes  
Sergio Adelar Brun  
Jouliana Jordan Nohara

### Abstract

The Brazilian public administration has improved its bidding system facing the necessity of greater flexibility, effectiveness and increase of the competitiveness of public administration contracts. This article aims to analyze the use of the type "physical trading" (auction) in the city of Rio Brilhante / MS. In regard to the design of this research, it is classified as a study of case that made use of the following sources of collection of data, documents and files in the Department of Bidding from the City Hall and specially interview with the responsible for the sector of Bids and with the Municipal Administration Secretary . The data was organized and presented on the focus of the last two years, of the types of purchases made and use of physical trading by the current administration through the object bid and prices. The results showed that the use of the physical trading, the city hall, in those two years, reached a total of savings of 11.63%, which the procedure of submission of prices and invitation letters did not reach even 5% of the economy and that, when performing competition, alienates for the same price or lower than the estimated one, but some dissatisfaction were reported as for example the delay in delivering of products.

**Keywords:** Bidding, Physical Trading, Municipal Administration.

### 1 Introduction

Much has been speculated about the right use, as well as the transparency of the public money in all spheres of the administration, being it the most original amount of the taxes collection - taxes, fees and contributions. On this matter, Justen Filho (2000, p.73) explains that public resources should be managed on ethical standards, with full respect for probity, and can not in any way override any selfish private interest to the public interest. Noting the need of an acquisition or setting any procurement, for example, the city hall of a municipality can not simply choose a supplier and make a deal. In public institutions, several parameters must be followed, and to perform such a procedure it is necessary a bidding to have the supply of the product or the performance of a service provision.

About the subject, Piscitelli, (1999, p.191) says: All Public Administration activities are limited by subordination to the judicial system, or the legality. The administrative procedure has no legal existence if it lacks, as a primary source, a statement of the law. But it is not enough to always have the law as a source. It is, yet, necessary to carry according its policies and along its lines. Only then the Administration procedure is legitimate.

The observance of these procedures is provided in the Art. 37, section XXI of the 1988 Federal Constitution is exhaustive saying that "except in specific cases in the legislation, the works, services, purchases and alienations shall be contracted by public bidding [...]". Thus, the Law no. 8.666 of June 21, 1993 (Law of Bidding and administrative contracts), was created to regulate and should be followed to perform / carry all kinds of purchasing and contracting within the public administration. In understanding of Dallari (1992, p. 89), "the institute of bidding has assumed great importance today, due to the increase in the sphere of

the public administration action, through the performance of new functions required by the complexity of the modern life." There is also beyond the procedures of bidding cited in the law above, the Physical Trading, regulated by the Law no. 10520 of July 17, 2002 where the dispute by provision of goods and common services is done in public plenary, through written price proposals and verbal bids and the electronic auction regulated by Decree No. 5450 of May 31, 2005, for the purchase of common goods and services, through competitive bidding held in public session on the *Internet*.

Once explained, the aim of the present work is to analyze the utilization level of the procedure called Physical Trading in the City Hall of Rio Brilhante. In this regard, this article is justified by innovating in the search area, by not knowing other work related to the theme tabled, in the city under study, besides being able to contribute to statistical data for subsequent adjustments, resulting in greater efficiency throughout the purchasing process.

## **2 Theoretical Framework**

### **2.1 Characterization of the Public Sector**

Unlike the private sector, public administration which includes the Union, States, Federal District and Municipalities, has numerous regulations regarding the hiring of a company for the building of a work, the delivery of a service, the acquisition, rent or alienation of goods or to make a concession or permission. According to Blanchet (1996, p.14), it is essential "that the administration agent does not create the idea of carrying these contracts, but notes the need to do it."

According to Meirelles (1984) "in public administration there is no personal freedom. While the particular administration is allowed to do whatever the law does not prohibit, in public administration is only allowed to do what the law allows. " While a company is driven itself to meet the requirements of tax, business continuity and profit, as characterized Franco (1990, p.14), "company is all an economic entity, which means profit willingness," the public sector acts in order to use public money in compliance with the existing constitutional principles guaranteeing citizens the right application of the funds collected and obtained.

Kohama (2000, p.61) used to say that "the government has primary responsibility for the best dynamic level of welfare to the community". So far that, the Fiscal Responsibility Law (LRF) created by Complementary Law n.º. 101 of May 4, 2000, to set standards for public finance accountability in fiscal management, is exhaustive as to the setting of investment being made in each area of the city / state, and also firm on transparency in fiscal management at the same way, whenever the administration hire the execution of a contract of work, service, purchase or sale, as well as granting permission and public services, must obey the Law 8.666 of June 21, 1993. Motta (2005, p.8), about the act of bidding [...] says "it is a factual demonstration of regular employment of public money," [...]. This law did not frame the procedure called Trading (Auction), divided into Physical and Electronic, instituted in order to bring more savings to the public coffers and speed administrative processes, and this bidding modality must be used only to contract common services and goods and without limit of prices for its realization.

### **2.2 Purpose of the bid and its object**

Meirelles (2006, p. 50) had already said that "the main purpose of the bid will always obtain its object - a work, a service, a purchase, an alienation, a lease, a concession or a permission - in the best conditions for public power. " In article 6 of Law 8.666/93 definitions are presented which considers:

I - Work - the whole building, repairing, manufacturing, refurbishment or expansion, carried out by directly or indirectly power of attorney;

II - Service - all activity aimed to achieving particular use of interest to the management, such as: demolition, repair, installation, assembly, operation, maintenance, adjustment, transportation, rental of goods, advertising, insurance, or technical- professional work;

III - Purchase - any purchase to provide goods, paid cash or in installments;

IV - Alienation - any transfer of property to another domain;

V - Works, services and purchase of big quantities - those whose estimated value is greater than 25 (twenty five) times the limit established in paragraph "c" of paragraph I of art. 23 of this Act.

