Revista de Administração Contemporânea
Journal of Contemporary Administration

ASSOCIAÇÃO NACIONAL DE PÓS-GRADUAÇÃO E PESQUISA EM ADMINISTRAÇÃO

e-ISSN: 1982-7849

Theoretical-empirical Article

The Regulation of the New Bidding Law: Definition of the Institutional Logic Prevalent in a Field

A Regulamentação da Nova Lei de Licitações: Definição da Lógica Institucional Prevalente em um Campo

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ABSTRACT

Objective: the present research analyzes how regulatory definitions occur in a field, in which participants defend multiple logics in the public procurement of large-scale engineering works and services, with a focus on the requisition of guarantee insurance. It also discusses a take-back clause and the percentage of the contract value to be insured. **Theoretical approach:** this work is part of the discussion about how an institutional logic is constituted, given the competition between multiple logics in a field. **Method:** the research is focused on discussions relevant to the field. Data collection was carried out through a documentary survey of the analysis of speeches in Congress, as well as interviews with relevant actors in the field using a semi-structured script. **Results:** the conflicts between logics are resolved through combinations with elements from other field logics. They emphasize the power of actors' coalitions to define regulatory issues. The study, thus, pointed out how the participants managed to reduce the influence of the logic defended by the insurance market, in favor of the interest of construction companies in the drafting of the project, showing that different market logics can contradict one another. Finally, elements exogenous to the logic under construction are fundamental in its formulation. **Conclusions:** the theoretical contribution of the study indicates that the institutional logic that becomes prevalent in a complex field is the result of the imposition of a coalition of actors combining elements from distinct logics. However, the coalitions may be different for each of the questions examined.

Keywords: institutional logic; power; regulation; bidding.

RESUMO

Objetivo: a presente pesquisa analisa como ocorrem as definições regulatórias em um campo com participantes que defendem lógicas múltiplas nas aquisições públicas de obras e serviços de engenharia de grande vulto, com foco no seguro-garantia, além de discutir a inclusão de cláusula de retomada e do percentual em relação ao valor do contrato. **Marco teórico:** este trabalho está inserido na discussão sobre como é constituída uma lógica institucional, que orienta a ação e a estruturação organizacional do campo, dada a competição entre múltiplas lógicas. **Método:** a pesquisa está focada nas discussões pertinentes ao campo. A coleta de dados foi feita por meio de levantamento documental da análise de discursos na Câmara dos Deputados, bem como entrevistas com atores relevantes do campo por meio de roteiro semiestruturado. **Resultados:** os conflitos entre lógicas são resolvidos por meio de combinações com outras lógicas do campo, enfatizando o poder de coalizões de atores para definir temas de regulamentação. O estudo apontou a forma como os participantes conseguiram reduzir a influência da lógica defendida pelo mercado de seguros, em favor do interesse de construtoras na redação do projeto, mostrando que lógicas de mercado podem também entrar em contradição entre si. Finalmente, constatou-se que elementos exógenos à lógica em construção são fundamentais na sua formulação. **Conclusões:** o estudo indica que a lógica institucional que se torna prevalente em um campo complexo resulta da imposição de uma coalizão de atores, combinando elementos de diferentes lógicas. Entretanto, as coalizões podem ser distintas para cada questão examinada.

Palavras-chave: lógica institucional; poder; regulamentação; licitação.

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Cite as: Cotrim, R. R., & Ryngelblum, A. L. (2023). The regulation of the new bidding law: Definition of the institutional logic prevalent in a field. *Revista de Administração Contemporânea*, 27(2), e220078. https://doi.org/10.1590/1982-7849rac2023220078.en

Published as Early Access: October 27, 2022.
Assigned to this issue: January 11, 2023.

Note: This text is translated from the original Portuguese version, which can be accessed here.

JEL Code: H570.

Editor-in-chief: Marcelo de Souza Bispo (Universidade Federal da Paraíba, PPGA, Brazil)
Reviewers: Luciano Rossoni (Universidade de Brasília, Brazil)
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One reviewer did not authorize the disclosure of his/her identity.
Peer Review Report: The Peer Review Report is available at this external URL.

Received: March 07, 2022
Last version received: September 15, 2022
Accepted: September 16, 2022

# of invited reviewers until the decision:

	1	2	3	4	5	6	7	8	9
1st round	✓	✓	✓	X					
2nd round	✓	✓							

INTRODUCTION

One main focus in the study of contemporary administration is related to the discourses that support changes in the social context, in which public and private organizations operate, which sometimes do not make it clear which interest groups can benefit from the proposed changes. The following work examines the logics used by the actors involved in the Bidding Law No. 8,666/1993 (Lei de Licitações n.º 8.666, de 1993), and who proposed a set of comprehensive changes to it, through the Bill No. 1,292/1995 (Projeto de Lei n.º 1.292, de 1995, 1995a), which resulted in the new Bidding Law No. 14,133/2021 (Lei de Licitações n.º 14.133, de 2021). In 2018, a Special Commission was inaugurated in the Congress to deliver a recommendation for the bill, with the objective of replacing the current bidding law.

The insurance backed guarantee is mentioned among the law's features, aiming to assure the fulfillment of the obligations assumed by the contractor with the public administration, including fines, losses, and restitutions arising from default. It remains in force even if the contractor does not pay the insurance premium on the agreed dates. Therefore, "unlike other insurances, which are canceled or suspended in case of non-payment of the premium, the guarantee insurance does not lose its effectiveness" (Buranello, 2006, p. 179-180).

