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State Government Services Contract Administration: A Diagnosis Within the State
of Bahia

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*To my wonderful family, my wife Cida and
my son Antonio Vitor who supported me
with great patience and love
in every moment in this long journey*

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“ citizens are getting testy about insisting on
a bottom-line look at what government is producing...
[They] want government to deliver quality services
that yield good results (and do it without raising taxes).”

By Jonathan Walters, 1998

Summary

1. Introduction

2. The Diagnosis of Contract Management Reality in the Executive Branch of the State of Bahia

2.1. Human Resources

2.2. Information Systems

2.3. Organizational Structure

2.4. Normative Milestone

3. Contract Management Improvement

3.1 The Contract Manager Role: Competence, Evaluation, Performance and Accountability

3.2 Information Systems Integration

3.3. Structural Customization and Systemic Support

3.4 Normative Milestone

4. Conclusion

References

1. Introduction

The State of Bahia has the sixth largest GDP (Gross Domestic Product) of the states that form the Federative Republic of Brazil. For the last four years the State of Bahia tax collection system has presented the following numbers in nominal values: 2000 (R\$3.9 billion), 2001 (R\$ 4.4 billion), 2002 (R\$5.3 billion) and 2003 (R\$6.2 billion), according to the Information System of Tax Administration– SIDAT. In terms of the values adjusted by inflation (IGPM), the collection has presented an average growth of 3% per year in the last four years. On the other hand, the social demands have increased, which implies the use of more resources for contracting services, materials and equipment.

As far as the specific issue of contracting services is concerned, it can be observed that the expenditures of the government of the State of Bahia were very high, especially with the contracting out practice. However, in spite of the meaningful contracting volume, there is also a set of structural problems that corroborate with the outcome of vulnerabilities in the global management of these contracts, which in its turn implies systematic losses of public resources. Amongst the vulnerable points it is worth highlighting: a) low qualification of many of the professionals responsible for the sector of contract management; b) lack of integration amongst the corporate systems used by the State of Bahia, c) low institutionalization level of the standardized existing mechanisms, d) insufficient attention to contract management activity and e) inadequate government structure of some state secretariats.

Bearing this picture in mind, the general objective of this paper is to show alternatives for defining a policy suitable for improving contract management in the public administration of the state. These alternatives require in-depth considerations on the profile and qualification of the contract managers, on the relationship between the units of the sector and the core that defines these policies, on the standard and organizational adjustments and on the integration of the systems involved.

Grazia (2003) plunges into the core of the issue to be approached in this paper. According to the author, many of the public administration crises stem from issues related to contract management past the bidding phase. Grazia (2003) highlights that it is necessary to insert the importance of an effective contract management system in the administration. This management consists of the rationalization of the public resources use, a measure that can decrease the state's administrative "deficit".

The same perception was expressed by Donald Kettl in the foreword of Phillip J. Cooper's book, "Governing by Contract: Challenges and Opportunities for Public Managers" that was written in 2003. Kettl states that even experts in public policies make serious mistakes by not paying enough attention to contract management. According to Kettl, the officials and key decision-makers' concerns in the organization concentrate on the "solution" of the problem, which may be the contracting of a major public work. Since contract management involves uneventful issues, it becomes dull and boring, often being transferred to third echelon officials. This is exactly where there lies the risk of not having good contract management, and which often results in disbursing excessive resources, beyond the figures that were previously estimated.

Of course there are some prerequisites that are essential for a good contract management, namely: qualified personnel, integrated information systems, updated legislation and an organizational structure that empowers the contract manager in the decision making processes. This paper aims at approaching all these issues, inserting the State of Bahia within this context.

2. The Diagnosis of Contract Management Reality in the Executive Branch of the State of Bahia

The objective of this topic is to evaluate the present status of the administrative contracts management in the Executive Branch of the State of Bahia, based on its main conditioning factors. The understanding of the concept and of the Executive Branch context was used as initial reference, bearing in mind the variables related to normative, informative, organizational and human features in approaching the problem. The aim is to develop a methodology based on the major problems and the potentialities, in order to develop a more resistant set of concrete interventions based on real situations. It is worth stressing that the analysis was carried out having the object of study the contracting for services in the State of Bahia.

2.1 Human Resources:

According to Neto (1994), it is expected that in all scopes of government public administrators act on behalf of the public interest to meet society's needs. These agents have the mission of coordinating the generation of wealth and promoting improvements for the collectivity with rationality, discipline, efficiency and effectiveness, preserving the public assets. The state is responsible for fostering these conditions and for motivating the public administrators to become aware of the responsibility of their positions, so that they can commit themselves to the production of effective results for the society.

In this sense the human factor is overruling to ensure that the contracts will have the necessary follow-up and care. The contract manager is the person who is directly responsible for the relationship between the contracting party (government) and the contracted party (company), interfering whenever the existence of any risk or damage to the state can be felt.

There lies one of the major weaknesses of the public service as a whole, and the State of Bahia is not an exception. The best way to illustrate the problem is by presenting the result of the application of a questionnaire developed by the Superintendence of Administrative Services -SSA in 2002 with contract managers. SSA, a Superintendence of the Administration Secretariat of the State of Bahia, plans, coordinates, promotes, supervises, controls and evaluates the activities pertinent to the administration of material services and assets in the Public Administration scope. SSA is responsible for defining contracting standards and policies in the state of Bahia.

The questionnaire focused on four major blocks of questions that encompass the following areas: technical expertise, technical skills, and interpersonal and managerial skills. The average number of respondents was approximately 120, a highly meaningful number within the state of Bahia. The number of managers and contract substitutes in the state of Bahia totals 208 people. The results that were confirmed illustrate the human factor weakness, namely:

Technical expertise:

- 1- 75% of the respondents stated that they had average technical expertise regarding the contracting out topic.
- 2- 50% of the respondents answered that they were not familiar or that they had limited knowledge of the Federal Law nº 8,666 of June 21, 1993 that provides for bids and contracts.

- 3- 66% of the respondents answered that they were not familiar or that they had limited knowledge of the State Law nº 4,660 of April 08, 1986 that provides for bids and contracts in the State of Bahia.
- 4- 72% of the respondents answered that they were not familiar or that they had limited knowledge of the duties and responsibilities of a contract manager.
- 5- 74.5% of the respondents answered that they were not familiar or that they had limited knowledge of the Fiscal Responsibility Law.
- 6- 77% of the respondents answered that they were not familiar or that they had very little knowledge of the bid topic.
- 7- 60% of the respondents answered that they were not familiar or that they had limited knowledge of the concept of contract and its peculiarities.
- 8- 50% of the respondents answered that they were not familiar with statistics or that their knowledge level regarding this topic was very low.
- 9- 68% of the respondents answered that they did not use the SIMPAS – Integrated System of Materials, Assets and Services.

Technical Skills:

- 1- 3% of the respondents answered that they could develop technical and strategic competence. The other 97% answered that they wanted to invest more in this area.
- 2- 3% of the respondents answered that they could identify and develop contract management necessary subsidies and tools. The other 97% answered that they wanted to invest more in this area.

- 3- 7% of the respondents answered that they could understand, interpret and use the legislation. The other 93% answered that they wanted to invest more in this area.

Interpersonal skills:

- 1- 17% of the respondents answered that they had interpersonal leadership-competence to deal emotionally with the groups, create environments of trust and show initiative and self-confidence. The other 83% answered that they wanted to invest more in this area.
- 2- 20% of the respondents answered that they could transmit their ideas clearly and precisely in individual or group situations. The other 80% answered that they wanted to invest more in this area.
- 3- 20% of the respondents answered that they were capable of interacting with others and of giving and receiving feedback. The other 80% answered that they wanted to invest more in this area.
- 4- 12% of the respondents answered that they could identify and deal with differences and resistance, whether individually or in groups. The other 88% answered that they wanted to invest more in this area.