After setting the object to be auctioned and set values, it is the manager`s duty to open the bidding process for meeting the requirements provided by law.

### 2.3 Bidding Process

Within the public sector several parameters must be followed for the proper use of the collection of money from taxpayers. One of the parameters to be followed is the opening of the bidding process, such instrument may be required, as mentioned in the Constitution (Art.22, item XXVII, as amended by Constitutional Amendment 19/98, art.37,paragraph XXI and art. 175).

According to Sundfeld (1994), Bidding Process All state entities have the duty to promote bidding, regardless of public or private nature of its personality. Thus, even governmental people under public law (Union, States and Municipalities, their agencies and governmental foundations under public law) and private government people (public enterprises, joint stock companies and private governmental foundations) are chosen by it.

Piscitelli (1999, p. 173) considers: "the bidding process characterizes formal administrative act, whatever the sphere of public administration in which it is practiced."

Meirelles (2006, p. 27) defines Bid as "the administrative procedure by which the Public Administration selects the best bidder offer for the contract of interest."

Exposing his knowledge on the subject, says Sundfeld that bid: [...] Is the administrative procedure for the choice of the person to be hired by the Administration or to be benefited by singular administrative act, which are guaranteed the right of both parties to the dispute as the selection of the most appropriate beneficiary to the public interest (1994, p.15).

On the subject Justen Filho (2005) argues that although the administration has the purpose to obtain the most advantageous offer taking into account, but the principle of equality, a principle which determines uniform treatment for situations uniform situations, distinguishing itself as difference comes to exist, it is up to it the responsibility to identify that, however advantageous was the selected proposal, the bid was disallowed it violated individual rights and guarantee.

When the public power expresses the decision to hire, to fill any perceived need, referring to the public interest, its first determination is given by art. 37, XXI of the Federal Constitution which raises the bid to the category of constitutional principle, conditioning the performance of work, shopping, services and alienation to prior bidding process, and is inexorably linked to the decision to install bid, including to to this decision the possibilities of exemption and waiver of the procedure (Motta, 2005, p.35).

In art. 24, items I to XXVII of Law 8666/93, are shown when the bid is dispensable. According to Justen Filho (2000, p. 234), the exemption of bidding occurs in situations where, although viable competition between individuals, the bid seems distasteful to the public interest. (...). Often, it is known beforehand that the cost-benefit relation will be unbalanced. The necessary costs for bidding may exceed benefits which accrue.

The unenforceability of bidding occurs when there is unavailability of competition, which means, it is impossible to promote competition, given that one of the competitors meet the qualities that make it unique (exclusive), inhibiting the other alleged participants. The art.

25 reports in its *caput*, that "the bidding is unenforceable when there is unavailability of competition."

The art. 25 of Law No. 8666/93 sets out, in its paragraphs, the criteria that characterizes this unenforceability, the case being most used by the Administration is inserted on its item I:

I - for the purchase of materials, equipment, or genres that can only be provided by the producer, sales representative or unique company, sealed the preference for brand being that the certification of exclusivity should be made through a certificate provided by the bureau of local commerce in which bidding would take place or the work or service, by the Union, Federation or Confederation of Employers, or even the equivalent entities.

In cases of exemption, provided by law, the administrator has the option to bid or not, while in the waiver, it is impossible to be performed the procedure for acquisition of competitiveness of the proposal most advantageous to the Government.

### 2.3.1 Types of Bidding

Law No. 8.666/93 prescribes in his art. 22, five types of bidding, which are the competition, submission of prices, the invitation letter, the competition and auction.

In the same article we find in a summarized way the settings for each mode which are:

§ 1<sup>st</sup> Competition is the process occurring between any interested parties that, in the initial preliminary qualification, demonstrate to have the minimum qualifications required in the tender for the execution of its object.

§ 2<sup>nd</sup> Submission of prices is the process occurring between interested duly registered and that meet all the requirements for registration by the third day preceding the date of the receiving of the offers, subject to the necessary qualifications.

§ 3<sup>rd</sup> Invitation letter is the bidding process occurring between stakeholders in the industry relating to the object, whether registered or not, and people invited, in the minimum of three (3), by the administrative unit, which shall put in place appropriate copy of the calling instrument and he/she will extend to the other registered in the appropriate specialty who express their interest in advance up to 24 (twenty four) hours of submission of the offers.

§ 4<sup>th</sup> Competition is the process occurring among any parties choose to the technical scientific or artistic work, through the prizes or remuneration to the winners, as criteria in a advanced notice published in the official press with at least 45 (forty five) days.

§ 5<sup>th</sup> Auction is the process occurring between any interested parties for the sale of movable goods unusable for the administration or of legally seized or pledged goods, or the alienation of immovable property referred to in art. 19, whoever offers the highest bid equal to or greater than the assessed value.

On the procedures for bidding, Angelico (1994, p.82) makes the following observation:

The process of submission prices differs from the competition in the following aspects: a) is bidding between the interested ones previously registered, while the competition allows the participation of any bidder, registered or not, b) the participation run period is smaller, it is only 15 (fifteen) days, while the competition is 30 (**thirty**) days; it is adopted for shopping, services and works in competition of lower price bands. In all, the procedures are the same as of the competition.