An audit by the Federal Court of Auditors presented a diagnosis of the construction works presently paralyzed in the country, financed with federal resources, based on a survey carried out between April and May 2018. Among more than 38 thousand contracts analyzed, 14,403 paralyzed construction works were identified, representing an initially planned investment of more than BRL 144 billion, of which BRL 10 billion have already been invested (Tribunal de Contas da União [TCU], 2019), thus justifying the concern with insurance.

In the case of public construction works, the insurer guarantees to the state (insured) that the bidding contractor (borrower) will honor the clauses of its proposal. The beneficiary of the insurance policy is the state, but who assumes the obligation for the insured service is the hired contractor. Insurers will need to take over the project whenever the contractor defaults. The government administration has to share with the insurance company the pre-qualification of the companies and the risks of default. Studies in the area by Fiuza and Medeiros (2014) mention that the insurer is responsible for the completion of the work whenever the contractor fails to finish the construction, according to the plans and specifications, in terms of timeliness, quality, and price. According to Jacoby (2017), the bids may become more expensive with this kind of insurance, depending on the regulation terms, but in contrast, it causes a reduction in the number of unfinished construction works.

In their articles, Fiuza and Medeiros (2014), Galiza (2015), Gomes (2017) and Laan (2016) turned to the study of guarantee insurance in order to understand how it is practiced in other countries, if it is feasible economically, if it brings greater legal assurance to administrative contracts, how the tripartite relationship works in this modality, among other topics. However, this literature does not cover the aspects sought by this research, which consists in identifying the factors that contributed to the definitions of the guarantee insurance, including a take-back clause (Projeto de Lei n.º 1.292, de 1995, 1995a). At the same time, the study seeks to understand the potential of this tool to prevent stoppages in public construction works.

The institutional logics literature is equipped to examine how definitions are established in an institutional field where multiple logics are active. The actors' divergent understandings in a field point to a possible competition between multiple logics that constitute an institutional field (Friedland & Alford, 1991), in which contradictions and conflicts can occur (Silva & Crubellate, 2016). Studies have identified institutional contradictions, based on important political conflicts, and based on them the institutional structure of society is transformed, generating challenges and tensions for organizations (Friedland & Alford, 1991; Greenwood et al., 2011; Thornton & Ocasio, 2008).

Other studies have focused on understanding how the contradictions between the multiple logics can be resolved. Thus, some developed the concept of coexistence in organizational fields (Waldorff et al., 2015). Hoffman (1999) advanced the idea of plurality, by identifying the coexistence of multiple logics during the prolonged transition from one dominant logic to the next. In addition to these, other studies have suggested competing logics coexisting for some time, but not sustaining themselves in the long term (Hensman, 2003; Reay & Hinings, 2005), with one logic eventually winning, becoming the new dominant institutional logic.

Thus, based on the models that seek to explain the resolution of contradictions between logics in an institutional field, this work analyzed how the definition of a logic occurs, being disputed by the action of different actors. In this context, the following research question is presented: how do the elements derived from the logics (practices, resources, values, assumptions, etc.), which are privileged by the actors in the field, influence the definition of the guarantee insurance rules and the take-back clause in contracting construction works and major engineering services?

The article discusses in the next section how institutional logic models understand rule changes, considering the multiple logics of the field. Next, in the methodology section, the format in which the information was collected and analyzed is presented. The study was based on documentary research and interviews with specialists in public construction works biddings and actors directly involved in the definition of Bill No. 1,292/1995 (Projeto de Lei n.º 1.292/1995, 1995a). The results section brings summaries of the understandings and positions of the various actors in the researched field. The discussion seeks to understand whether the theoretical models explain the changes in the rules, as specified in the empirical case.

LITERATURE REVISION

Institutional logics describe the contradictory practices and beliefs inherent to the institutions of modern Western societies: capitalism, state bureaucracy, and political democracy, among the main ones, which shape the way individuals and organizations engage in political struggles (Alford & Friedland, 1985). Thornton and Ocasio (2008), for their part, identified the performance of professional logics in institutional fields, which is dedicated to good practices in the various specialties. Other important logics that try to make their prescriptions prevail to the actors in the field include the market logic, which focuses on economic performance, such as revenue and profit; public or state logic, which is concerned with the sustainability and well-being of companies and citizens; and family logic, which is concerned with the well-being of its members. Community logic was further suggested by Thornton et al. (2012), who cited as an example the voluntary collaboration of people in the development of open source software.

Thus, while institutions restrict action, they are also impacted by the independent action of agents and their actions for change. The contradictions inherent in the differentiated set of institutional logics provide individuals, groups, and organizations with cultural resources to transform identities, organizations, and society (Friedland & Alford, 1991). Holm (1995) questioned how actors can change institutions if their actions, intentions, and rationality are, in principle, conditioned by the very institution they wish to change. Over time, actors from the field or newcomers can propose new ideas. These changes in social circumstances can allow subordinate interests to successfully mobilize and install a new logic or re-prioritize existing ones (Lok, 2010). Thus, in the long term, institutional complexity unfolds and undergoes reforms, creating different circumstances to which organizations must respond (Scott, 2008). Not only is the institutional complexity in continuous flux, but organizations experience it differently and to different degrees, and it is important to understand the relationship between institutional complexity and organizational responses (Greenwood et al., 2011).