Managerial Skills:

- 1- 9% of the respondents answered that they could manage projects and information. The other 91% answered that they wanted to invest more in this area.
- 2- 8% of the respondents answered that they were capable of performing strategic planning, defining goals, actions and activities. The other 92% answered that they wanted to invest more in this area.

- 3- 16% of the respondents answered that they could manage staffs. The other 84% answered that they wanted to invest more in this area.
- 4- 17% of the respondents answered that they were skilled in negotiating, respecting the diverging interests and differences in the search of effective results. The other 83% answered that they wanted to invest more in this area.
- 5- 13% of the respondents answered that they were persuasive and that they could make decisions and take risks. The other 87% answered that they wanted to invest more in this area.

The analysis of the figures that were presented enables an inference that there is a focus of problem that needs to be tackled by some governmental measure. It can be clearly perceived that some of the average professionals oriented to contract management are not fully qualified and that they lack the knowledge of the negotiation tools and related follow-up systems.

Besides the problems that were easily identified by applying the questionnaire, there are some other aggravating circumstances that tend to make the role of the contract manager even weaker:

- ? Lack of focus on the activity. There is no definition of the priority and importance of contract management role. Usually this activity is performed as a secondary role. Many contract managers develop other simultaneous activities and thus they do not have the time required for following up the contracts.

? Loss of knowledge caused by the high contract managers' turnover (28% in 2002). Besides being counterproductive, it generates successive and redundant expenses with training programs held by the Administration Secretariat of the State of Bahia. Amongst the turnover reasons it is worth mentioning: a) not a very challenging role, b) government does not give much importance to this role, c) the role is often performed by officials with temporary government jobs, d) low compensation.

Some suggestions to solve these problems will be made further in item 3.1.

2.2 Information Systems

The operational complexity and the volume of resources involved in contracting services in public administration require information systems that support the control and necessary follow-up to ensure effectiveness in carrying out the contracts, their terms, deadlines and guarantees, even though in a limited way. This refers to the delivery and rendering of services from the suppliers and also to the completion of the contract by the public administrator. However, by observing the present situation, it is clear that there are some limitations and distortions. These can be related to the performance and competence in defining information technology policies for the state departments that rely on the adopted systems, mainly on their way of articulating themselves.

The strategic importance given to the conception of an integrated and articulated model of information technology management has increased, both in the private and public organizations. However, an analysis of such model shows that the state administration information systems originate from a set of development actions and initiatives that were originally unarticulated and contaminated with structural redundancies, whether in terms of the formation and administration of its database or data entry and management. While the research that is the object of this paper was being carried out, three basic and parallel information systems were identified. These form the basic layout for supporting the state contract management model.

The referred systems are respectively CST – Reference File of Outsourced Services, SIGAP – System of Public Spending Management and SIMPAS – Integrated System of Material Assets and Services.

A) CST – Reference File of Outsourced Services

The CST – Reference File of Outsourced Services was created by Decree nº 8,290 of August 5, 2002 and consists of a databank that consolidates the information of outsourced contracts (services) of the State, enabling real time collection of data, making them available for consultation at several levels of detail.

Through this application it is possible to: a) access the data of a given contract, b) access all contracts by kind of service, c) access the contracts by Unit, Agency, Secretariat or supplier, d) follow up the evolution of monthly expenditures of these contracts, e) obtain the unit values that were considered for the main services and, f) check the dispersions of the unit prices contracted (**statistic** module), g) identify the contracts whose prices are above the established references, etc.

CST enables the directors and administrators of the agencies to follow-up the status of the existing contracts and outsourced services, being thus classified as a powerful tool both for management and for supporting the decision-making process.

The following objectives can be reached with CST:

- ✍ Standardize the registration of the outsourced service, enabling the registration of all information pertinent to it;
- ✍ Updating of the ongoing Contract of Services;
- ✍ Registration of the contracts closing date;
- ✍ Enable consultations on:
 - ? Contracts in progress per Secretariat/agency;
 - ? Contracts in progress per supplier and price of provided service;
 - ? Contracts in progress per service;
 - ? Contracts in progress per service/Secretariat;
 - ? Contracts in progress per service/Supplier;
 - ? Closed contracts;
 - ? Daily deployment of contracts in progress;
 - ? Monthly expenditure evolution.

CST is a powerful tool for managing contracts that is being underused by the public administration agencies of the State of Bahia. Many contract managers do not enter the necessary information to feed the system, even though Decree nº 8,290 makes this compulsory. Thus, the comparative power of the system, which is to analyze the status of the contracts of the different Secretariats and of this Secretariat, is highly jeopardized.

B) SIMPAS – Integrated System of Materials, Assets and Services

SIMPAS was created with Decree nº 7,919 of March 30, 2001 with the aim of managing the processes of purchase, classification, distribution and control of materials, assets and services of the State Public Administration. The system is compulsory for all direct administration agencies, government agencies and foundations. SIMPAS was implemented in 230 managing units of the Direct Administration, Government Agencies and Foundations.

SIMPAS main objectives are:

- ✍ Standardize procedures for the purchase of materials and for contracting services;
- ✍ Issue Material and Services Requirements through the system;
- ✍ Enable consultations on:
 - ? Reference file of the material suppliers and service providers;
 - ? Catalog of the group, families and materials and/or services items;
 - ? Performance of the suppliers of materials and services providers;
 - ? Reference value of the items that were registered as purchase parameters;
- ✍ Generate, issue and download the Permissions for Supply in the system - AFM and the Authorizations for the Provision of Services - APS;
- ✍ Managerial reports with different formats to chose from;
- ✍ Assets control;
- ✍ Update registration of Assets.

C) SIGAP – Public Spending Management System

Public Spending Management System - SIGAP is a tool made available to the State Administration by the Secretariat of Finance with the specific aim of improving the financial programming mechanisms with the available technical resources.

SIGAP is a module of the SICOF – Financial and Accounting System of Information, oriented to all the Agencies and Entities of the State Public Administration.

The Public Spending Management System – SIGAP – was developed with the aim of improving the public spending quality, to make a budget capital allocation reserve and establish a schedule of payment that enables a better cash flow management. SIGAP is made available for recording all commitments and obligations undertaken and to be undertaken by the State.

When the necessary information is entered, SIGAP represents the expression of the administration expenditure needs, which will feed the elaboration of the QCM – Chart of Monthly Quotas, bringing it closer to the needs. Of course it is subject to the availability of resources, since it is only possible to spend what has been collected. In reality the aim of this module is to close the gap between what is programmed and what was realized.

After the annual budget law is approved, the budget credits divided into monthly quotas are made available at the SICOF (System of Accounting and Financial Information of the State), so that the managing units can start making expenses. In fact, the credit represents the quantity of monetary resources that is authorized by law to be spent by a unit in carrying out its projects/activities, during the year.

Therefore, to start making any and all expenses, the manager must previously make an estimate of the expenditure, check if there is capital allocation and if it is sufficient for carrying out the intended expenses and the other ones that have been contracted. This is the basic principle of fiscal management; in other words, "spend only what is available ". In this sense, the procedure for checking if there is capital allocation and in affirmative case to save it to be used in the intended expense is called pre-commitment, blockade or capital allocation reserve.

This is a pre-commitment, because at this stage, which takes place even before the bidding, there is only the intention to spend. The manager is not aware of some variables for the effectiveness of the commitment, such as the name of the creditor, CNPJ¹, current account, value of the expense, number of the contract – if there is any - etc. Originally the SICOF was not conceived with this aim.