The fixing of the values so that it will be able to establish the method is stated in Article 23 of the same *codex* (best exemplified in the table below) and it is pointed out, yet, that for purchases whose value is below \$ 8000.00 or engineering works and services e below

\$ 15,000.00 is dispensable the achieving of a bidding. There is also beyond the cases of contract without bidding, the possibility of hiring for an unenforceability.

Art.	Inc.	Ali.	Engineering services and work	Art.	Inc.	Ali.	Shopping and other services
23	I	A	Invitation letter up to R\$ 150.000,00	23	II	a	Invitation letter up to R\$ 80.000,00
23	I	B	Submission of prices up to R\$ 1.500.000,00	23	II	b	Submission of prices up to R\$ 650.000,00
23	I	c	Competition over RS 1.500.000,00	23	II	c	Competition over RS 650.000,00

**Table 1:** Values and limitations of the methods of bidding

**Source:** Compiled by the author from text provided by Article 23 clauses I and II of Law 8.666/93.

There is also, the procedures called Physical Trading and Electronic Trading that will, in more detail be presented below.

Knowing the existing modalities, it will be necessary to establish the criteria for trial. It is in the internal phase of the bidding that the requesting department of the opening bidding process, performs the search of market price corresponding to the object to being bid to make transparent the cost of acquisition / contracting. Such research is crucial to the process in order that the value obtained will be estimated cost that the sector of bids sets the procedure of the bidding.

The definition of the type of bidding will produce reflects not only in the trial of the proposals as well as in all its external phase, for each type has its own characteristics and requirements, different rituals and different deadlines.

The list of types of biddings, except the form of tender, is also exhaustive and it is codified in Article 45, § 1 of Law 8.666/93:

I - the lowest price - when the selection criteria for the most advantageous proposal to the Administration determines that will be the winning the bidder who shows the proposal in accordance to the specifications of the edict or invitation and offers the lowest price;

II - the best technique;

III - the technical and price.

IV - the highest bid or offer – where in cases of alienation of goods or concession of real right of use.

Piscitelli (1999, p. 180) defines the best type of bidding where the best offer for the Administration is chosen based on technical factors of order. It is used exclusively for services of predominantly intellectual nature, especially in project design, calculations, control, supervision and management and of consulting engineering in general and, in particular for the preparation of technical and preliminary studies basic and executive projects.

In the other hand, technique and price is the kind of bidding where the best offer for the Administration is based on the highest weighted average, considering the marks obtained in the propose of prices and techniques. It is mandatory in the procurement of goods and computer services, in procedures submission of prices and competition.

## 2.4 Physical and Electronic Trading

### 2.4.1 Emergence and historical context

According to the website "*net purchases*" from the Federal Government, in modern management, trading was first used by the National Telecommunications Agency - ANATEL, in 1998, since the agencies have the autonomy to make its regulations for processing of bids,

since they do not infringe the constitutional principles. The use of this method had significant results regarding to the reduction of paid prices, to the smallest number of resources and the reduction of the average time for the completion of acquisitions, demonstrating its efficiency and effectiveness.

Motivated by the positive results obtained by ANATEL with the procedures of trading, the Federal Government decided to adopt this practice and made by the Provisional Measure 2026 of 4 May 2000 which was reprinted several times and only in July 17 2002, was converted into Law no. 10,520 (the Trading Act). It is Important to note that in regard to this conversion, extended the effects of applicability of the trading also for the states and municipalities, although some of them were already using the trading even before the Law no. 10.520/02, under their own legislation, for example, the states of Minas Gerais and Mato Grosso do Sul

Under the Federal Government, the trading was regulated by Decree no. 3555 of August 08, 2000, which was subsequently amended by Decree no. 3693 of December 20, 2000 and Decree no. 3784, to May 6, 2001. To cope with the new reality regarding to the use of technology information in the trading, the Federal Government issued Decree no. 3697 of December 21, 2000, featuring all the electronic bidding procedure, performed via the *Internet*, which was repealed by Decree no. 5450, to May 31, 2005. It is noted that most of the regulation of the trading was effected before being enacted Law no. 10.520/02, while this procedure was still standardized by provisional measure. However, these decrees did not lose their effects, and still valid today, for their devices are consistent with the new law.

#### 2.4.2 Characteristics and definitions

The physical trading is the newest form of bidding in our existing legal system, where the criterion used is always the one of lowest price and there are no limits to the values of employment, being regulated by Law No. 10520 of July 17, 2002 whose menu reads: "Establishes within the Union, States, Federal District and Municipalities pursuant to art. 37, XXI of the Federal Constitution, procedure of bidding called trading, for the purchase of common goods and services ", but, as stated in art. 9, it applies alternatively, the provisions of Law No. 8.666 of June 21, 1993.

The interim measure no. 2.026 of 4 May 2000, in article 2, is conceived as the mode "in which the competition for supply is made by means of proposals and bids in public session."

The electronic trading came later, regulated by Decree 5.450 of May 31, 2005, for the purchase of common goods and services through competitive bidding held in public session on the *Internet*.

The Electronic Auction this is one of the ways of carrying out the bidding form of trading, having the same basic rules of the Physical Trading, plus specific procedures. It is characterized especially by the lack of "physical presence" of the auctioneer and other bidders, since all interaction is done by means of electronic communication over the *Internet*. It has an important attribute to the enhancement of agility bidding processes, minimizing costs to the Government, being increasingly consolidated as the main form of federal government hiring (Fonseca, 2006, p. 1).