The study examined the factors associated with the logics that influenced the changes in the guarantee insurance rules. Such factors are constituents of the logics and include specific cultural and material elements, among them, values, understandings, identities, resources, structures, and others (Thornton et al., 2012). A relevant factor to consider is the notion of power, which can be translated as the ability of different occupational groups, in addition to those that formally exercise positions of control within organizations, to produce and achieve sets of meanings and norms that will guide actions within a field (Greenwood et al., 2011; Greenwood & Hinings, 1996).

Several studies have sought to understand how decision-making takes place regarding the field's guiding institutional logic and, consequently, how its rules and regulations are shaped. Studies which assume the presence of multiple logics in an institutional field seem to differ, in relation to the continued coexistence of logics (Goodrick & Reay, 2011; Waldorff et al., 2015) or a period of coexistence followed by domination (Hoffman, 1999). The specific factors that form the logics help in this understanding.

Multiple institutional logics are available, which can interact and compete for influence in all domains of society (Nigam & Ocasio, 2010). The multiplicity of logics (Greenwood et al., 2011) can generate conflict, because their respective systems of meaning and understanding, characterized by rituals and practices, provide inconsistent expectations in relation to one another, as participants need to decide which one to privilege, that is, decide which practices, rules, and values must be followed. Waldorff, Reay and Goodrick (2015) speak in their study about the possibility of the coexistence of multiple logics in a combination of elements of each one. Hoffman (1999), in turn, describes coexistence during a prolonged transition from one dominant logic to the next.

Goodrick and Reay (2011) identified and described competitive and cooperative relationships between logics in a field. In the study carried out, the authors showed that competitive and cooperative relationships between coexisting logics allow the simultaneous influence of multiple logics. The actors do not have an exclusive logic of action, but they prioritize certain logics at a given moment, which configures the coexistence of logics in the institutional field. While competitive relationships between logics imply that the strengthening of one logic necessarily results in the weakening of another logic, cooperative relationships imply that alternative logics can jointly influence practices and that the strengthening of one logic may even result in the strengthening of another logic. A cooperative relationship between institutional logics implies that both logics favor

each other. Thus, gains in one logic do not necessarily mean losses in another logic (Goodrick & Reay, 2011). This process takes place as relevant factors of each logic experience compatibilities between them, such as understandings, practices, similar norms, for example.

Greenwood et al. (2011) point out, on the other hand, that some actors organize themselves into groups and become more powerful than others within the field, and that organizational decisions are not simply a function of who participates, but that the relative degree of influence of a group within the organization is also important. Some groups are more powerful than others; as a result, organizational responses to multiple institutional logics are likely to reflect the interests of the most influential group. In other words, valuing and recognizing logics and choosing which logic to prioritize and how to do it will be dictated by those in power (Greenwood et al., 2011). Institutional logics shape and create the rules of the game, the relationships through which power and status are gained, maintained, and lost in organizations and organizational fields (Thornton & Ocasio, 1999). Social actors trust their understandings in the competition for power and status and generate the conditions for the reproduction of prevailing logics. At the same time, other actors continue to try to impose their own logics, and it can be concluded that the competition or tension between multiple logics is continuous (Goodrick & Reay, 2011).

Although practices are guided by prevailing institutional logics, as existing practices are changed or new ones are established, they will play a key role in the creation, reproduction, and transformation of institutional logics (Thornton et al., 2012). Organizational practices and identities are not static, but are continually subject to change and alteration (Mohr, 1994; Mohr & Duquenne, 1997). More recent work has begun to explore how specific organizations establish or change their identities and core practices under conditions of conflicting or coexisting institutional logics (Battilana & Dorado, 2010). Actors can rework or change their identities to make sense of or resolve the tensions they face from competing institutional logics Battilana & Dorado, 2010; Lok, 2010), but they can also face resistance to doing so.

In this way, changes in practices, understandings, identities, power, or rules will be different according to each model mentioned above. Greenwood et al. (2011) do not seem to indicate which direction these elements can take, as they recognize possible inconsistent expectations between actors and the definition by the most powerful actors. Waldorff et al. (2015), when talking about the coexistence of logics with a combination of elements, suggest that some elements of each logic will have to be relegated to accept those originating from others. Furthermore, they presuppose that, even so, there will be no contradiction between them. Goodrick and Reay (2011), in turn, admit greater flexibility in the composition of the prevailing logic at each moment. Hoffman (1999), on the other hand, admits a restricted coexistence in time, so that the elements of the logics can assume a permanent character after this period. The research thus sought to contribute to the explanation, based on the elements associated with the multiple logics at play, examining how a regulation is defined.

METHODOLOGY

In order to identify how the competing institutional logics influenced the definition of the guarantee insurance rules with a take-back clause and what were the main factors for these changes, an explanatory, longitudinal, qualitative research strategy was applied, which sought to show how the field actors and their institutional logics participated in the definition of the guarantee insurance rules.

The temporal approach adopted in the study mainly considered the period between 2018 and 2019, when the meetings of the special Congress committee, the votes on all the requirements for the bill, and its remittance to the Federal Senate, on October 10, 2019 took place.

Data collection happened in two phases: the first consisted mainly of carrying out a review of the documents dealing with the new bidding law. The second phase consisted of conducting interviews with field actors and analyzing the speeches of key actors recorded in the minutes of the Congress committee.