Thus the Public Spending Management System - SIGAP – was developed and integrated as a SICOF module. Its use has become compulsory and its function is to enable the manager to block capital allocation and later the registration of the contract. The objective is that by conferring the capital allocation balance, this value reflects the total of the credit that was authorized for the year, deducting the contracted expenses (including those with monthly disbursements) and the ones with contracting expectancies. In other words, the balance is the effective value that the manager has to spend. The capital allocation reserve or pre-commitment comes before any bidding has started. Therefore it is clear that the manager has the budget to cover that expense, according to the Fiscal Responsibility Law requirements. When the successive bidder is defined, the commitment is made effective and the contract is signed. From this moment on, both parties are entitled to rights and responsibilities.

SIGAP is essentially a control system, which is not conceptually linked to the flow of carrying out the expenses (commitment, settlement and payment) that takes place at the SICOF. Nevertheless, SIGAP is integrated to SICOF, for it has become a prerequisite for the book entry of the expense. It was transformed into a necessary condition, a kind of pre-commitment, whose data entry is compulsory.

¹ Brazilian Registry of Legal Entities of the Ministry of Finance

SIGAP's main aim is to foster conditions for the size of the cash flow of the state as far as the payments through capital allocation are concerned. Different from CST, SIGAP does not present managerial resources or statistic tools. SIMPAS, however, has the aim of managing the procurement of materials, the contracting of services and the assets control in the scope of the Public Service.

The major problem is that many units express an opposite reaction when they have to repeatedly enter the same information into different systems. Some systems are stronger than others, as it is SIGAP's case. If the information is not fed into SIGAP the unit cannot make the expense. This prerogative does not apply to CST, despite of law in force that makes its use compulsory. The solution presented is the integration of systems, which will be discussed later on in item 3.2. With the integration, the information that was entered into SIGAP and SIMPAS will automatically be forwarded to CST through a routine, eliminating the problem of manually entering the data.

2.3 Organizational Structure:

The objective of this chapter is to summarize how the organizational structure of the State of Bahia operates and its relationship with contract management issues.

At present, the State of Bahia has 17 State Secretariats. The Administration, Finance and Planning Secretariats play the role of systemic secretariats, being responsible for defining policies and guidelines in their areas of competence that must be followed by all other secretariats. The other secretariats are called finalistic because they work basically to meet the needs of the population in general. The Secretariats of Education, Health, Public Security are examples of finalistic secretariats.

According to Decree nº 8,724, of November 06, 2003, one of the main responsibilities of the Secretariat of Administration is to establish guidelines and propose general administration standards, coordinating the performance of the activities of the agencies and entities of the State Public Administration regarding human resources, assets and auxiliary charges.

The Superintendence of Administrative Services –SSA is in the Secretariat of Administration. As mentioned earlier, its objective is to plan, coordinate, promote, supervise, control and assess the activities pertinent to material, services and assets of the Public Administration.

In the SSA there is a Board of Directors for Services, whose responsibilities are the following: a) define criteria, discipline and standardize the contracting of common use services in the scope of the State Public Administration, b) follow up and control the formalization and performance of the administrative contracts that were entered by the State Public Administration, c) supervise, control and orient the operation of the System of Registration of Outsourced Services – CST and e) periodically perform the market research of the services to be contracted by the Public Administration, based on the General Catalog of Material and Services, checking and updating its prices.

Each State Secretariat has a General Board of Directors formed by a Financial Board of Directors, an Administrative Board of Directors, a Budget Board of Directors and an Upgrading Coordination. These three Board of Directors form the systemic representation of the secretariats in the other secretariats. The general Board of Directors is responsible for:

I- carrying out the activities of programming, budgeting, follow-up, evaluation, studies and analysis in close contact with the central units of the State System of Planning;

II- carrying out activities of material administration, assets, services, human resources, administrative upgrading and information technology, in the scope of the secretariat, with close contact with the central units of the State Administration System;

III- carrying out the financial administration and accounting activities in the scope of the secretariat, with close contact with the central units of the Financial and Accounting Systems.

The Administrative Board of Directors, on the other hand, has three coordinations, namely: a) Human Resources Coordination, b) Materials and Assets Coordination and c) General Services Coordination.

Thus, it can be observed that there is no Coordination of Contracts in the Administrative Board of Directors, which is responsible for systematizing all the contracts of services entered by a given secretariat.

It is important to bear in mind that a secretariat such as the Education Secretariat, with a given number of schools spread out throughout the state, with complex logistic and operational demands, faces problems to manage its contracts that are much more difficult than the ones that a secretariat involved in government planning, for example, has to face.

Thus, it can be observed that the management of contracts does not adopt a strategic characteristic, being diffuse in terms of existing structures. It is not stressed and it is not highlighted in a way that is compatible with the material content of its objects nor with the volume and form of dealing with the financial resources involved. Different from what happens in the private sector, there is no functional priority of the contract issue.

Contracts are not clearly understood as a means for making the operation of the public systems feasible and that they must be considered in an integrated and transverse way, as a critical systemic process for developing public management, with an increasing demand and even more limited resources.

Some Secretariats have such a financial volume of outsourced contracts that they need to have an Advisement Contract Secretariat subject to the General Board of Directors. Other Secretariats with a smaller volume of contracts may need a coordination of contracts linked to the Administrative Board of Directors.

This topic shall be discussed more deeply in section 3.3, when some practical solutions will be suggested.

In chapter three some suggestions will be discussed for improving contract management in the State of Bahia.

2.4. Normative Milestone

In Brazil the legal source that takes the lead in the process of entering administrative contracts is the Law n° 8,666 of June 21, 1993. This law, whose nuclear core is the Federal Constitution, defines general standards for bids and contracts, encompassing in its scope the union, states and municipalities, at the three levels of power and in the three branches, whether in the Direct or Indirect Administrative Agencies. Besides the legal definitions that are part of this federal law, the object of the scope of this analysis, the legal basis can also be found in state Law n° 4,660 of April 08, 1986 and on other regulations issued by the Executive Branch that support the regulation of the systematic contracting process of the Public Government Administration.

Within this perspective, reference can be made to a set of decrees and administrative rules that characterize how the issue of contracts has been dealt with recently.

First of all, reference can be made to Decree nº 2,526 of October 22, 1993, which amongst other measures, is intended to establish guiding parameters for the public administrators, as far as price adjustment criteria and indexation of the contracts are concerned. In this sense, it intended to provide for the concrete need, especially considering the inflation history of the Brazilian economy. It aims at assuring that the Public Administration, based on the principle of the economic-financial balance present in contracting, could adjust the absolute values that were contracted based on appropriate index numbers. Therefore, the previous balance status could be recomposed and the contracted party would have the means to provide the services or products object of the contract in a sustainable way.

The Decree nº 2,526 indicated the adoption of a IGP-M (The General Market Price Index of the Getúlio Vargas Foundation) as a residual measure when there were no other specific or sectorial indexes.

It was confirmed that in the State of Bahia, approximately 50% of the contracts in force in March 2003 were based on the IGP-M or the IGP-DI (General Price Index-Internal Availability). Both indicators analyze the same price variations, from the price composition of the Wholesale Price Index (IPA), whose weight is 60% of the index, the Consumers Price Index (IPC), whose weight is 30% and the National Index of Building Cost (INCC), which represents 10% of the General Market Price Index (IGPM). The difference between the IGP-M and the IGP-DI refers to the price collection period.

The table below presents a picture of the indexes used for the indexation of contracted services in the State of Bahia in March 2003.

Table 1: Participation of the inflation adjustment indexes in contract for services in the State of Bahia in March 2003.

INDEXATION INDEX	PARTICIPATION IN THE CONTRACTS
IGPM	39%
<i>REAL (Brazilian Currency)</i>	22%
INPC	14%
FORMULA	13%
IGP-DI	11%
OTHERS	1%
TOTAL	100%

Source: CST – Reference File of Outsourced Services.