The bidding in the trading mode does not apply to contracts of works and engineering services and works, as well as real estate leases and sales in general, which are governed by general legislation of the Administration. The specification of goods and services which fall the needs is the subject of Annex II of Decree No. 3784 of 2001. In Article 1 § 1 of the Provisional Measure 2026 of 4 May 2000, we know the description of common goods and services:

...are those whose standards of performance and quality can be objectively defined by the edict, by the usual specifications of the market. It is, therefore, of goods and services typically offered by multiple vendors and easily comparable, in a way to allow the buying decision based on the lowest price.

Meirelles (2006, p.58) believes that common services: ... "Are all those that do not require special authorization for its execution. May be performed by any person or company, for they are not private in any profession or job category. "

Under the Administrative Law, the trading is considered an auction on the contrary, the so-called "reverse bid". The goal of the auction is to transfer the domain and whoever gives the highest bid, provided it is equal or superior to the evaluation.

The intention of the trading is the opposite. The aim is to obtain the most advantageous proposal for the administration at the lowest possible value, thus ensuring greater savings to the public coffers. It is required that the goods or services to be agreed should be within the standards of performance and quality as defined by edict, being allowed to do specifications along the lines of private market / particular.

Thus, the physical trading, through the reverse bid, provides to the administration a significant reduction in the amounts of purchases of common goods and services aiming the installed competition between the suppliers participating in the event, not meaning, however, lower price with lower quality.

## 2.5 The Public Administration and the Economy

The purpose of the law that brought the new bidding modality was to simplify the process of contracting of services or purchase of goods by the administration, thus bringing greater efficiency and speed to the process and, through competition among the participants of the event, generating immediate savings, achieving a low purchase prices of products and delivering of services. Therefore, it is interesting however to get the biggest number of participants for choosing the most advantageous proposal for the public agency.

The auction was designed to allow the administration to meet its simplest needs, in a faster and more economical way. The speed and economy resulting from the use of trading comes from characteristics of this mode, as the reversal of the qualification phase, simplifying the procedure and the possibility of verbal bids, not intended for the other modalities (Maurane, 2004, p.13).

The simple and innovative idea to establish the competitiveness searching for the lowest price in bidding benefits not even the public administrative machinery - for greater agility in the processes and procedures in the bureaucracy, but the suppliers and society, which has the possibility to exert greater control over hiring performed. The aim is to get the most for less since it is certified that during the bidding a good choice was made. "When we say that the bidding is lead to select the best proposal, imposes the duty to choose, according to the principle of economy, which takes care of the cost-benefit relation" (JUSTEN SON, 2005, p. 54). The same author warns that, the higher the benefits reserved by the Administration itself, the greater will be the price to be paid to individuals.

The interest, then, is trying to achieve with the trading, to get a significant reduction in the purchase of products or services, provided that they do not have lower quality comparing to the ones offered in the market, not offering, this way, future losses to public coffers.

### 3. Methodology

The present work aims to analyze the use of the physical trading procedure presented in the City Hall of Rio Brilhante / MS, show other types of public bidding, their characteristics and limit / values, illustrate the process of purchasing within the City of Rio Brilhante / MS and show the list of departments according to the stages of the bidding process, focusing on the case of study, the bidding department of that City Hall.

In a specific way, the method of the study of case is appropriate to answer the "how" and "why" questions, that are explanatory questions and explain the operational links that occur over time (Yin, 2001). The choice of this procedure is due to the fact of the object of research being a recent experience and of little study. For Hart and Bervian (2007, p 62), "study of case is the research on a particular individual, family, group or community that is representative of their universe, to examine various aspects of their lives."

According to Vergara (2000, p. 49) characterizes the study of case as a study that "has deep and detailed characteristics" and for Lima (2004, p. 31) "the study of case method represents a way of conducting a qualitative empirical research on an ongoing phenomenon and its real context." The data were collected in the System of Purchasing and Biddings by the Bidding Sector. By being part of the functioning board of the City Hall of Rio Brilhante, the access to data and obtaining of information to conduct the study of was facilitated by being able to access all bidding processes already made, not easily available for public consultation.

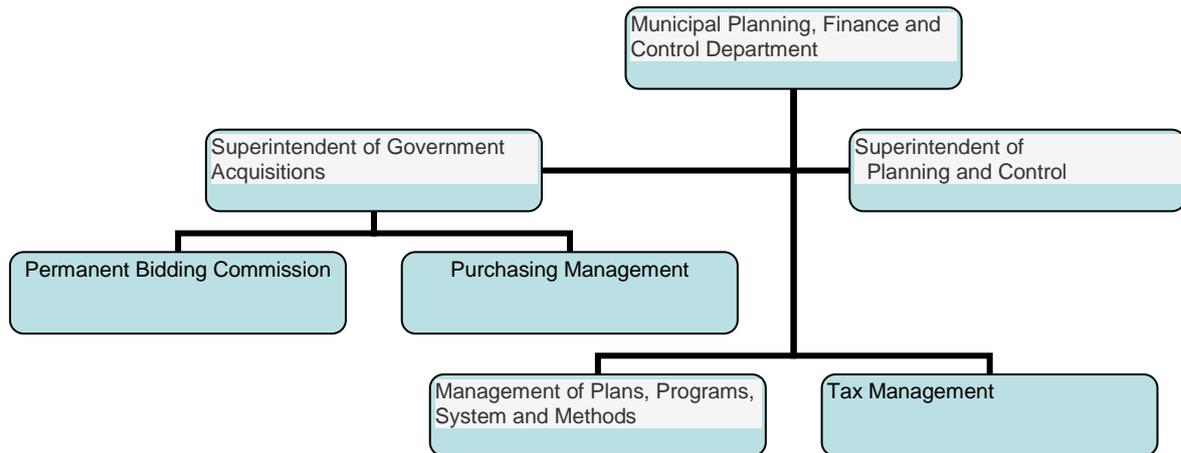
However, for a better exploration of the problem, this research was also carried out through interviews with the Head of the Bidding Sector occupant of the position of Superintendent of the Government Acquisitions and the Municipal Secretary of Administration from the City Hall. According to Lakatos and Marconi (2001, p. 43), "all research involves data collection from various sources".