Empirical context

Bill No. 1,292/1995 (Projeto de Lei n.º 1.292, de 1995, 1995a), aims to replace the current bidding law. This bill is the result of a fierce discussion both in the Senate and in Congress. The Federal Senate drafted Bill No. 559/2013 (Projeto de Lei n.º 559, de 2013). This was forwarded to the Congress on February 3, 2017 and was received as Bill No. 6,814/2017 (Projeto de Lei n.º 6.814, 2017). A year later, it was added to Bill No. 1,292/1995 (Projeto de Lei n.º 1.292/1995, 1995a).

The new bill no. 1,292/1995 (Projeto de Lei n.º 1.292/1995, 1995a), recommends the drafting of rules to provide the capacity to prevent the occurrence of new work stoppages, to modernize public management, and to obtain more transparency in contracting. In this new project, some aspects of the current bidding law are maintained. The guarantee modalities in works, services, and purchases contracting are kept: bank guarantee, insurance backed guarantee, or guarantee in cash or in public debt securities. According to the Bidding Law No. 8,666/1993 (Lei de

Licitações n.º 8.666, 1993), it is possible to demand — at the discretion of the competent authority and provided that there be an invitation — a guarantee instrument in contracting works, services, and purchases, which can be done in three alternative ways, whereby the contracted party is responsible for choosing one of these modalities: (a) bank guarantee; (b) guarantee insurance; or (c) collateral in cash or in public debt securities. The guarantee limit is 5% of the contract value, which can be increased to up to 10% in the case of large works, services, and supplies, involving technical complexity and financial risks.

The guarantee insurance is intended to assure the fulfillment of the obligations assumed by the contracted party with the public administration, including fines, losses, indemnities resulting from default, and it remains in force even if the contracted party has not paid the premium in the agreed dates.

In the proposal of the new bill, the policy's term of validity will be equal to or greater than that established in the main contract, and will accompany the subsequent modifications, through the issuance of endorsements by the insurer. As for the guarantee limits, they must be justified according to the analysis of the technical complexity and the risks involved in the contract, and may be: (a) up to 10% of the contract value, in bids whose estimated values are up to R$ 100 million; (b) up to 20% of the contract value, in bids whose estimated values are greater than R$ 100 million. For large-scale engineering works and services (when the estimated value exceeds R$ 200 million), the provision of a guarantee in the form of a guarantee insurance with a repossession clause, with a percentage equivalent to up to 30% of the value, may be required at the start of a contract.

Information sources

Secondary data

In the first phase of data collection, a documentary research was carried out on studies regarding the changes provided for in the bidding law and the transcription of audios containing the main debates held in Congress, publications by governmental and non-governmental bodies, seminars and conferences documented in the media with experts, academic articles, dissertations and theses, reports and interviews on guarantee insurance published on specialized websites. Consultations were carried out on the 1988 Constitution of the Federative Republic of Brazil, Law No. 8,666/1993, Federal Senate Bill No. 559/2013, and Bill No. 1,292/1995 itself (Lei n.º 8.666, 1993; Projeto de Lei do Senado Federal n.º 559, 2013; Projeto de Lei n.º 1.292/1995, 1995a).

From this review, once the participation of the main actors in the definition of insurance rules was evidenced, an argument basis was generated to support a semi-structured script for the interviews and propositions of this work.

To analyze the discourses of the key actors who participated in the committee meetings, 23 meetings' minutes that took place between March 6, 2018 and December 5, 2018 were initially selected. As already mentioned, the minutes contain the testimonies of the actors, the debates that took place between them, and the data on the collaboration of each invited expert in the elaboration of the new bidding law. Based on the reading of these 23 minutes, 12 were selected, which contained the most relevant content in relation to the guarantee insurance issue with a recovery clause. With a further careful reading of these 12 minutes, the speeches of 32 participants were selected, among invited speakers and congressmen who took part in the commission. Their testimonies, the technical notes presented to the project, the material used in the presentations to the commission, and the main proposals for parliamentary amendments were, thus, analyzed.

Out of a total of 32 participants, 22 were mentioned in this research, as shown in Table 1. For each participant, the position, the name of the institution they represent, the number, and the date of the committee meeting are informed.

Primary data

Multiple sources of evidence and the consequent triangulation of data were the procedures used to ensure the internal validity of the research. For this, interviews were carried out with actors from each segment of the field, in addition to the analysis of the speeches of the key actors who participated in the meetings of the congressional committee.

Therefore, in addition to considering the experience of field representatives in the specific area, we also sought to select the actor who had directly participated in the process of formulating the new bidding law at the committee's meetings in Congress. It is worth noting that the following segments were represented: courts of accounts, prosecutors, advocacy and insurance legal advice, infrastructure engineering, and the parliament.

In Table 2, the 16 actors interviewed are listed. Each actor was named with an acronym, according to the main area in which someone works.

The acronyms indicate a professional representative of each actor in the field. The number of years the person interviewed has been in activity is indicated in the column 'time.'

Table 1. Documentary survey — Committee's participants.