Owing to the marketing composition of the IGP-M and IGP-DI, these indexes are highly sensitive to exchange gains or losses, a risk for a country prone to financial crises such as is the case of Brazil. This sensitivity ended up causing a meaningful distortion throughout the years, when comparing the evolution of these indexes to other inflation indexes. The table below presents the evolution during the 1995-2002 period of some of the major inflation indexes in Brazil for price indexation.

Table 2: Evolution of the major inflation indexes in Brazil in the 1995 -2002 period.

INDEXATION INDEX	EVOLUTION: 1995 TO 2002
IGPM	152%
INCC-FGV	128%
IPC-FGV	114%
INPC-IBGE	104%
IPCA-IBGE	100%
IPC-FIPE	86%

Source: <http://www.portalbrasil.eti.br.indices.htm>.

Let's suppose that the state had entered into two contracts for the provision of services with the same value for an eight-year term. The contract that had adopted the IGP-M index would represent a much higher cost than the contract that had adopted the IPCA-IBGE (Ample Consumer Price Index). In the State of Bahia, the problem takes on an infinite proportion, when considering that 50% of the contracts registered in the CST (Reference File of Outsourced Contracts) in March 2003 adopted the IGP-M or the IGP-DI. The fact that this meaningful volume of contracts is tied-up to the IGP-M or IGP-DI can be explained by the dearth of clearer standards for defining the adoption of the more suitable inflation indexes and by the cultural and functional limitations of the ones responsible for signing the contracts.

Besides the risk of exchange gains and losses that highly affects the IGP-M or the IGP-DI, maybe the most representative issue is the fact that many of the contracted services have no ties with the elements that form the IGP-M, namely contracts for the supply of food, labor, building and occupants and assets security, supply of labor for cleaning and preservation, etc. These services have no relationship with the IPA, the major component of the IGP-M. Thus, it can be seen that an improper contract adjustment inflation index is being used in detriment of the others that portrait reality in a more faithful way, which implies serious damage to the state.

It is important to have a clear perception that the idea behind the contract adjustment for inflation is to recover the price of the service and not to guarantee an increase in the margin of contract gains. In Administrative Law and in Bidding Laws this is called economic-social balance of contract. The contract has to be good for both parties: its balance makes the provider of service interested in performing a given service and the state capable of paying a fair price that is compatible with the market.

The administration aims at the provision of services and the contracted party at the value to be paid, where the profit is included. When the two parties enter into an agreement, the relationship or economic-financial equation between the two parties is established. This will be valid during the period that the term of the contract. Even though the contract has been signed with a specific clause, whenever one of the parties feels that the economic and financial balance is being jeopardized, this party can invite the other one to discuss the topic and make the necessary adjustments in the contract.

In other words a contract can have its rules changed during its useful life since one of the parties realizes that the economic-financial balance has been jeopardized, which was, for instance, the case of the contracts that had the IGP-M as an adjustment inflation index.

Based on the information presented above, it is quite easy to infer that the State of Bahia would have spent much less money if its contracts had adopted an adjustment for the inflation index different from the IGP-M or IGP-DI.

Notwithstanding, it is advisable to refer also to the Decree nº 4,490 of July 21, 1995, whose aim was to transfer competence to SAEB – Secretariat of Administration of the State of Bahia, regarding the definition of standards and complementary guidelines as far as the issue of the administrative contracts of the state were concerned. Therefore, this secretariat would be responsible for acting as a central advising agency for all the state government mechanisms.

Another important issue related to the standard delimitation of the topic refers to the compulsory use of the CST – Reference File of Outsourced Services - imposed by Decree nº 8,290 of August 5, 2002. CST, as we will see later in detail, is a contract management system of services developed and transferred to Bahia by the Government of São Paulo. This decree intended to impose the compulsory use of this managerial system in the scope of the state administration. However, up to now in practice it has not been adopted by all the agencies of the State of Bahia.

Finally, we can refer to normative instruction nº 1 of October 18, 2002 developed by SAEB and the PGE - Office of the Federal Prosecutor for the State of Bahia. The result was the establishment of a set of criteria for the renegotiations of contracts specifically related to building security, cleaning and preservation services. This instruction highlighted the indication of an adjustment for inflation index whose formula examined carefully salary variations and the National Consumer Price Index –INPC behavior. Based on this guideline, the contracts with these characteristics should have their adjustment clauses negotiated under the penalty of not having their renovation. In general they are the ones that comprise meaningful contracting of labor. This instruction indicates a renovation in terms of compliance between the type of service provided and the economic index used for contract indexation.

Therefore, generally speaking, these are the main regulatory instruments of administrative contracts in the State of Bahia.

3. Contract Management Improvement

The objective of this chapter is to present suggestions to improve the management of contracts for services in the State of Bahia. The suggestions will be based on the areas that are considered the pillars of a good contract management, namely: people, systems, organizational structure and standard milestone.

3.1 The Contract Manager Role: Competence, Evaluation, Performance and Accountability.

As it was discussed earlier, the contract manager plays an essential role. This person must know the nuances of the contracts. This is the person who must know if a given service is being offered for a price much above the average market, if the contract adjustment for inflation index is fair, if it really reflects the inflation of the period, the composition of the costs of service, etc. Finally, the contract manager is responsible for monitoring the contracts. Summing up, this professional has to be highly qualified.

The analysis led to the conclusion that the manager should have some desirable characteristics to perform the tasks with competence, specifically:

a) solid knowledge of the legislation in force:

This contract manager does not have to be a law graduate, but it is important for this person to have a sound knowledge of the federal and state laws that provide for issues related to administrative contracts to the bidding processes.

b) be skilled in negotiation:

This feature is extremely important. Throughout the useful life of the contract, the relationship between the contracting and contracted parties does not always converge in the same direction. Many problems and differences may arise along the way. At this moment, it is relevant for the public administration to count on a professional that can take the most of the contracted party in terms of service, respecting the differences and diverging interests.

c) be a state government employee with a permanent position:

The state government employee with a permanent position can assure higher continuity in the activity when compared to the government employee with a temporary position. This official reduces the turnover and consequently the investments in training, besides reducing the inefficiency costs of the ones who have just started performing this activity for the first time.

d) university graduates or higher levels of schooling:

The contract managers must be professionals who have at least completed higher education, so that they can have a more critical viewpoint of the processes that take place in public administration.

Moreover, it is up to the manager of the contract to have a pro-active and ethical attitude; to plan and monitor the expenses referring to the contract expenses under the person's responsibility; carry out ongoing monitoring of contracts; make a survey and supply managerial information, knowing the importance of effective management of outsourced contracts, to know and use ethical, behavioral and managerial dimensions in the area of performance; have the basic technical tools to carry out the activity and to give subsidies to the areas involved in the contracting process.

On its turn, it is up to the Secretariat of Administration to suggest to the other agencies the suitable profile of the government employee to occupy the position of contract manager. Of course this is not enough, especially when bearing in mind that the referred qualifications mentioned earlier lead to the identification of a very well qualified profession to occupy this position. Thus, it is the State's responsibility to recognize that this is an important role and make it attractive, also in terms of compensation and status.

A suggestion here is to resort to Experts on Public Policies and Government Management as contract managers. These professionals, despite being a recent acquisition in the State of Bahia, have presented excellent professional performance in the public administration of the state. The careers of Expert in Public Policies and Government Manager follow the Governmental Manager and Public Service Technician careers.

Experts on Public Policies and Government Management fulfill very well two of the prerequisites listed above: be a state government employee with a permanent position and having university graduates or higher levels of schooling. The other two prerequisites could be acquired by constant training and practicing. Training and practicing should be provided by the government.

Besides that the Decree nº 8,182 of March 5, 2002 that controlled the Government Manager Career anticipated the management of contracts and agreements as one of its role.

It is not enough to emphasize that the Administration is responsible for making available to these professionals the necessary training for them to acquire a sound knowledge in the areas that were mentioned at the beginning of this section.