The article also characterizes itself as bibliographic and documentary. Bibliographic because, for the theoretical and methodological fundamentals of the work was carried out studies on shopping, bidding process, bidding procedures, physical and electronic trading, reverse bid, public administration and the economy and principles of the bid, using materials of available use to the public in general: books, journals, articles and laws already published. The work is also documental for it used documents and secondary data (collected in the Purchasing and Bidding System) internals of the city hall related to the object of study, not available, in its majority, for public consultation.

### 4 Analysis and Discussion of Data

From the analysis in the general chart and of the structural unfolding of the departments of the City Hall of Rio Brilhante – PMRB - it was observed that this city also does not have a central of purchasing, and that purchases are made by the Municipal Planning, Finance and Control Department, where to it are subordinate the Superintendent of government acquisitions, the purchasing management, and finally, the Standing Committee for Bids (Figure 1), as required by Law 8.666/93 in its art. 51 adds that:

The preliminary qualification, the registration in registry data, its amendment or cancellation, and the proposals will be processed and adjudicated by the standing or special committee, at least 3 (three) members, at least 2 (two) of them qualified servers belonging to the permanent staff of the administrative bodies responsible for the bidding.



**Figure 1** Structural Breakdown of Planning, Finance and Control Municipal Department.

**Source:** Prepared by the author, from the data collected.

As seen above, in the functional structure of the City Hall of Rio Brilhante there isn't the Office of Purchasing and Contracting. According to the Municipal Secretary of Administration, the mayor of the municipality recognizes the immediate need for the creation of the Purchasing Department so it can start functioning together with the bidding and controlling sector, today there is only one management purchase within the Municipal Finance, Planning and Control Department, which only makes the receipt of invoices owed by the city hall and taking to the accounting for the payment, without much representation in the decisions of the department and little connection with the bidding sector.

The bidding is carried out by Departments, Fund, Foundation responsible for their needs of purchasing, making sure the availability of resources / budget quotas or of agreements that have received for the use of such money. The city hall has a strict control of all records of incoming / outgoing of the materials for such agencies to request only what is necessary and being informed of the existence or lack of material that was requested. The availability of money is verified by the accounting department that issues a statement signed by the accountant, affirming the existence of budgetary resources with authorization from the City Mayor to conduct the bidding process.

The request for opening the bidding process is referred to the Bid department through letter to the Municipal Secretary of Administration which afterwards sends the order to the accounting department. In the bidding department, the letters are taken to the Government Acquisition Department, which ends the whole bureaucratic process required by law in regard to the bidding according Angelic (1994, p. 79), explains "the whole bidding process must obey and comply with the principles of the publicity, the equality, the administrative integrity attachment to the notice, the trial order, legality, impersonality, morality, and that are correlated". This way, according to the object, value, classifies the type of bidding to be held.

Conducted the bidding process, the permit of authorization or services from the system used by the sector of bids, is forwarded to the Municipal Finance, Planning and Control Department in specific to the Accounting, that issues the commitment and this same authorization is passed on to the Department, Fund or Foundation who requested the opening of the bidding process, so that with the official report of the issue of the commitment, ask the bidder to do the partial or total delivery of the object contracted, as agreed in the process or contract and, it will issue a tax document that is verified by the Department or Applicant Agency and taken for the payment, thus, finalizing the process.

After examining the entire process of purchasing of the City Hall of Rio Brilhante, it will present the data collected through the Bids and Purchases System in order to scale the quantity and to expose in details the values obtained by the use the method of Physical

Trading in the City Hall of Rio Brillhante. The data are distributed by year and grouped as follows, according to table 1.

**Table 1** - Quantitative of bidding procedures per year and type of purchase.

	Invitation Letter	Submission of Prices	Competition	Exemption	Unenforceability	Physical Trading	Total Processes	of
<b>2009</b>	042	011	05	08	-	019	085	
<b>2008</b>	041	014	06	08	-	031	100	

**Source:** Prepared by the author, from the data collected.

The table 1 shows that 185 bidding processes began in the city hall of Rio Brillhante in 2008 and 2009. What is observed is that in 2009 the amount of bidding processes decreased by 15%, this is because there are some processes that were started, however, were only completed during the following year. Also, in 2008, several Trading sessions were held for the purchase of permanent equipment such as lawn mowers, tractors and loaders, so, such purchases did not need to be repeated in 2009.

It is noteworthy to say that for secret issues, the City hall of Rio Brillhante refused to provide the values of purchases without competitive bidding, and what was shown above as exemption, is the amount of constants processes in the system used by the Bids Department, a fact which limits the analysis of the study.

The type of purchase most performed over the period analyzed was the procedure of invitation letter being that the 41 made in 2008, 12 were of works and engineering services and 29 of purchases and services. In 2009, there were 42 invitation being 12 for works and engineering services to 30 of shopping and services.

The table below, is displayed in detail the number of trading sessions performed in 2008 and 2009 respectively, for a better understanding of the bidding object and following of values.