			Committees' meetings	
Participant	**Position**	**Institution**	**No.**	**Date**
ALIRAM	Bidding specialist	World Bank	8th	04/11/2018
AMARAL	Specialist in insurance law and academic	Escola Nacional de Seguros	8th	04/11/2018
ARRUDA	Federal congressman	Federal Congress	15th 17th 18th	07/10/2018 11/13/2018 12/05/2018
ARAÚJO FILHO	Executive secretary	MPOG (Planning and Budgeting Ministry)	3rd	03/20/2018
CAMELO	National president	Sinicon (Construction Industry Trade Union)	6th	04/04/2018
DABUS	Coordinator	Fenacor (Federation of Private Insurance Intermediaries)	5th	04/03/2018
FERNANDES	Jurist	Jacoby Fernandes & Reolon Advogados Associados	5th	04/03/2018
FLORENCE	Federal congressman	Federal Congress	8th 18th	04/11/2018 12/05/2018
FRANCE	Representative	Transparency International Brazil	8th	04/11/2018
GALDINO	Executive director	Transparency International Brazil	8th	04/11/2018
JARDIM	Federal congressman	Federal Congress	16th	07/11/2018
JORGE	President	CBIC (Construction Industry) Infrastructure Committee	6th	04/04/2018
LIPPI	Federal congressman	Federal Congress	5th	04/03/2018
MACEDO	Federal prosecutor	Federal Prosecutor's Office	4th	03/27/2018
MELO	President	Fenseg (National Federation of Insurers)	5th	04/03/2018
MENDONÇA JÚNIOR	Federal congressman	Federal Congress	16th	07/11/2018
MORAIS	Federal congresswoman	Federal Congress	18th	12/05/2018
PEDRA	State prosecutor	Espírito Santo Prosecutor's Office	12th	04/25/2018
ROSA	Executive director	DNIT (National Transports Infrastructure Department)	3rd	03/20/2018
VALENTE	Federal congressman	Federal Congress	16th	07/11/2018
VASCONCELLOS	Union's general advisor	Union's General Advocacy	4th	03/27/2018
VEIGA	Representative	Fenaber (Federation of Reinsurers)	5th	03/04/2018

Note. Source: Created by the authors based on Projeto de Lei n.º 1292, de 1995 (1995b). PL 1292/95 – Licitações. https://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-temporarias/especiais/55a-legislatura/pl-6814-17-licitacoes

Data analysis

Given the theoretical proposal that the definition of rules is based on the conditions of interrelationship of the logics and their competition in order to be able to prescribe the conditions of the field, the work sought to identify the presence of society's central logics: public (or of state), market, family, and professional logic. Considering that the logics are constituted by material practices and cultural elements, these characteristics are described for each of the logics.

Thus, according to Friedland and Alford (1991) and Thornton et al. (2012), the public or state logic, which is concerned with the sustainability and well-being of companies and citizens, was identified above all in the discourse of the actors who, in a forceful way, demonstrate their concerns with the completion or resumption of paralyzed works in the country.

The market logic, which focuses on economic performance, was assumed in the mentions about indebtedness of companies in the sector. The market logic was also assumed present in the discourse of the actors who defended guarantee figures (Friedland & Alford, 1991; Thornton et al., 2012).

Table 2. Actors interviewed.

Acronym	Area	Position	Institution	Time (in years)
A1	Audit	Auditor	Audit Court	7
D1	State law	Jurist	Specialized advocacy	17
D2	Public law	Jurist	Specialized advocacy	7
E1	Engineering	President, engineer	Civil Construction Industry Trade Union	5
E2	Engineering	Superintendent, engineer	Large national constructing company	12
E3	Engineering	President, engineer	State office of public works	1,5
F1	Legislative	Federal congressman	Congress	6
L1	Bids and public contracts	Writer, lecturer, and docent	Training firm	20
P1	Judicial Expertise	Judicial expert, engineer	Consulting firm	13
R1	State prosecutor	Prosecutor	Accounts Audit Court	20
R2	State prosecutor	Prosecutor	Public Ministry	5
R3	State prosecutor	Prosecutor	Public Ministry	8
S1	Insurance	Vice-president	Insurance firm	8
S2	Insurance/Reinsurance	Lawyer, judicial consultant	Advocacy, specialized consultancy	25
S3	Insurance	Director	Insurance firm	7
S4	Insurance	Docent, judicial consultant	Specialized advocacy, consultancy	19

Note. Source: Created by the authors.

The family logic, which is concerned with the well-being of its members, appears in the discourses of actors who defend the completion of the works, involving the construction of hospitals, schools, daycare centers, sanitary sewage, of great interest to the population. For these actors, the guarantee insurance exists to protect mainly the taxpayer, and not the state, who needs to be sure about issues that can, ultimately, interrupt a construction work (Friedland & Alford, 1991; Thornton et al., 2012).

The professional logic, whose emphasis is to turn to good practices in each area of specialization, was also raised. Here, it would be the case to link the insurance conditions to the construction activities themselves.

RESULTS

Given the complexity of the factors involved, and following the narrative of the interviews, the main positions of the actors with relevant participation in the construction of the new bidding law are presented, which was distributed according to the discussion regarding three main and interconnected themes: the recovery clause, guarantee insurance coverage with a recovery clause, and size of construction works that can be contracted with a recovery clause.

Recovery clause

It can be said that the position of the interviewees and the literature regarding the recovery clause is based on a public logic, due to the concern to deliver the planned works to the population, but with reservations reinforced by elements of other logics, such as an alert forecast as to the increase in costs and proper budget allocation, these latter aligned with a market logic, as an additional prevention to the activities of the public logic. In relation to the deficiencies of projects by the public administration, concern is derived from a professional logic, all identified as fundamental factors for the definition of the rules of guarantee insurance. In this case, a public logic is evidenced by the concern with the stoppage of the works and the ability to pay for them, which is expressed in parallel with a market logic, which aims to profit from the works, and with a family logic, which wants the works to be completed.

