


# PARTICIPATION OF COMPANIES IN JUDICIAL RECOVERY IN PUBLIC BIDDING – UNDERSTANDINGS OF THE COURT OF AUDITORS OF THE STATE OF SÃO PAULO AND THE COURT OF AUDITORS OF THE UNION

 [rdai.com/ojs/index.php/rdai/article/view/231](http://rdai.com/ojs/index.php/rdai/article/view/231)



Revista de Direito Administrativo e Infraestrutura - RDAI - Thomson Reuters do Brasil - Revista dos Tribunals RT ; ISSN 2526-8120; doi.org/10.48143/rdai; 10.48143; articles; Research; science; theory; research; memory; interview; translation; Law; Legal; Electronics; Digital; 0000-0001-8891-7080; 0000-0002-4161-9390; 0000-0003-1781-1726

## Participation of companies undergoing judicial reorganization in public tenders – understandings of the State Court of Auditors and the Federal Court of Auditors

Alexandre Levin Mackenzie Presbyterian University (São Paulo, São Paulo, Brazil)  <https://orcid.org/0000-0002-3428-3024>

DOI: <https://doi.org/10.48143/RDAI.14.al>

Keywords: Bids – Companies in judicial recovery – Economic and financial qualification – Understanding of the Courts of Auditors

### Summary:

The objective of this study is to know the grounds of the decisions rendered by the Court of Auditors of the State of São Paulo (TCE-SP) and the Federal Court of Auditors (TCU) that allowed the participation in bidding processes of companies in judicial recovery. From these data, we seek to understand how the economic and financial qualification of the bidding companies will be carried out, a mandatory step in any bidding. In the end, the answer to the following question is sought: has the decision on the economic and financial qualification of a bidding company become the responsibility of the Court of judicial recovery, or does it still belong to the list of powers of the

bidding committee? Would there be, in this case, an invasion of competence reserved to the Executive Branch? What would be the practical consequences of this type of decision for administrative contracts, in particular in the face of the risk of contractual termination due to bankruptcy of the contracted company?

## Author's Biography

---

Alexandre Levin, Mackenzie Presbyterian University (São Paulo, São Paulo, Brazil)

Doctor and Master in State Law from PUC-SP. Professor of administrative law at Mackenzie Presbyterian University. Professor of administrative and environmental law in the Undergraduate and Graduate courses of the Paulista School of Law (EPD). Professor of Specialization Course in Administrative Law at COGEAE/PUC-SP. Full member of the Administrative Law Commission of OAB-SP. Attorney General of the Municipality of São Paulo. Lawyer. [alevin397@gmail.com](mailto:alevin397@gmail.com)

## References

---

RABBIT, Fábio Ulhoa. Commercial law course. 7. ed. São Paulo: Saraiva, 2007. v. 3: Company law.

COLOMBO, Giuliano; COSTA, Patrícia Barbi. Credit verification and enablement. In: PAIVA, Luiz Fernando Valente de (Coord.). Bankruptcy Law and the new Bankruptcy and Business Recovery Act. São Paulo: Latin Quarter, 2005.

GASPARINI, Audrey. Qualification, consortia and cadastral records – Arts. 27 to 37 of Law 8,666/93. In: PEREIRA JÚNIOR, Jessé Torres (Coord.). Comments on the Brazilian legal system of bidding and administrative contracts. São Paulo: NDJ, 2016.

JUSTEN SON, Marçal. Comments on the Bidding and Administrative Contracts Act. 12. ed. São Paulo: Dialectics, 2008.

JUSTEN SON, Marçal. Art. 20 of the LINDB – Duty of transparency, concreteness and proportionality in public decisions. *Revista de Direito Administrativo*, Rio de Janeiro (Special Edition: Public Law in the Law of Introduction to the Rules of Brazilian Law – LINDB (Law 13,655/2018), p. 13-41, Nov. 2018.

LISBON, Marcos de Barros; DAMASO, Otávio Ribeiro; SANTOS, Bruno Carazza dos; COSTA, Ana Carla Abrão. The economic rationality of the new bankruptcy and corporate recovery law. In: PAIVA, Luiz Fernando Valente de (Coord.). Bankruptcy Law and the new Bankruptcy and Business Recovery Act. São Paulo: Latin Quarter, 2005.

NIEBUHR, Joel de Menezes. Public tender and administrative contract. 4. ed. Belo Horizonte: Fórum, 2015.

PDF

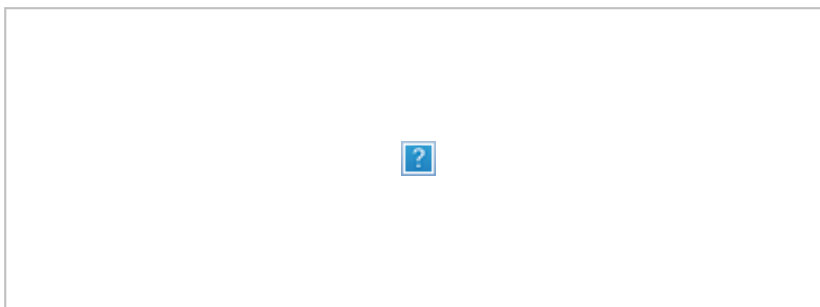
2020-09-30

How to Quote

Levin A. PARTICIPATION OF COMPANIES IN JUDICIAL RECOVERY IN PUBLIC BIDDING – UNDERSTANDINGS OF THE COURT OF AUDITORS OF THE STATE OF SÃO PAULO AND THE COURT OF AUDITORS OF THE UNION. RDAI [Internet]. 30Sep.2020 [cited 8Jan.2021];4(14):283-02. Available from: <https://rdai.com/ojs/index.php/rdai/article/view/231>

v. 4 n. 14 (2020)

This journal is licensed by  
Creative Commons Attribution-NonCommercial-NoDerivatives 4.0  
International.



Attribution-Share-Alike 4.0 International (CC BY-NC-SA 4.0)



The submission and publication of articles are free of charge; peer-reviewed; the journal uses CrossCheck (antiplagiarism); and complies with the *COPE - Committee on Publication Ethics* Editors' Guide, in addition to the Elsevier and SciELO recommendations. Check out the Rules for submission and evaluation of the GDR.