**Table 2:** Description and values of the trading in the year 2008.

Nº Trading	Object	Estimated Price (R\$)	Bidding Price (R\$)
01	Permanent Material and Equipment	58.609,20	deserted
02	Vehicle	90.000,00	93.900,00
03	Truck Vehicle	83.000,00	83.800,00
04	Grocery	356.421,55	272.144,35
05	Services of School Transportation	1.941.200,00	2.110.559,30
06	Fuel	1.314.440,00	1.325.340,00
07	Cleaning Material	89.694,55	73.991,80
08	Educational Courseware	98.278,54	84.430,80
09	asphalt emulsion	223.798,00	195.300,00
10	Medicines	799.222,00	441.220,00
11	Dental material	79.798,40	42.139,25
12	Hospital material	176.590,45	97.691,80
13	Loader / Bucket	300.000,00	279.000,00
14	Van vehicle	35.000,0000	deserted
15	Peti Lunch	38.073,20	40.919,00
16	Tractor, grader, 3grade, 3 Plower	203.000,00	175.350,00
17	Tractor and Grid	124.000,00	110.850,00
18	Panel Van Vehicle	35.000,00	37.980,00
19	Crossing Road Tickets	82.400,00	59.096,00
20	Tractor E Grade E Coolers Tank	150.600,00	140.010,00
21	asphalt emulsion	200.000,00	216.090,00
22	Medical Services – Consultation, Examination	303.050,00	177.150,00
23	School Lunch	176.590,45	164.399,50
24	Cleaning Material	66.525,58	57.899,30
25	Teaching-Pedagogical Materials	105.674,12	66.959,50

26	Crossing Road Tickets	82.400,00	99.830,00
27	04 Hydraulic Trimmers	14.000,00	12.240,00
28	04 Hydraulic Trimmers	28.000,00	25.200,00
29	School Transportation to 2009	2.483.558,00	3.200.000,00
30	Fuel year 2009	1.447.420,00	1.471.280,00
31	School year 2009	799.668,3	617.048,00
<b>TOTAL</b>		11.892.403,14	11.771.818,60

Source: Prepared by the author, from the data collected.

**Table 3:** Description and values of the trading in the year 2009.

N° Bidding	Object	Estimated Value (R\$)	Bidding Value (R\$)
01	Grader	518.760,00	507.900,00
02	Medical Examination and Consultation	144.123,00	183.990,00
03	Medicines	790.247,39	656.157,07
04	Dental Material	44.833,71	34.045,48
05	Medical and Hospital Material	106.006,86	118.676,40
06	Teaching and School Material	150.759,70	78.217,58
07	Cleaning Material	95.239,52	72.905,00
08	Truck – Education	83.000,00	83.000,00
09	School Transportation	124.200,00	deserted
10	Crossing Road Tickets	83.150,00	81.835,00
11	Asphalt Emulsion	360.000,00	338.550,00
12	Vehicle	102.910,00	99.890,00
13	truck	60.000,00	58.700,00
14	School Transportation– 02 des)	124.200,00	54.312,30
15	Chassis to Micro Buss	210.000,00	208.000,00
16	2grade Grader	36.000,00	32.630,00
17	Peti Lunch	52.499,20	39.168,00
18	Asphalt Emulsion	240.000,00	212.800,00
19	Health Vehicle	42.000,00	42.000,00
<b>Total</b>		3.243.729,38	2.902.776,83

Source: Prepared by the author, from the data collected.

By analyzing separately both years, it shows that in 2009 there was a reduction in the performance of the Physical Trading. Emphasizing that the City Hall of Rio Bright does not carry out the electronic trading yet. Comparing both years, it was verified that the object bided is repeated over the years. Questioned about it, the Office of Government Procurement states that the average number of processes has been matched in the last four years and it gives the largest number of bidding processes in 2008 to the fact of the purchasing of equipments as above referred.

In the purchase of textbooks, teaching, office and cleaning material, it was also verified a considerable reduction in the budgeted amount when using this modality, which is shown in Table 2, Bidding 25, for example, where the bid value is 36.63% lower than the estimated one and in the biddings 07 and 24 the difference is 17.5%. The same situation occurs in Table 3, biddings 06 and 07 where the reductions were 48.11% and 23.45% respectively.

It is interesting to note that the acquisition of fuel by the City Hall of Rio Brilhante always gets a value higher than the one that was estimated. Asked about it, the person responsible for the bids department reported that it is due to the small number of participants in the bidding since, the city hall does not have a fuel storage tank, it is necessary to specify in the issuance that the participating companies must be located only at a minimum distance of 5 km from the city. If, in one hand it facilitates the supply of the municipal fleet, in the other it

becomes expensive its purchase for the administration, that as shown in Table 2 it gives a value of R \$ 34,760.00 less in the public coffers.

In Table 4, shown below, it is possible to observe that, in 2008, the difference was not significant between the estimated value and actual value contracted by the city hall. And in 2009, the city hall could approximately save 341 thousand reais by using the physical trading.

**Table 4:** Values used in the processes of Physical Trading

<i>Year</i>	<i>Estimated Value (R\$)</i>	<i>Bidding Value (R\$)</i>	<i>Difference</i>	<i>Percentage</i>
<b>2008</b>	11.892.403,14	11.771.818,60	120.584,54	<b>1,02%</b>
<b>2009</b>	3.243.729,38	2.902.776,83	340.952,55	<b>10,51%</b>

Source: Prepared by author from data collected.

Taking in account the following table (5), which presents all sorts of purchases made by the city hall of Rio Brilhante, it is possible to observe that there was a saving of around 450 thousand reais. It is observed that when the city hall uses the procedure of competition it does not achieve any economy, equaling the estimated and actual values, and by using the procedures invitation letter and submission of prices the reductions do not even reach 5%.

