

**FEDERAL COURT
TCU**



OF AUDITS

**TCU AUDITING OF
FOREIGN MINISTRY
AGENCIES ABROAD**

Minister Homero Santos

FEDERAL COURT OF AUDITS

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Minister Homero Santos

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TCU FEDERAL COURT OF AUDITS

***TCU AUDITING OF FOREIGN
MINISTRY AGENCIES ABROAD***

Minister HOMERO SANTOS

Tribunal de Contas da União

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"The role of the Foreign Service is essential for the implementation of Brazil's foreign affairs policies, for information as well as for negotiation. It covers issues on trade, finances, scientific, technical and economic cooperation, social development, defense, security, cultural relations, promotion of the country's image, protection of nationals abroad, public health, environment, transportation, education – the whole range of social activities carried out both on bilateral and multilateral levels, in regional or universal associations of nations.

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TCU AUDITING OF FOREIGN MINISTRY AGENCIES ABROAD

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PRESENTATION

This document aims to contribute so that the administrative practices in the different Agencies of the Ministry of Foreign Affairs (MRE) are always the best ones, in order to reach larger efficiency, effectiveness and cost reduction in the execution of the tasks typical of the Foreign Service.

It was conceived as part of the Presidency's initiative to increase and to improve the Court's inspecting measures to control the government's actions, and to guide and to help Public Administration bodies and entities to carry out their functions within legal limits and according to the best practices.

I am convinced that the prevention of misadministration, deviations and wasteful practices is as important as the corrective punishing actions, which becomes unnecessary when prevention is effective.

On the other hand, we must bear in mind the search for quality and excellence in public services and the providing, specially by service providing bodies, of an effective return

for the taxpayers, within a context in which any public organization is justified only by the results it offers to Society.

The Basic Checking Items presented herein were compiled from legal rules and from the Agencies Management Guide (GAP), as well as from the results of the audits made by the TCU in MRE's units abroad.

The authors of the present contribution do not intend it to be exhausting, nor do they think it should replace the internal rules of the MRE, specially the GAP. With each new audit, improvements are introduced which take into account, besides prior experiences, the circumstances under which the audit was made, the aspects chosen to be examined as a priority and the instructions given by the Minister responsible for its execution.

This work, which aims to be practical and concise, stressed the aspects that should be observed in the day-to-day practices of the Agencies, so as to be a helpful guide for them. This is my wish.

Brasília, December of 1997

Minister HOMERO SANTOS
President of the Federal Audits Court

THE AUDITING OF AGENCIES ABROAD

Introduction

Besides the systematical audits made in bodies and entities located within the national borders by force of legal and constitutional rules, the TCU has also been auditing, since 1992, federal units within its jurisdiction located outside of the Country, such as Embassies and Consulates, Financial Offices, Permanent Foreign Affairs Ministry Delegations and Missions, Military Commissions, branches and offices of Banco do Brasil, offices of Petrobrás and Companhia Vale do Rio Doce (before the latter was privatized).

These audits closed a gap in the control of government action, since the units located abroad, although legally and constitutionally subject to external control by this Court (Federal Constitution, Articles 70 through 74, and Law no. 8.443/92, articles First, Fifth, Sixth and Seventh), were seen as an exception for its **in loco** audits, except for a few joint audits by MRE and TCU during the 1970s.

In the case of the MRE, we should stress that, due to the very nature of its activities, about 70% of the Ministry's total

financial resources, including those relative to personnel (around 50%), are allocated to its offices abroad. Thus, limiting themselves to the MRE central offices the **in loco** inspections covered only 30% of all the Ministry's funds.

The outcome of this new line of work is that this Court, in the audits it has been making and according to the features of each audited body, had the opportunity to verify the correct points, besides determining the correction of the problems detected and advising on the measures to be taken in order to improve the activities and the management of the Agencies abroad.

The scope of the audits

The audits made in the MRE units have as their basic goal the checking of all the different aspects of diplomatic and consular functioning in their classic forms, such as representation, intelligence, negotiation, protection of nationals and furthering of national interests.

Moreover, these audits analyze the different management routines of the Agencies, to be capable of measuring the result of the promotion of their activities, the quality of their response to the demands for which MRE is responsible, the state of technical procedures, the allocated resources and means, and the operational capacity of diplomatic and consular services, considering Brazil's priorities and interests in each country.

The latest audits made in abroad agencies included the examination of currency exchange operations and of the routines adopted for the return of added value taxes and the bookkeeping of the resources allocated to each Station.