Most of the actors considered the proposal presented to be a significant advance, as it provides a guarantee that the work will be completed, as well as an environment for a quick solution in the event of a work stoppage. However, at the same time, the actors had several reservations to the rules defined for the insurance. They cited probable consequences of using this type of insurance: the increase in costs in public works and possible interference by insurers in future contracts. Here, the market logic is once again evident, concerned with

the increase in costs incurred by construction companies with the adoption of the guarantee insurance, which is opposed to the market logic of insurers, which in turn competes to insert the insurance cost.

> … what will change the most, in fact, is neither for the construction company nor for the public administration. It will be for the insurance company, because the construction company, today, buys up to a 10% guarantee. So, this ratio will increase from 10 to 30. But, from now on, if there is a stoppage, the insurance company will be obliged to take over the work. It will have to hire another company (E2).

Divergent positions were identified when it comes to the implementation of the take-back clause in the guarantee insurance. Among the 27, 23 are in favor of implementing the take-back clause, and four actors were against implementation. However, 17 actors, despite being in favor of the implementation, argue that the guarantee insurance alone will not solve all the issues involving the stoppage of works.

> I don't believe that the guarantee insurance is the Holy Grail in solving the problems of the persistent discontinuity of public works, since the integral solution of this problem demands the observance, on the part of public managers, of a plexus of rules and principles that is repeatedly disregarded, but which, unfortunately, is also unknown or treated as of little importance by the controlling bodies, such as, for example, planning (R1).

There were also positions both in favor (14) and against (9) the discretion of the public agent. Actors' discourse against discretion means that the guarantee must be an obligation and not a faculty of the public agent. Among others, the majority of insurer respondents supported this stance. Those who defend discretion explain the need for the guarantee to be analyzed on a case-by-case basis and to be previously motivated. It was also mentioned the difficulty for the legislation to provide for all possible situations. It can thus be said, in this matter, that the public logic is allied to elements of the construction companies' market logic.

Guarantee insurance coverage with a recovery clause

The discourses in the field about this issue incorporate elements of a market logic, since it is dealing with recovery guarantees of works and premium costs. The actors' understandings that generate disagreement are based on the belief in the effectiveness of the recovery or on the cost overload, depending on the percentages considered.

Several positions were expressed in relation to the most adequate guarantee percentage for the take-back clause. Actors in the construction industry were in favor of maintaining the values practiced in the present legislation, as the most recurrent causes of stoppages were due to the public administration's failures. As actors in the insurance market, they tried to show that it was not possible to maintain these percentages, as they are often not enough even to pay the fines for contractual termination, let alone to allow a safe resumption of the work. There were also speeches in favor of a full guarantee, which would bring greater support to the public administration, and there were those who defended that the percentage should be in accordance with the risks of the project. Therefore, the clash of different market logics (assumptions and different propositions) in relation to the definition of coverage percentages is noted. There are the perspectives of construction companies of different sizes, with the smaller ones being concerned with the costs involving high percentages and the possible reflexes in the reduction of competitiveness, due to the market concentration by companies with greater economic and financial strength. Most insurers who indicated the percentage of 30% argue that low percentages can make terminations and, above all, the resumption of works unfeasible.

> What we need is to have more effective kinds of guarantee. It is not possible for us to continue to rely on guarantees of negligible amounts, of 5% of the contract value in its overwhelming majority, which are insufficient to cover even the penalties defined in the administrative process (S1).

On top of this, there is a perspective based on a family logic, in which case the most relevant is the completion of the works. The expert (P1) argues that the parameter to determine the use of the recovery clause should be the urgency of the population's demand. For him, the greater the population's need of public works, the lower the risk assumed by the public administrator.

> From society's point of view, the central issue does not lie in the smallest disbursement for the benefit, but in the consequences of not having your needs met (in a timely and adequate time) (P1).

Size of construction works to be contracted with a recovery clause

The proposal of Bill No. 1,292/1995 (Projeto de Lei n.º 1.292/1995, 1995a), item XXII of art. 6, includes an increase in the reference value for works considered to be large, those for which the guarantee insurance may reach a percentage of up to 30% of the contract value. The change in the value of works for insurance purposes mainly favored medium-sized civil construction companies to the detriment of the insurance market, which therefore now has a lower number of guarantee insurance contracts with a take-back clause. For construction companies, the advantage is due to a lower commitment of their economic-financial capacity with the insurance, because for smaller works, when the guarantee is required, lower percentages will be applied (up to R$ 100 million, up to 10%;

more than R$ 100 million, up to 20%; above R$ 200 million, up to 30%, and a take-back clause may be required).

There was an unequivocal understanding by the interviewees against the recovery clause, which should be restricted to large construction works, due to the occurrence of stoppages in a large number of small and medium-sized works because of the insurance cost, among others. At the same time, the position in favor of increasing the value of large works was not unanimous. It is possible to affirm here that a combination of public and market logic prevailed, insofar as there is a concern for the results and sustainability of smaller companies.

> There are many works with amounts of up to R$ 100 million, R$ 150 million. But works above R$ 200 million are in smaller quantities. I think it was a way that was found to accommodate the interests of the parties involved, those representing smaller entities with those representing larger entities (S3).