**Table 5:** Values for the type of purchase in the City Hall of Rio Brilhante in 2009.

<i>Procedure</i>	<i>estimated</i>	<i>Performed</i>	<i>difference</i>	<i>percentage</i>
<b>Invitation Letter</b>	2.325.494,50	2.223.447,19	102.047,31	4,4%
<b>Submission of Prices</b>	3.637.164,09	3.629.941,03	7.223,06	0,2%
<b>Competition</b>	123.500,00	123.500,00	-	-
<b>Exemption</b>	120.700,00	120.700,00	-	-
<b>Physical Trading</b>	3.243.729,38	2.902.776,83	340.952,55	10,51%
<b>Total</b>	9.450.587,97	9.000.365,05	450.222,92	4,76%

Source: Prepared by author from data collected

**Table 6.** Values used in the purchasing process in the City Hall of Rio Brilhante.

<i>Year</i>	<i>Estimated Value (R\$)</i>	<i>Bidding Value (R\$)</i>	<i>Difference</i>	<i>Percentage</i>
<b>2008</b>	18.428.061,74	18.089.954,49	338.107,25	<b>1,83%</b>
<b>2009</b>	9.450.587,97	9.000.365,05	450.222,92	4,76%
<b>Total</b>	27.878.649,71	27.090.319,54	<b>788.330,17</b>	<b>2,83%</b>

Source: Prepared by author from data collected

In quantitative analysis, it was understood that the use of Physical Trading – a procedure in which the choice of the proposal is made before the examination of the documentation, because of its greater speed in the process - by the City Hall of Rio Brilhante brings the possibility for the public administration of this city hall to get a considerable reduction in the estimated price of contraction comparing to the bid value, such economy is due to the procedure called reverse bid, which is nothing but the acquisition of certain product or service by the lowest price from the offered bid.

## 5 Final Conclusions

Been subsequently established, the Physical Trading, was only regulated in Rio Brilhante in 2006 through Decree No. 11.311/2006 and by Decree 507/2006 it appointed the official auctioneer of the city and his support staff.

According to the proposed aim of the present work, it was possible to see that the City Hall of Rio Brilhante has been benefited from the use of the physical trading, obtaining a considerable saving on the purchase of common services and goods, achieving greater agility in the event driven by the reversal in the stages of qualification and classification of the bidders, for in this procedure are analyzed only the documentation of the companies that offered the best proposals; increase of the competitiveness, by enabling the largest number of

possible participants and finally by using the physical trading the bids become more transparent and fair. However, it was also found that, in the acquisition of some products and contracts, the higher prices prevail.

Through the study, it was noted that although there was a decrease in the amount of physical trading sessions in 2009, the public administration is aware of the benefits gained by the use of this procedure, but it also reported some dissatisfaction in the delivery of some products, for example: the poor quality or the delayed in the delivery of the goods when the supplier claims having offered a price below normal. When such things happen, the department takes appropriate action to meet the request, beginning with notification and warning to the company, followed by fines as provided in the issuance or in the contract, and finally, the temporary suspension of participation in bidding and impediment to have contracts with the municipality of Rio Brilhante for a period not exceeding 02 (two) years.

Although the entire purchasing process meets all legal standards, for the city hall of Rio Brilhante uses all types of purchases, it is emphasized that the amount of exemption of bidding presented are only what is shown in the system used by the bidding department of the city hall of Rio Brilhante and therefore the overall figures were not informed as a request of the municipal executive, limiting our comparison.

Why not having a Central Purchasing, The city hall of Rio Brilhante does not centralize the information of the whole purchasing process, a fact that allows the dissemination of information and consequently the increase of the expenses, no longer obtaining greater economies to the public coffers.

As a suggestion, the creation of such Superintendent would allow greater agility in the management from services of supply, that will cover from the supervision of orders, stock management, availability of bidding procedures to the expression at the waivers and unenforceability in the purchases and contracting for all agencies and entities of the municipal administration. Through an appropriated planning, directing and controlling of the activities would reconcile the public administration to verify the need for purchasing / contracting with the Finance Department, responsible for process effectiveness and, finally the payment.

As a proposal to conduct new studies, one should focus on the advantages and disadvantages of the use of the physical trading, or even analyze why the preference of this procedure, making a comparison of the purchasing process of the current administration to the next, and check possible improvements.

Finally, the data analysis and knowledge of the use of the physical trading procedure and of the other types of purchases, raise an overview of the functioning of the public administration, helping to identify economic aspects and possible changes in the organizational context of the City Hall of Rio Brilhante / MS.

## 6 Bibliographical References

- ANGÉLICO, João. **Contabilidade Pública**. 8. ed. São Paulo: Atlas, 1994.
- BLANCHET, Luiz Alberto. **Roteiro prático das licitações**. 4. ed. Curitiba: Juruá Editora, 1996.
- BRASIL, Constituição da Republica Federativa do Brasil, from October, 5 1988. **Constitution of the Federative Republic of Brazil**. Brasília: Senado, 1988.
- BRASIL. Lei Ordinária (Statutory Law) n. 8.666 from June, 21 1993. **A Law that establishes general rules on bidding and administrative contracts pertaining to works, services, purchases, alienation and rentals within the powers of the Union, the State, the Federal District and the Municipalities**. Brasília, DF, 2002. Available in: <http://www.presidencia.gov.br>. Access in: March, 1 2010.
- BRASIL. Lei (Law) n. 10.520, from July, 17 2002. **Establishes, within the Union, States, Federal District and Municipalities pursuant to art. 37, XXI of the Federal Constitution, for bidding procedure called trading (auction), to acquire goods and services, and other provides**. Brasília, DF, 2002. Available in: <http://www.presidencia.gov.br>. Access in: March, 5 2010.