The audits made by the TCU in direct and indirect administration units located in foreign countries have been a valuable experience for the improvement of the inspection activities for which this Court is responsible. On the one hand because they allow us to know the organization and the functioning of units acting in complex situations in different countries; on the other hand, with their suggestions and orders to the audited institutions, they contribute to the improvement of their operations.

Criteria and procedures adopted for the planning of the audits

Due to the variety and complexity of the issues at stake at each different Station in foreign countries, these cannot be treated in a uniform fashion. Thus, when scheduling the audits in foreign countries, the selection of the units which are to be audited is made through a combination of technical with other factors, among which the consideration of operational expenses with the displacement of the teams and the regionalization of routes. Usually, the audits are programmed for short periods for cost reasons.

In order to optimize the time allocated to the execution of auditing works, the units, which are to be inspected, receive a prior communication on the documents they will have to submit **in loco** to the Auditing Commission.

The future of the audits and their reflection on the management of the Agencies

When the Constitution gave the TCU the legal capability to make operational audits, it also imposed on the audited bodies the obligation of planning their activities and organizing the data and the information needed for the control and assessment of their performance patterns.

This was made because this mode of auditing involves the systematic performance assessment of the government's functions, programs, activities and projects, as well of the bodies and entities under the jurisdiction of the Court.

The goal of the operational auditing is to check aspects of cost-effectiveness, efficiency and effectiveness of government measures, the following being subject to examination: 1) the way the public bodies procure, protect and use their funds; 2) the identification of causes for anti-economic and inefficient practices by these institutions; 3) verification of compliance to quantifiable goals; 4) the verification of compliance to the legal rules relative to aspects of cost-effectiveness and

managerial efficiency.

The focus is centered on the process and on the results of management activities in their different aspects: planning, organization, implementation of measures, and management control and monitoring.

Thus, it is necessary to establish compiled and analyzed elements allowing an objective assessment of the Agencies' actions.

This modernization of the methods and administrative practices as an instrument for resource management cannot be implemented without the adoption of equivalent instruments for the organization, planning, control and assessment of all other activities, including and specially those related to specific purposes.

Every form of organization needs to integrate its plans to its defined goals, assessing all the operational costs involved. Without this integrated planning of its goals, the organization cannot know its own costs, cannot generate descriptive and analytical reports of its planned activities and their respective costs, measure the attainment of established goals and, in short, evaluate its own performance.

It is equally necessary to establish the practice controlling and assessing the management, in order to allow the managers

themselves and the external controlling body to appreciate the performance of the Station concerning its effectiveness, efficiency and cost-effectiveness.

For all these reasons, one can predict that the audits will increasingly stress the operational assessments, focusing on: 1) total costs of keeping the Station working in a foreign country; 2) the degree to which the management of these Agencies reflect the best managing practices in comparison to the universe of public administration in Brazil and abroad; 3) the degree of administrative modernization; and, 4) the quality of the services rendered to the Government and to Society.

The modernization of the Agencies

The improvement of the procedures adopted by the Agencies abroad is part of the larger task of modernizing public administration in all its sectors. The duty of managing must be done with the same earnestness as is performed the essential mission of the Diplomat: to represent, to inform, and to negotiate.

To manage is necessary, and managing well requires a constant improvement of all practices, for there will always be room for more improvements. It means trying to implement, in the State Secretariat and in the Agencies, methods and practices ever more developed for planning, controlling and assessing

their performance and the application of their resources.

This imposes on the MRE the obligation of constantly reviewing and improving the Agencies' budgetary, financial, patrimonial and operational management, to obtain the best possible results in the execution of the tasks assigned to the Foreign Service.

This is also a mandatory behavior for all public administrators, who have the obligation of promoting the constant improvement of the methods and procedures in their sphere of responsibility.

Agency accounting reports

According to a rule common to all bodies and entities of Public Administration, the representations of the MRE have to account for their management practices, these being also subject to auditing by the TCU.

According to the existing system, MRE's Financial Department in New York City, as a managing unit executing and coordinating expenses and responsible for the granting of advances to the Agencies, is also responsible for the approval of the accounting reports submitted by these bodies.

The Agencies' accounting reports are added, in consolidated

form, to the yearly accounting collection of New York's Office, which then submits it to the TCU for approval.