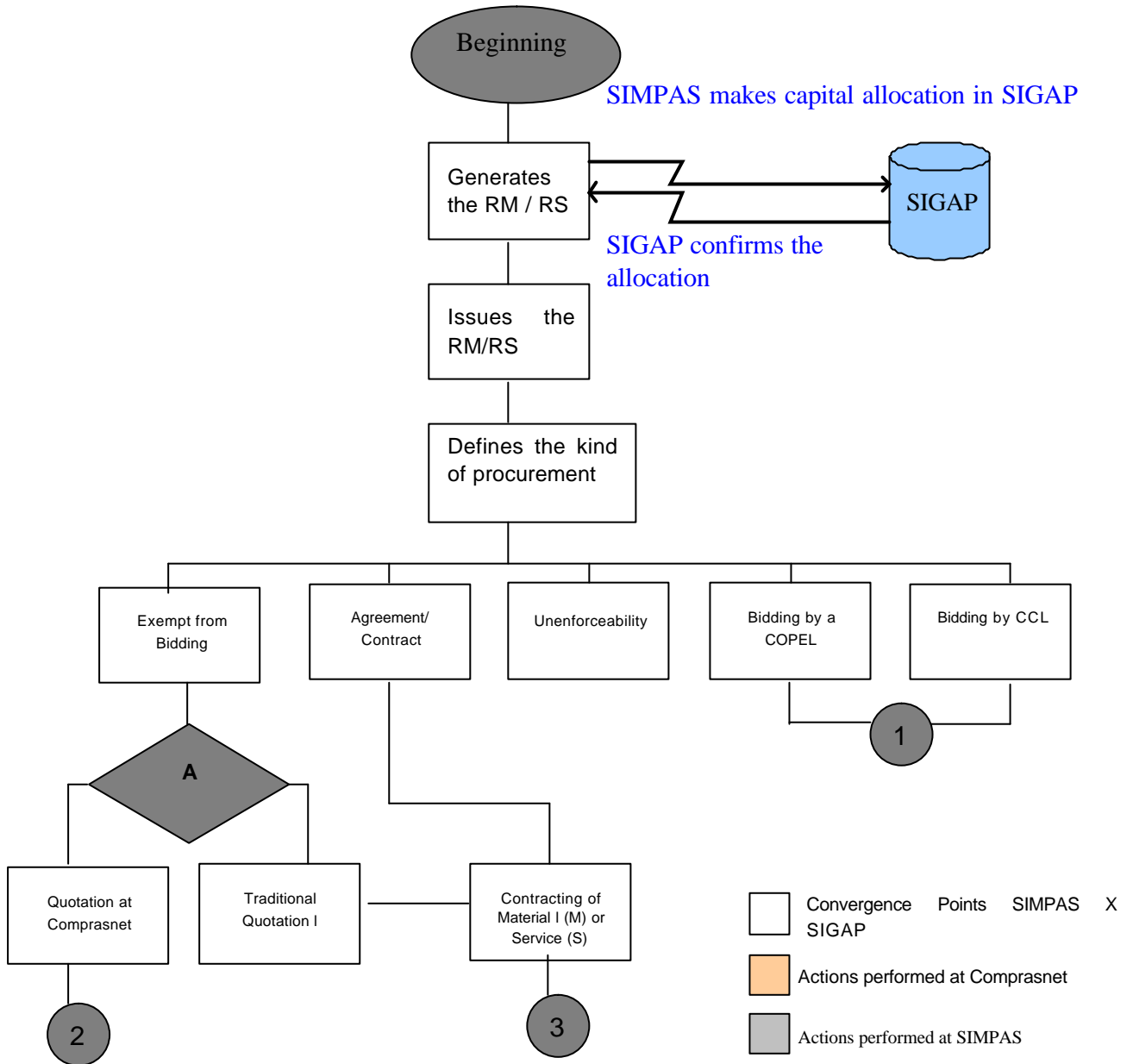
3.2 Information Systems Integration

The CST, SIGAP (SICOF) and SIMPAS systems are not integrated, which requires the managers to constantly enter the same kind of information into all the systems. This redundant activity makes the work of the manager tiring, resulting in a kind of resistance regarding the work. Moreover, this activity is extremely operational, reducing the time that might be dedicated to more strategic activities. Therefore, what happens in practice is that the managers prioritize the systems that are being fed, and it is obvious that in this choice the last system to receive information is the CST.

SIGAP has to be fed for the expense performance process to begin. Through SIMPAS the units start the process of requesting services or materials to be contracted. Actually CST should be a managerial module of SIMPAS, but the latter did not anticipate a managerial follow-up module when it was performed. The envisaged solution is to make the integration between the three systems, enabling the CST to receive information from other systems by electronic means. The system integration proposal is presented below:

Figure 1: Simpás Integration Flow x CST x SIGAP

SIMPAS INTEGRATION FLOW X CST X SIGAP

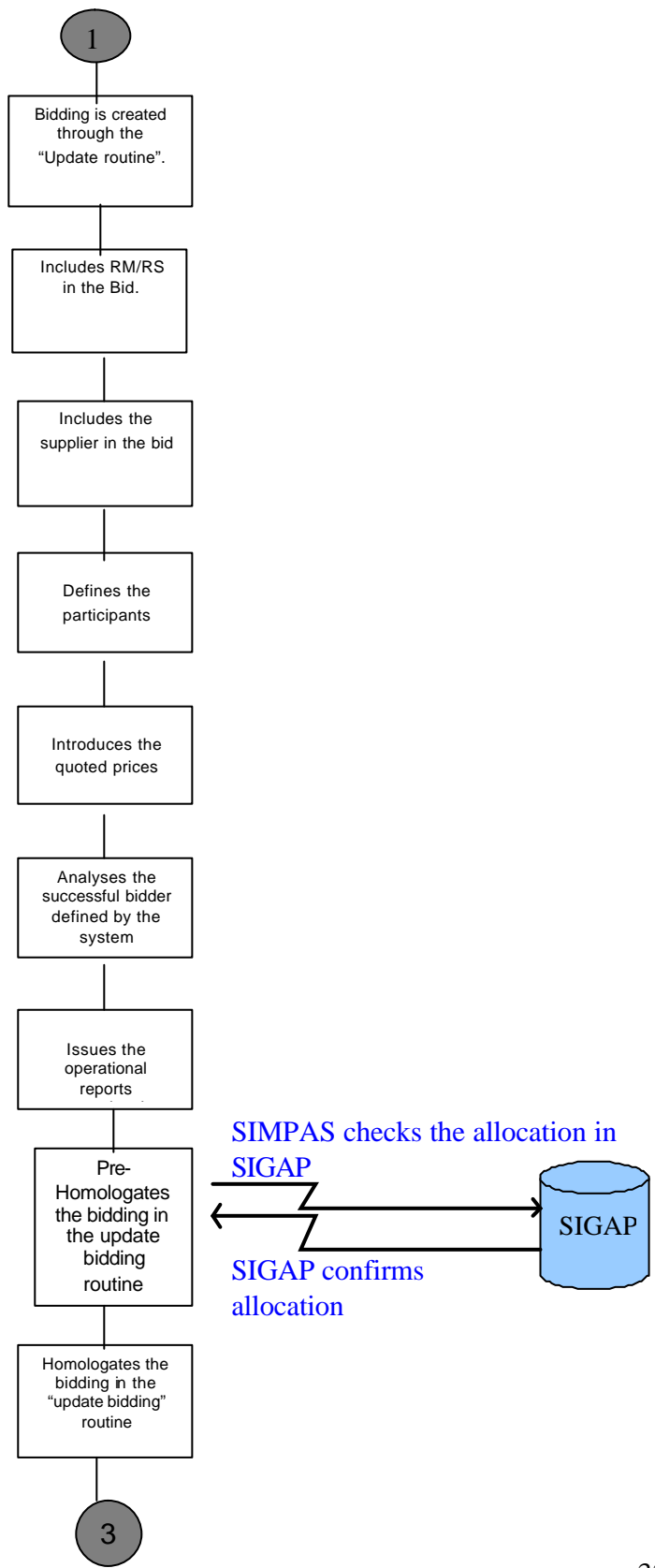


COPEL = Permanent Bidding Commission.