The bill's final text

With the conclusion of the debates and writing of the law, it was observed that the congressmen, representatives of the civil construction industry, and representatives of public offices positions prevailed. The amount of R$ 200 million was defined for large works, something defended mainly by Arruda. Florence defended more intensely the maintenance of the guarantee insurance as an optional clause, followed by Jardim, but also by most representatives of public offices and representatives of the construction industry.

The prevalence, above all, of the interest of construction companies and public administration offices in many of the topics that were part in the subject of the guarantee insurance gives a measure of the power of some actors to define the institutional logic. Thus, in relation to the recovery clause, the public logic, which provides for equity in bidding, needed to be complemented with elements of other logics, such as the attention to increased costs, proper budget allocation, and project deficiencies by the public administration. The issue of coverage considered factors such as construction companies of different sizes and their economic capacity, and, on the other hand, the feasibility of insurance companies to pay for repossessions, depending on the percentages established for the works.

Table 3 contrasts the different actors' positions in the bill's finalized text, to extract the logic that prevailed in relation to each topic.

Table 3. Research results compared to the text proposed for the bill.

Theme	Interviewees' positions/ Documentation	Final law project text	Logics
Recovery clause	Majority considers the guarantee insurance proposal with a recovery clause for large-scale works an advance in relation to the previous law	Guarantee insurance was established as an optional clause	Public logic concerned with delivering the works planned to the population, but which must be combined with elements of other logics, such as the alert with the increased costs forecast, the proper budget allocation, the projects deficiencies by the public administration, that is, with the market logic, which aims to profit from the works, and the family logic that wants the works to be completed. The position against the discretion of the public agent, defended mainly by the market logic favored by insurance companies, was not adopted in the bill.
	Positioning against the discretion of the public agent.	Not adopted	
Guarantee insurance coverage	Disagreements due to insufficient guarantees (up to 30% for larger works, in addition to others).	Recovery clause defined only for larger works	Discourses include elements of the market logic, since we are dealing with guarantees for the recovery of works and premium costs. The actors' disagreements are due to the doubts in the effectiveness of the recovery or the cost overload, depending on the percentages considered.
	Liability of public administration for project problems and lack of budgetary resources.	Smaller works opt for insur-ance without recovery clause	Smaller construction companies developed a discourse in favor of the optional insurance with a reduced percentage, emphasizing a market logic.
	Small percentages may make the recovery unfeasible.	Refused	Conflict of different market logics (construction companies vs. insurers) in relation to the definition of coverage percentages. Logic defended by insurers is not adopted. Considers the concerns of the family logic, which aims to have the works finished.
Size of the construction works to hire	Unequivocal understanding regarding the recovery clause, which should be restricted only to large-scale works.	Large works from R$ 200 million	Combination of public and market logic, insofar as there is a concern for results and sustainability of smaller companies.
		Small and middle-sized works bear percentages of up to 10% and 20%, respectively	

Note. Source: Created by the authors.

DISCUSSION

This work reviewed models that take in consideration logic multiplicity in an organizational field to explain institutional change, with the purpose of understanding how certain factors influence the definition of the logic that will guide this field. This way, the work examined the discussion about the bill regarding the definition of the insurance- guarantee rules with a recovery clause, a new modality in the bidding law to be used in the contracting of public construction works.

The factors associated with the logics are the material practices and the symbolic elements that give meaning to the elements and practices of a context (Thornton et al., 2012). Table 3, above, contrasts the statements and documentation researched with the proposed wording of the guarantee insurance in the bids bill. The declared positions constitute the practices (derived from the rules of the law) that the actors would like to come into force for the issues that define the guarantee insurance. Based on these positions, it is possible to induce the conflicts of logic and what prevailed in the final wording of the bill, which in turn indicates which logic prevailed, defended by which actor or coalition. The factors associated with the logics that determined the regulation of the guarantee insurance resulted from the combination of different logics, which were defined either in a negotiated way or by imposition of groups with power, which included cultural elements (e.g., understandings regarding the difficulties in achieving the works) and material issues (e.g., size of the works).

Greenwood et al. (2011) highlight the coalition of actors that become powerful in a given issue or event within the field, as happens with the coalition formed by the public administration with the construction companies, regarding the definition about the percentage of insurance. The market logic supported by the construction companies prevailed in the definition of the insurance percentages, especially in relation to what the insurers proposed. The case studied raises another issue in which the public administration succeeds in determining the percentage of insurance for each work, and in which the logic of the construction companies prevailed. In other words, it follows that in the same field it is possible to have different actors with power, depending on the issue under debate. The largest construction companies showed their power in the discussions around the legislation and, despite seeing an increase in the percentage to be insured for a work, they obtained in the drafting of the law the possibility of negotiating the amount, since it is not fixed, but rather sets maximum limits. On the other hand, especially the insurance companies did not see their suggestions for a greater insured amount contemplated. Declarations by the representatives of the insurance market reinforced the importance of the 30% guarantee level that, combined with the contractual balance, would allow the resumption of the work. However, they were not enough to determine the fixed percentage.

In addition to indicating that a coalition with power is capable of defining operating rules, it is necessary to explore the reason for a coalition to have organized itself to format a logic as a result of elements derived from the logics valued by the actors in the coalition. The model by Waldorff et al. (2015) seeks to explain in which logical circumstances they can coexist, suggesting that elements of each of the logics are selected to compose a logic to guide the meanings and actions of a given issue. The public logic that is concerned with completing the construction works needs to take into account elements of other logics, such as the alert for the increase in material costs.