Attributions of the Agencies Abroad

The offices of the MRE and their attributions are the following (Decree # 2.246/97):

Permanent Diplomatic Missions:

a) *Embassies*, whose role is to ensure the continuing relations of Brazil with the countries to which they are accredited, having, among others, the functions of representation, negotiation, information and protection of Brazilian interests, and also, in certain cases, the representation of Brazil in international bodies and the execution of consular services.

b) *Permanent Missions and Delegations in international organizations*, responsible for the representation of Brazilian interests in the international organizations to which they are accredited.

Consular offices:

General Consulates, Consulates, Vice-Consulates and Honorary Consulates, whose attributions are the assistance to

Brazilian citizens, notarial and other functions included in the Vienna Convention on Consular Relations and, in specific cases, activities of cultural exchange, technical, scientific and technological cooperation, trade promotion and publicizing of Brazilian realities.

Managing executing unit:

Financial Office in New York, which has the role of managing unit for MRE's resources used in foreign countries.

BASIC CHECKING ITEMS

Planning and monitoring the Station's actions:

- 1) keeping the Unit's organization chart and the listing of functions and responsibilities of each sector available to all;
- 2) planning, recording and assessing the performance of the Station's different sectors regarding the attainment of established goals and the elaboration of periodical management reports, with a quantitative and qualitative statement of activities, analysis of achievements and assessment of their benefits in relation to costs.
- 3) increasing and updating the computerized activities in the Station, in order to constantly improve the quality and the quantity of services rendered.

Grounding of administrative actions

- 1) Grounding of administrative actions on existing legal rules and norms.

Budgetary and financial execution

- 1) Strict observance of monthly limits for each allotment.
- 2) The transfer of funds, by the Station, between MC (Chancellor's Office Maintenance), MR (Residence Maintenance), and COM (Communications), is allowed only under extraordinary circumstances and must be authorized by the State secretariat (SERE); every transfer, with values and number of the telegraphic dispatch authorizing it, must be recorded in the *Notes* field of the *MAEOR* (Budgetary Execution Monitoring Map).
- 3) A monthly report of all expenses funded under the heading Ceremonial of the MC section must be completed and sent the SERE until the 5th day of the month following the expenses, with indication of event, number of persons and the value of the expenses, converted to US dollars.
- 4) The expenses made with funds from the EMP (Equipment and Permanent Material) are restricted to the acquisition of permanent material, included therein books and other non-periodical publications to be added to the Station's library;
- 5) A strict control of the use of communication means must be kept, recording all calls (telephone, facsimile, telegraph, etc.) in a special form, both for personal needs as for prompt reimbursement and for recording in the accounting books of the COM section.

6) All receipts issued by landlords relative to rents paid by MRE officers nominated for a mission in the Station must be entered in the accounting report of the RD (Diplomatic Residence) section.

7) All officers who reside in the Station's property, except the Station's Chief, must pay monthly, as occupation and maintenance fee, 5% of their gross income in "C" Agencies, 10% in "B" Agencies and 15% in "A" Agencies. These payments must be entered in the books and used for preservation and maintenance of said property.

8) The Station must send to the EFNY (Financial Department in New York), the accounting report corresponding to each authorization of expenses drawn from the NR (Non-recurring Expenses) account, up to 15 days after the last payment to this account, and forward the Resource Management report to the SERE.

9) The existing balance in the quarterly accounting report of the IM (Real Estate) account must be transferred to the EFNY simultaneously with the forwarding of the accounting report;

10) All the Agency's bank accounts must be balanced and a monthly "Report on Bank Account Balancing" of the different accounts must be made, with their information

checked for exactness;

11) All expenses documents must be issued to the Station, with clear qualification and quantification of all goods acquired or services rendered, the date, the total value and the unit price if applicable (this information must be translated into Portuguese by the Station, except when written in English, French, Spanish or Italian), together with full identification of the issuer: full name, number of identity document and address.

12) Each expenses document must bear a signature and a statement by a Diplomat, or, in his or her default, by an officer of the Staff or of the Personnel List of the MRE, declaring that the goods were delivered or the services were rendered to the Station. In case the document is relative to a permanent asset, this statement must declare that the said good was added to the property of the Station and the number it was given in the Agency's inventory.

13) In the acquisition of goods or the hiring services, the payment cannot be made until the delivery of the goods or services is checked.

14) The Agency's effective or acting Chief must sign all expense documents by hand. The use of seals or stamped signatures is not permitted.

15) All checks and other payment orders drawn from the Unit's financial endowment must be signed by two responsible persons.