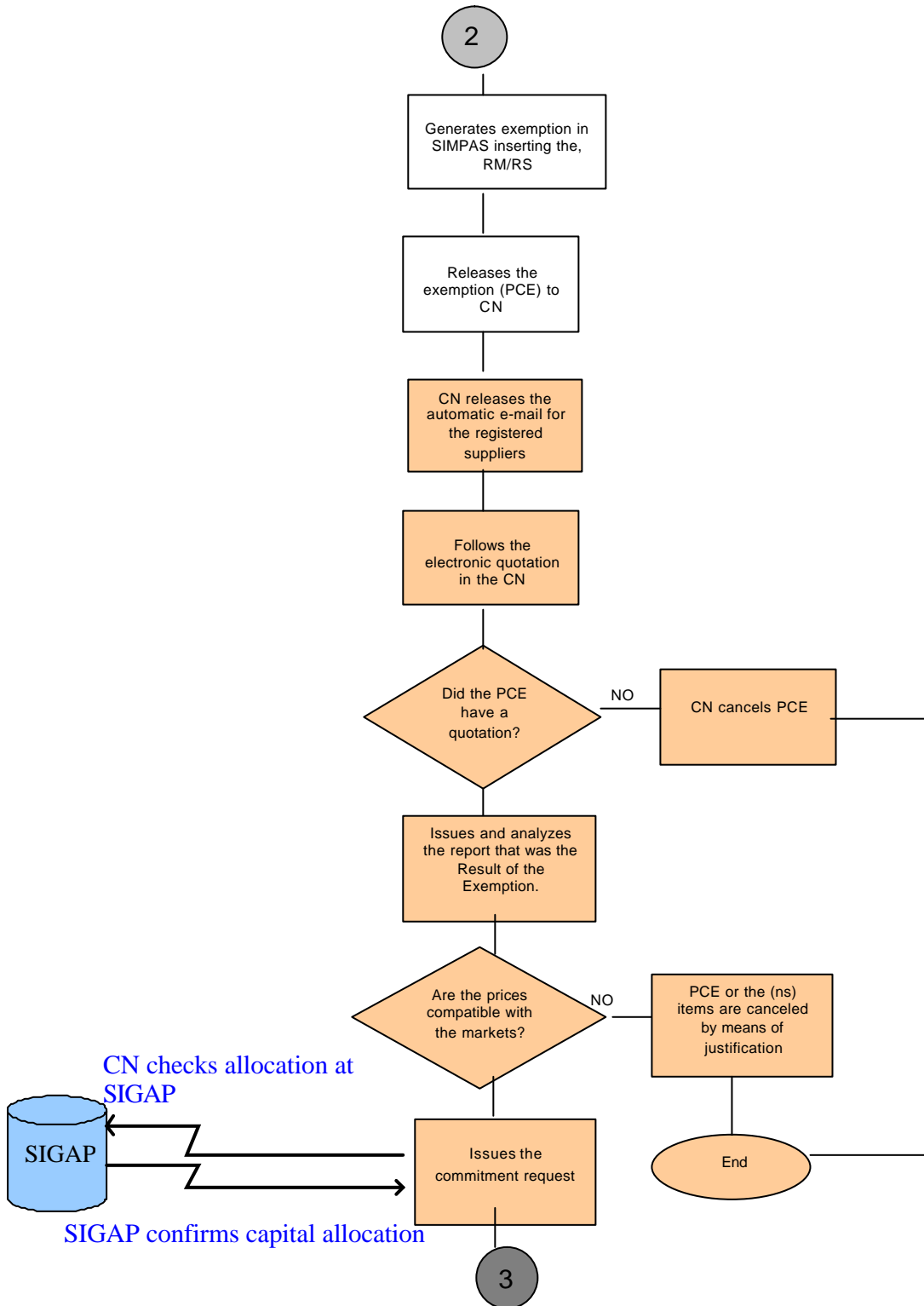
CCL = Central Bidding Commission.

A in the diamond corresponds to the following question: is the bidding exemption according to the procurement value up to R\$5,600.00 and in case is it a common use item? If it serves the two requirements, does it go to the quotation flow in Comprasnet (2), otherwise does it follow the traditional quotation flow? (3)

BIDDING FLOW

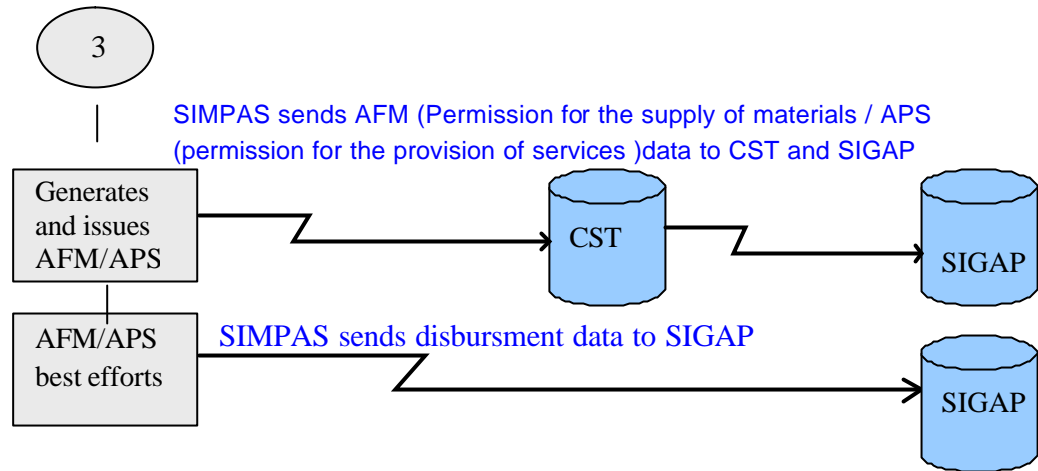


COMPRASNET FLOW



PCE means Electronic Quotation Request.
 CN means Comprasnet (Procurement on the Net).

PROCUREMENT FLOW /CONTRACTING



With this integration model, the contract managers will not have to type any information in the CST. The Reference File System of Outsourced Services will get all the information by the end of the process (flow three). Therefore, all the service contracts will be recorded and the comparative analysis between the different prices that were adopted can be carried out, simplifying the managerial decisions and the negotiation with the ones who are offering the services.

3.3 Structural Customization and Systemic Support

Regarding the organizational structure, it is worth mentioning that it is a new approach for working in a state whose secretariats have a very different volume of contracting services. This can be easily identified by the table below, where the relative participation of the secretariats in the contracts were listed in descending order for the service contracts in March 2003. This relative participation adopts the contracted financial volume as absolute values.

Table 3: Individual and accrued participation of the Secretariats of the State of Bahia, Military Secretariat and General Office of the Federal Prosecutor for the State in the total volume of the services provided and registered in the Reference File of Outsourced Services.