Goodrick and Reay's (2011) model states that the strengthening of one logic necessarily results in the weakening of another logic, in the case of conflicting relations between the logics. In fact, the case studied points to the weakening of a logic in certain questions. For example, smaller construction works will have optional insurance, without a take-back clause, which suggests a combination of public logic with elements of different market and family logics. The case of the bidding law project shows a coalition of actors that favors a logic that combines elements of different logics, producing the weakening of another logic, the one defended by insurers.

The case studied also draws attention to logics of the same order privileged by actors in confrontation in the field: the market logics opposing large construction companies and insurance companies, and between small construction companies and insurance companies. These different market logics confront different understandings, with regard to the practices that lead to company gains, for the regulation of the guarantee insurance. In this way, we highlighted market logics that are in contradiction due to different objectives (Lounsbury & Crumley, 2007).

Another topic highlights elements of logic that are not directly linked to the issue of the guarantee insurance regulation, but whose influence on the construction of the topic will be relevant. In this way, we stress the logics related to the investment budgeting process and the development of preliminary projects of the construction works that, according to the testimonies, often participate in their interruption. In other words, considerations about the characteristics of a project and the actions that implement its development should weigh the possibility of having to incur in the associated costs. The percentage to be attributed to the guarantee insurance, for example, is closely linked to the practices of the aforementioned logics.

Fenili (2019) explains the difficult task of building a legal diploma that establishes the rules on how the state should spend amounts that can reach close to 10% of GDP. He argues that, during this process, opposing interests are represented: those of small and large companies, those of controllers and subsidiaries, those of contractors and insurance companies, etc. There is a need to reconcile the views of these actors, as some advocate greater flexibility in management and others, greater control. Some actors are willing to privilege local supply, while others, the broad market competitiveness (Fenili, 2019) or another law to deal with specific situations regarding contracting construction works and engineering services.

Finally, the investigation indicated that, despite the discourses of the majority of actors in favor of the guarantee insurance, there were nuances in their positioning, which ended up being reflected in the logics that will guide the different topics having to do with it. The elements of the logics defended by the actors that composed the bill included practices (e.g., alert to the forecast of increased costs), values (e.g., profit from the construction works; benefit from the construction works), and understandings (e.g., effectiveness of the resumption of unfinished construction work).

CONCLUSION

The study addressed the resolution of conflicts between multiple institutional logics, when their prescriptions generate contradictions on how to understand reality and how to act, in relation to which actors act to decide which is the most correct configuration that defines a prevailing logic, appropriate for each theme or event.

The work found different approaches to the treatment of the issue. The studies examined differ, firstly, in relation to the question of the continued coexistence of logics (Goodrick & Reay, 2011; Waldorff et al., 2015) or a period of coexistence followed by domination (Hoffman, 1999). A second relevant point highlighted is the notion of power, which allows a group of individuals or organizations to make their logic prevail, present in few models of institutional logics (Greenwood et al., 2011).

The field in which the bill of bids in civil construction was elaborated was researched, more specifically the guarantee insurance required as a safeguard for the public administration in the achievement of civil construction works. For this, the research focused the debates in the national congress and interviews with executives representing the main actors in the field, among the main data sources. The results showed that there are different understandings and proposals among the actors regarding the questions about the recovery clause, the guarantee insurance coverage with the recovery clause, and the size of the construction works that can be contracted with the repossession clause.

Empirical experience has shown how the different logics of the field, when disputing among themselves the definition of the logic that will prevail for a period in the field, combine elements of each one, in order to obtain a configuration that satisfies the actors (Waldorff et al., 2015). At the same time, the result reaffirms the ability to impose a coalition of powerful actors, who negotiated among themselves the prevailing logic of the field (Greenwood et al., 2011; Thornton & Ocasio, 1999). These alliances are built around specific themes, giving them the power to define the issue. For each of the questions it is possible to observe coalitions with different actors.

The study showed that in a complex field we can have different logics of the same order in contradiction with each other, in this case different market logics. Finally, it also transpired that logics related to different fields are capable of influencing understandings, meanings, and practices in relation to the field.

Thus, this work encourages future investigations that can cover other aspects that add new elements to the understanding of the new bidding law, which can replicate the study around the conflicts between multiple logics. Integrity programs and risk management can be examples of future study perspectives.

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This content was evaluated using the double-blind peer review process. The disclosure of the reviewers' information on the first page, as well as the Peer Review Report, is made only after concluding the evaluation process, and with the voluntary consent of the respective reviewers and authors.

Authors' Contributions

1st author: conceptualization (supporting); data curation (lead); formal analysis (equal); investigation (supporting); methodology (equal); writing – original draft (lead); writing – review & editing (supporting).

2nd author: conceptualization (lead); data curation (supporting); formal analysis (equal); investigation (supporting); methodology (equal); supervision (lead); writing – review & editing (lead).

Funding

The authors reported that there was no financial support for this work.

Conflict of Interests

The authors have stated that there is no conflict of interest.

Data Availability

The authors claim that all data used in the research have been made publicly available through the Harvard Dataverse platform and can be accessed at:

Cotrim, Rosana Ramos; Ryngelblum, Arnaldo L., 2022, "Replication Data for: "Regulation of the New Bidding Law: Definition of the Prevailing Institutional Logic in Field" published by RAC-Revista de Administração Contemporânea", Harvard Dataverse, V1. https://doi.org/10.7910/DVN/UOQ3UE

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