16) Only expenses under USD 20.00 (or an equivalent amount in local currency) that cannot be confirmed by invoice or receipt identifying the payee will be filed as Prompt Payment Small Expenses.

17) A CashBook with numbered pages must be kept for the recording of all cash transactions, usually reserved for prompt payment small expenses.

18) All expenses recorded in the CashBook under the "Prompt Payment Small Expenses" heading must be detailed monthly, and the totals corresponding to this heading must be included in the accounting card of the corresponding account.

19) The existing cash balance recorded in the CashBook must be matched to the actual funds in the hands of the officer responsible for their management.

Within 15 days of the closing of the quarter, the quarterly accounting reports relative to the allotments granted in global amounts, even if paid in scheduled amounts, such as MC, MR, COM, IM, AAs (Management

Clerks).

21) The number of sets of accounting cards must match the number of different currencies used for payments, since each expense must be registered in the currency with which it was actually paid.

22) The existing balance in each account, registered on the last day of December according to established method, must be transferred to the EFNY.

23) Only the expenses corresponding to obligations outstanding until the end of the fiscal year may be included in "Remainders Payable".

24) All changes of Station Chief, regardless of the length of time the Chief Officer will be away, must be registered in a Directorship Transfer Statement.

25) The list of all officers who acted as Station Chief during the period must be sent to the SERE every three months.

Currency Exchange Operations

1) The payment schedule for the Station's expenses must be programmed so as to encompass all needs and commitments of all sectors, and all currency exchange operations must be made in such a way as to attend to the needs of the Station as a

whole.

- 2) The foreign exchange operations must be made with banks and financial establishments previously selected, in order to keep a level of relationship allowing the negotiation of the fees to be paid on the operations and their monitoring and control (the Agencies are authorized to operate only with those banks and financial establishments able to issue exchange bordereaux).
- 3) The first copies of the currency exchange operation voucher must be kept, together with the official seal of the establishment making the exchange operation.
- 4) The officer responsible for the currency exchange operation must be fully identified, when applicable.

Tax returns

A systematic control of the respective documents and timely request for returns are required.

All tax returns paid must be registered in the books and accounted for.

Income and Consular Sector

Service to the public, registers and basic arrangements:

- 1) In order to assure adequate service to the public needing the Sector's service, the entrance to the Consular Office premises must clearly indicate the hours kept for external services, and this must be strictly observed (a minimum of six hours per day of **external** service).
- 2) A Table of Consular Services Fees, with its accompanying instructions (fees: cash retribution for consular services such as passport and visa issuance, notarization, etc.) must always be posted in a place clearly visible to the public.
- 3) The values listed in said table must be strictly observed, the documents corresponding to the fees charged must be filed and the interested parties must receive a copy of these documents.
- 4) An effective system for recording and controlling of fee income, entering all transactions in the proper Fees Diary, is mandatory for all Consular Offices.
- 5) The data of the Consular Fees Map must match those found

in the Fees Diary.

6) The Consular Office must keep a stock of tax stamps in a number never smaller than the equivalent for its needs for a period of four months, considering their average monthly consumption (tax stamps: stamp with a nominal value printed in Gold Reals, affixed to the documents issued by the Agencies as proof of fee payment).

7) The passports and visas under the responsibility of the Agency must be efficiently controlled.

8) The services, records and controls of the Offices must be computerized.

Movement, Control and Transfer of Consular Income:

1) A daily control of incoming resources from the use of Consular tax stamps (or any other instrument that may replace them) as well as the balance of existing tax stamps held by the Consular Sector must be made.

2) The Consular Office must have a separate special account only for Consular income, at a local branch of Banco do Brasil, or, if not available, in another Brazilian bank or in one of the three largest local banks, preferably one with branches in New York City.

3) According to convenience and the amounts received, the Consular income must be deposited in a specific account every day, on the last workday of each week or, obligatorily, on the last workday of the month.

4) The Consular income must not be reduced, under any circumstances, according to the legal principle of non-deductibility of public revenues.

5) The Consular income must be transferred to the Financial Office account at the Banco do Brasil in New York until the eighth day of the month following the collection, observing the minimum limits established by the State Secretariat; the Agencies not yet included in the “Swift” transfer system must forward the Consular income through the State Secretariat.

6) The Vice-Consulates that do not report to SERE must transfer the total Consular income collected during the previous month to the Department to which it reports until the third day of each month.