STATE SECRETARIATS	RELATIVE PARTICIPATION	ACCRUED PARTICIPATION
SESAB	31.13%	31.13%
SEC	16.79%	47.92
SSP	8.67%	56.59
SICM	6.59%	63.18
SAEB	6.58%	69.76
SDJH	5.59%	75.35
SCT	5.39%	80.74
SEAGRI	3.20%	83.94
SEFAZ	2.86%	86.80
SEDUR	2.79%	89.50
SETRAS	2.74%	92.33
SEPLANTEC	2.40%	94.73
SEINFRA	2.20%	96.93
SEMARH	1.63%	95.56
SEGOV	0.98%	99.54
SECOMP	0.24%	99.78
PGE	0.11%	99.89
CASA MILITAR	0.07%	99.96
SECTI	0.04%	100.0

Source: CST - Reference File of Outsourced Services

It can be inferred from the table presented above that with the accrued participation seven secretariats answer for 80% of all the services contracted by the State of Bahia. The other secretariats, as well as the General Office of the Federal Prosecutor for the State and the Military Department answer for the remaining 20%. Only two Secretariats, the Health and Education ones, answer for almost 50% of all the contracted financial volume (services),

As it was seen in section 3.3, the present organizational structure does not take into consideration the difference in the volume of services contracted by the secretariats. The structure is the same, regardless the secretariat size. There is no department within the structure oriented solely to contract administration.

The proposal presented here is the customization of the structure of the General Board of Directors, depending on the size of the secretariat being analyzed. The suggestion is to separate the state secretariats in three major categories: high, medium and small size secretariats.

Owing to their high dissemination capacity and the size of the agencies linked to them, the large sized secretariats should have established an in-house staff for managing the contracts. This staff should be capable of replicating the orientations, guidelines and contract management policies to the managing units that are at the end of the process, for example: schools, hospitals, etc. This group would work as an Advisement Unit of the General Board of Directors.

Regarding the medium size secretariats, bearing in mind their important volume of contracting out contracts, the suggestion is the formal creation of a Contract Coordination, reporting hierarchically to the Administrative Board of Directors.

In the smaller size secretariats, it is not necessary to create a contract coordination. In these specific cases, the coordination role could be performed by an existing coordination, namely: material and assets coordination, human resources coordination or general services coordination.

A systemic agency would be created to give support to all these secretariats. In other words, a Contract Manager Core would be created at SAEB with the following roles/responsibilities:

- ? Define the policies and guidelines for contracting services;
- ? Technical orientation and advise to the agencies and contract managers;
- ? Suggest changes in the legislation and standards in force related to administrative contracts;
- ? Macro monitoring of the Contracts through CST;

- ? Carry out studies on the composition of the Contract Adjustment for Inflation Indexes, recommending the most suitable ones for the different kinds of contracts.

This new proposal would bring changes to the organizational structures of the Secretariats of high and medium size, as shown below:

Figure 2: New organizational structure in high size secretariats.

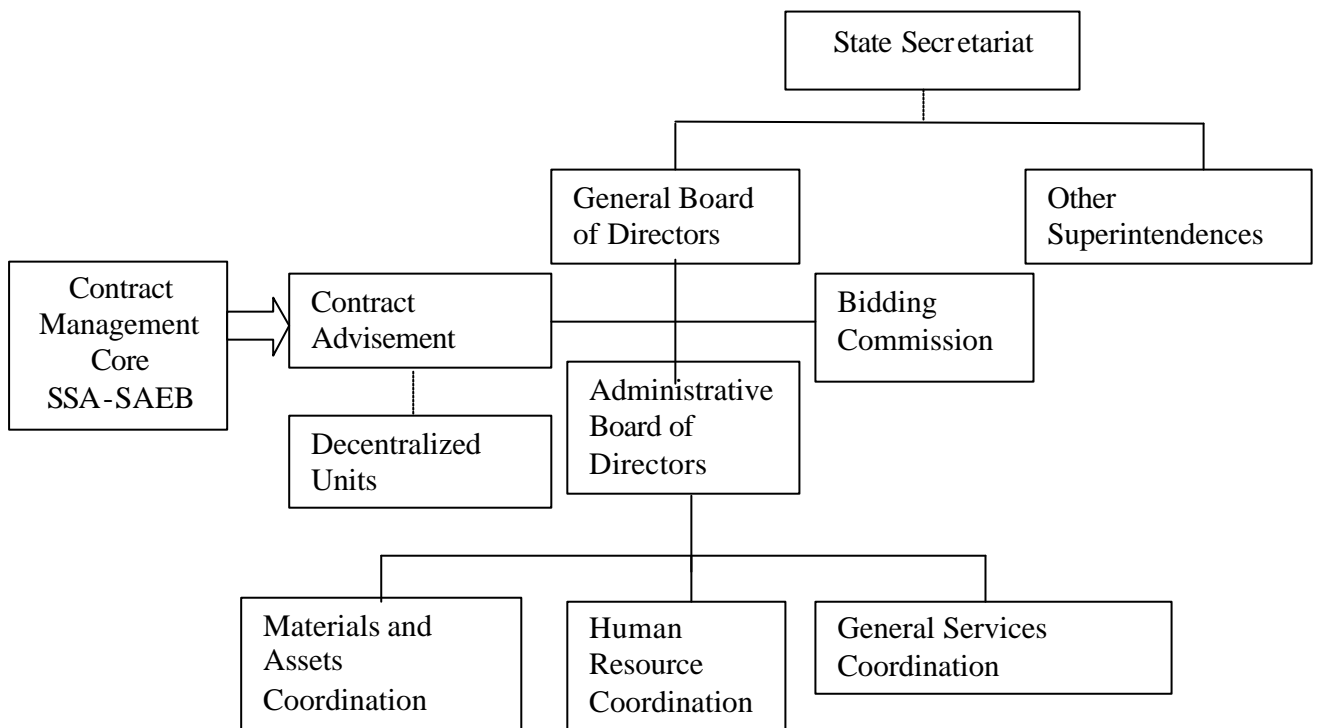
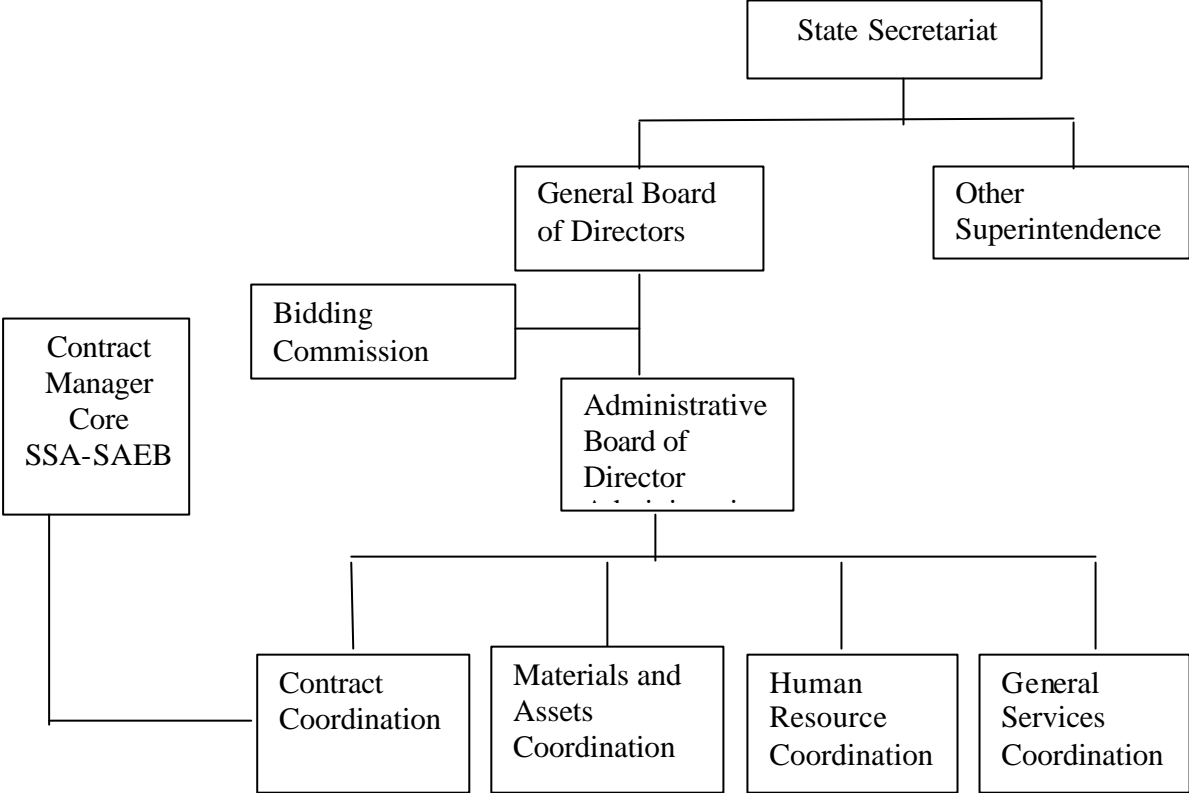


Figure 3: New organizational structure in medium size secretariats.