- BRASIL. Decreto (Decree) n. 3.555, from August, 08 2000. **Approves the Regulation for bidding procedure called trading (auction), to acquire goods and services.** Published in the Diário Oficial da União (Official Journal of the Union) from 09.08.2000. Available in: <http://www.presidencia.gov.br>. Access in: March, 1 2010.
- BRASIL. Decreto (Decree) n. 3.784 – from April, 06 2001. **Promotes the inclusion of items of consumer goods and common services in the classification where is referred the Annex II of Decree No. 3555 from August, 8 2000.** Published in the Diário Oficial da União (Official Journal of the Union) from 09.04.2001. Available in: <http://www.presidencia.gov.br>. Access in: March, 1 2010.
- BRASIL. Decreto (Decree) n. 5.450 – from May, 31 2005. **Regulates the trading in electronic form, to acquire goods and common services, and other provides.** Published in the Diário Oficial da União (Official Journal of the Union) from 01.06.2005. Available in: <http://www.presidencia.gov.br>. Access in: March, 5 2010.
- CERVO, A. L.; BERVIAN, P.A.; SILVA, R. **Metodologia Científica (Scientific Methodology)**. 6.ed. São Paulo: Pearson Prentice Hall, 2007.
- DALLARI, Adilson Abreu. **Aspectos jurídicos da licitação (Legal Aspects of the Bidding)**. Saraiva, 1992.
- FONSÊCA, Marco Adriano Ramos. **Electronic Trading: an analysis of its historical and legislative developments and innovations arising from Decree No. 5.450/2005.**
- Jus Navigandi, Teresina, ano (year) 10, n. 1080, jun., 16 2006. Available in: <http://jus2.uol.com.br/doutrina/texto.asp?id=8531> Access in: May, 20 2010.
- FRANCO, Hilário. **Contabilidade Comercial (Commercial Accounting)**. 13 ed. São Paulo: Atlas, 1990.
- HELY, Lopes Meirelles. **Licitação e Contrato Administrativo (Bidding and Administrative Contract)**. 14 ed. São Paulo: Malheiros Editores. 2006.
- JUSTEN FILHO, Marçal. **Comentários a lei das licitações e contratos administrativos (Comments to the Law of the Biddings and Administrative Contracts)**. 11ª ed. São Paulo: Dialética .2000;2005.
- KOHAMA, Heilio. **Contabilidade Publica: teoria e pratica (Public Accounting: theory and practice)**. 7 ed. São Paulo: Atlas, 2000.
- LAKATOS, E. M.; MARCONI, M. A. **Methodology of Scientific Work: basic procedures, bibliographic research, design and reporting, publications and scientific papers**. 6.ed. São Paulo: Atlas, 2001.
- LIMA, Manolita Correia. **Monografia: a engenharia da produção acadêmica (Monograph: engineering of the academic production)**. São Paulo: Saraiva, 2004.
- MAURANO, Adriana. **A instituição do pregão para aquisição de bens e contratação de serviços comuns (The imposition of the trading to purchase goods and hire common services)**. Jus Vigilantibus, Vitória, 14 mar. 2004. Available in: [http://jusvi.com/doutrinas\\_e\\_pecas/ver/1674](http://jusvi.com/doutrinas_e_pecas/ver/1674). Access in: June, 1 2010.
- MEIRELLES, H. L. **Direito Administrativo Brasileiro**. 10ª ed. São Paulo: Editora Revista dos Tribunais, 1984
- MOTTA, Carlos Pinto Coelho. **Eficácia nas licitações e contratos: estrutura da contratação, concessões e permissões responsabilidade fiscal, pregão – parcerias público-privadas (Efficiency in biddings and contracts: the structure of the contract, concessions and permits, tax liability, trading - public-private partnerships)**. 10 ed. Belo Horizonte: Del Rey, 2005.
- PEIXOTO, Marco Aurélio Ventura. **Modalidades de licitação: da concorrência ao pregão. A inversão do procedimento de habilitação e julgamento e a polêmica Medida Provisória nº 2026/00 (Biddings Procedures: from the competition to the trading. The reversing of the procedure of qualification and trial and the controversial Provisional Measure No. 2026/00)**. Teresina, ano 6, n. 52, nov. 2001. Available in: <http://jus2.uol.com.br/doutrina/texto.asp?id=2363>. Access in: March, 3 2010.
- PISCITELLI, Roberto Bocaccio. **Contabilidade Publica: uma abordagem da administração financeira publica (Public Accounting: an approach to the public financial management)**. . 6.ed. São Paulo: Atlas, 1999.
- SUNDFELD, Carlos Ari. **Licitação e Contrato Administrativo (Bidding and Administrative Contract)**. São Paulo: Malheiros, 1994.
- VERGARA, Sylvia Constant. **Projetos e relatórios de pesquisa em administração (Projects and Researching reports in Management)**. 3. ed. São Paulo: Atlas, 2000.
- YIN, Robert K. **Estudo de caso: planejamento e métodos (Study of Case: Planning and Methods)**. trad. Daniel Graassi. 2. ed. Porto Alegre: Bookman, 2001.
- [http://www.comprasnet.gov.br/publicacoes/manuais/Manual\\_Pregao\\_Presencial\\_Pregoeiro.pdf](http://www.comprasnet.gov.br/publicacoes/manuais/Manual_Pregao_Presencial_Pregoeiro.pdf): access in March/03/2010.