7) The total of funds collected by the Consular departments reporting to an Agency must be included in the in the transfer of Consular income, in separate bank checks for each department, so that the values transferred match those found in the “US\$ transferred” field of the Fee Map of each department in the same month.

8) Each Department must forward to SERE, until the 15th day of the following month, a monthly written report on the total Consular income transferred to the Secretariat, or a communication that there was no Consular income collected during the month at issue.

9) The amount of tax stamps resulting from their actual counting must be checked against those registered in the Fees Diary.

10) The total values registered in the Fees Diary (in Gold Reals) during a given month, multiplied by the Gold Real rates used by the Department, must be checked against the actual balance in the special bank account reserved for Consular income (in local currency) on the last day of the same month.

11) The balance of Consular tax stamps held by the Agency and the trustworthiness of the Consular Fees Map must be checked seasonally and at the end of each fiscal year.

Purchases and Services Hiring (tender bids and contracts):

1) The constitutional principles of equality of conditions for all potential competitors, the duty of selecting the most advantageous offer for the Administration and all other basic

principles governing tender bids and contracts in Public Administration (Law 8666/93: lawfulness, impersonality, morality, equality, publicity, management probity, attachment to the bidding instrument, objective judgement and all related principles) must be observed in all purchases, services hiring, works and disposals.

2) All administrative proceedings relative to tender bids must have their object and the funding for their expenses briefed, numbered, identified and succinctly presented.

3) In price competitions and public bids, the proceedings must include the elements specified below, which shall be kept in the Agency's files as documents and as proof of compliance to the rules for the Financial Office and internal and external controls: bidding instrument and its corresponding annexes; act of nomination of the Bidding Commission; proposals submitted by the bidders and their corresponding documents; minutes, reports and deliberations of the Bidding Commission; statement by the Agency's Chief, issued as a formal opinion, on the tender bid, its exemption or non-obligatoriness; statement of contract or an equivalent instrument; any other documents pertinent to the case.

4) The acquisition of goods and the hiring of works and services arising from substantiated request may be made only after being authorized.

5) All tender bids for the hiring of services or works or the purchase of goods must have an authorization for the resources needed for the intended expenses.

6) Before being published or signed, all bid announcements or any contracts arising from tender bids in the form of Price Competition or Public Bid for values superior to 100,000 US dollars must be submitted to the SERE.

7) The object of the tender bid must be properly defined, including in terms of anticipated materials and services.

8) A Bidding Commission formed by three persons or, in the case of an invitation, a responsible officer must be nominated.

9) The bid announcement must be given enough publicity to reach all potential competitors.

10) In Public Bids, all interested parties who, in the initial qualifying stage, are able to prove they have the minimum qualifications required for the execution of its object must be officially invited.

11) The following limits must be observed for the selection of the proper bidding mode:

I – for engineering works and services:

a) Invitation: values up to the equivalent in local currency to 126,658.00 US Dollars.

b) Price Competition: values up to the equivalent in local currency to 1,266,584.00 US Dollars

c) Public Bid: values above the equivalent in local currency to 1,266, 584.00 US Dollars.

II – for purchases and other services:

a) Invitation: values up to the equivalent in local currency to 31,664.00 US Dollars.

b) Price Competition: values up to the equivalent in local currency to 506,633.00 US Dollars.

c) Public Bid: values above the equivalent in local currency to 506,633.00 US Dollars.

12) In the cases of exemption from bidding, the maximum limit of 6,332.00 US dollars for the execution of engineering works or services and of 1,583.00 US Dollars for purchases, other services and repairing must be observed.

13) In case of exemption from bidding, a market survey must be made in accordance with the principle of economy.

14) The non-obligatoriness or exemption from bidding may be requested to the SERE in case of extraordinary circum-

stances or of local practices that make it impractical.

15) The contract or contract adjustment must include clauses on the following:

- a) the object and its characteristic elements;
- b) the execution mode or the form of supply;
- c) price and payment terms;
- d) applicable deadlines;
- e) guarantees offered to ensure their full execution;
- f) the causes for contract voiding;
- g) the attachment to the bid announcement or to the declaration of exemption or non-obligatoriness, to the invitation or to the proposal submitted by the winning bidder;
- h) the local laws applicable to the contract fulfillment, and specially the non anticipated cases;
- i) the fiscal regime applicable; and
- j) the conditions for subcontracting.

16) The contract must be effected in the currency of the country where the Agency is located or in another currency, provided such procedure has legal backing and is a reflection of local commercial practices.