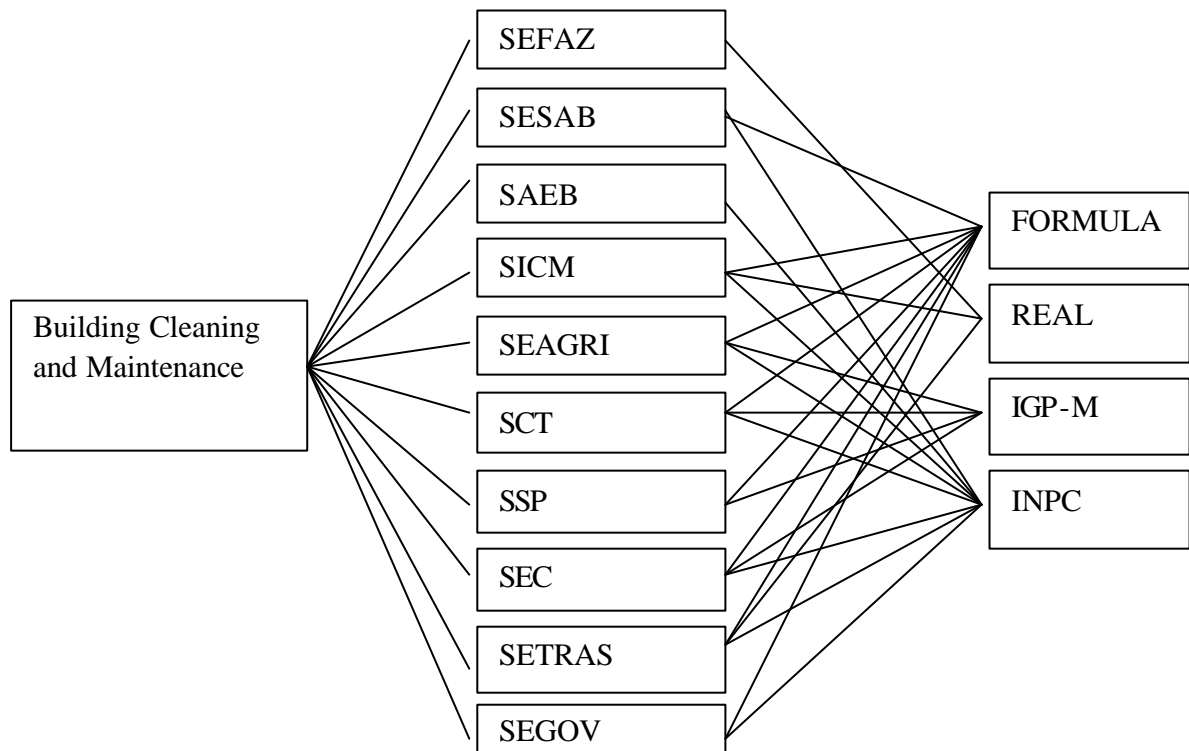
3.4 Normative Milestone

In the previous chapter, it was discussed that one of the most important tasks of the Board of Directors of Services that is linked to the SSA is to define criteria, to rule and standardize the contracting of common use services, in the scope of the Public Administration of the State.

There is a gap between the SSA and the agencies that form the public administration of the state. Let’s examine the building cleaning and preservation contract, which is adopted by almost all the secretariats as an outsourced service.

The figure below shows the Secretariats' lack of consistency regarding the adjustment for the inflation index adopted.

Figure 4: Kinds of adjustment inflation indexes building cleaning and maintenance contract adopted by the different secretariats of the State of Bahia in March 2003.



Source: CST - Reference File of Outsourced Services.

The above figure shows a lack of synchronism between the finalistic and systemic agencies and the Superintendence of Administrative Services - SSA. The SSA, through its Administrative Board of Directors, should define the most suitable adjustment for inflation index for each kind of contract and based on that it should issue a standard for the use of the economic indexes, as well as follow-up the effective compliance with this standard.

Moreover, the SSA has to adopt a more dynamic performance and work as if it were not only a normative agency, but also the one that performs the role of a consulting agency for the other secretariats. This explains the reason for suggesting the creation of a Contract Managing Core in the SSA, as previously described in Section 3.3 and illustrated in Figures 2 and 3.

4. Conclusion

It is possible to infer from what was presented in this paper that the management of contracts is a noble function in the public administration. This is the way it should be considered and understood by the public administrators. The poor management of contracts may imply a bulky loss of public resources that might have been used in programs in the areas of health, education, public security, etc. We are living at a moment of a dearth of resources and we can perceive the pressure of the social demands for more government programs.

There are two non-excluding forms of complying with these social demands. One is through the increment of the incomes that were collected by the state. The other is through the efficiency and optimization of the public spending. In the case of Brazil, and Bahia, the increase of the tax income can only take place with economical growth. It is not possible to increase the tax burden since Brazil has one of the highest tax burdens worldwide. On the other hand, the economic growth presents results at medium and long term. In the short term it is possible to work very successfully with the public expenses issue by monitoring the quality of these expenses. This can be done by having a good contract management system, where it is possible to make sure that the service or material that is being procured by the state is consonant with what was contracted and that the price is fair.

In the specific case of the administration of contracts for service in the state of Bahia, it was possible to identify some problems. They are related to the integration of the corporate systems, the qualification of the contract managers, the organizational structure of the secretariats and to the normative milestone.

Some suggestions were made for improvements in this area. Some proposals were made: integration proposal between the CST, SIGAP and SIMPAS systems; a new organizational structure in the case of the secretariats that presents meaningful volume of procurement of services; new professional profile for the contract managers and new form of performance of the SAEB regarding the public administration of the state. If these measures are put into practice, they can represent a meaningful economy for the resources of the State of Bahia for the next years, making room for expense reduction and consequently for more investments in social programs.

References

http://www.empresario.com.br/artigos/artigos_html/artigo_090803.html, March 2004.

Walters, Jonathan. *Measuring up: governing's guide to performance measurement for geniuses (and other public managers)*. Washington D.C.: Governing Books, 1998.

Cooper, J. Phillip. *Governing by contract: challenges and opportunities for public managers*. Washington D.C.: CQ Press, 2003.

Neto, Pedro Sabino de Farias. *Contract management and programs of performance: a public administration commitment with society*. In: *Parceria em Qualidade – V.2, n.10*, p – 10, 1994.

Federal Law nº 8,666 of June 21, 1993.

State Law nº 4,660 of April 08, 1986.

State Decree nº 2,526 of October 22, 1993.

State Decree nº 4,490 of July 21, 1995.

State Decree nº 8,290 of August 05, 2002.

State Decree nº 7,919 of March 30, 2001.

State Decree nº 8,724 of November 06, 2003.

State Decree nº 8,182 of March 05, 2002.

<http://www.portalbrasil.eti.br.indices.html>, March of 2004.

State Normative Act nº 001 of October 18, 2002.