Usage materials

- 1) An efficient system must be devised for the planning of purchases for each fiscal year and month to month, if applicable.
- 2) In large and medium Agencies, an efficient control of storeroom inbound and outbound items (through the

formalization of a proper requisition voucher) must be kept, as well as the realization of periodical checks of the trustworthiness of the records.

Equity:

- 1) All acquired goods must be immediately registered.
- 2) All equity items must be registered as state property including information such as acquisition year, brand, model, serial number, when applicable, and location, thus providing the complete identification of the items belonging the inventory;
- 3) Equity inventory must be computerized;
- 4) Official representation material (National Flag, Seals, etc.) must be efficiently guarded and booked.
- 5) The Cargo-List of all items not included in the equity inventory must be constantly updated (Cargo-List: special form for the listing of all non-inventoried non-durable equity items with a value under 20.00 US Dollars, such as kitchenware, uniforms, bedding and white linen in the Residence; and scissors, staplers, paper punchers, uniforms, posters, reproductions and frames in the Chancellor's Office).

6) An efficient control of equity items movements must be made, as well as of additions and discharges of permanent items, being the procedures concerning the latter initiated as soon as the generating fact occurs, so the inventory may reflect the actual status of the Unit at the moment of its making.

7) The goods belonging to the Unit must have their existence checked periodically, as well as their state of conservation and their matching to the equity inventory, which must be kept updated at all times.

8) The Agency must make separate inventories for the Chancellor's Office, the Residence and the Library.

9) The items located in remote sectors of the Chancellor's Office, such as Trade Promotion Sector, Consular Sector, Brazilian Studies Center and other similar units, must be listed at the end of the Chancellor's Office inventory.

10) Copies of the inventories must be forwarded to the DAEx/CISET and to the EFNY until the 15th day of the month of January of the year following their making (MRE Rule of November 3, 1995, Eighth Article, item VI).

11) All permanent material must be labeled with a clear and durable equity identification tag with the ordering number assigned to the object, as well as a catalog number for the Agency's Library items.

12) Every sector of the Agency must have a Responsibility Statement for the safekeeping and use of their permanent material (item 7.11 of IN/SEDAP no. 205/88).

13) These Statements must be updated whenever there is a change of responsible persons.

14) All books added to the Agency's Library must be inventoried, regardless of their cost.

15) The Agency must forward to the EFNY, until the 5th work day of each month, information regarding any equity changes occurred during the previous month (MRE Rule of November 3, 1995, Eighth Article, item V).

16) The alienation of an inventoried item may be done only through sale, exchange, cession or donation.

17) The equity items considered as useless, anti-economic or beyond repair by a proper authority or by a commission specially formed for this purpose need an authorization from SERE to be alienated.

18) The alienation through sale or exchange must be preceded by an evaluation by a commission nominated for this purpose by the Agency's Chief.

19) In case of alienation through sale, the Agency must prepare a Bidding Announcement, written in Portuguese and in the local language, with the following data:

- a) description of items to be alienated;
- b) value of the items, as described in the “Evaluation Statement”;
- c) the proposals must be received in three copies, without amendments or erasures, with the prices written out in figures and in full, being rejected all proposals with prices inferior to those of the evaluation;
- d) payments must be made at sight; and
- e) a maximum of three days will be allowed for payment and removal of the goods acquired, counting from the day of the notice to the bidder with the best proposal.

20) The unused items may be alienated through cession between Agencies with a Cession Statement.

21) All items considered as anti-economic, beyond repair or obviously useless must be excluded from the inventory, after authorization by the Agency’s Chief.

22) A summary of the bidding announcement must be published in the classified ads section of at least one local newspaper.

23) The proceedings from the sale must be immediately sent to the EFNY in a bank check written out in US Dollars, as Union under the line income.

24) The Agency must forward to the EFNY copies of all documents concerning the operation until 30 days after the

occurrence of the sale.

25) In case of alienation through exchange, the Agency must prepare an Exchange Announcement, written in Portuguese and in the local language, with the following data:

- a) description of items offered for exchange and their evaluation;
- b) detailed description of the items the Agency intends to obtain through this exchange;
- c) the proposals must be received in three copies, without amendments or erasures, with the prices written out in figures and in full;
- d) notice to the effect that all proposals offering for the goods to be exchanged a value inferior to that assigned to it by the Evaluation Commission;
- e) notice to the effect that proposals must obligatorily specify a date for delivery of the item to be given to the Agency and for the removal of the item offered in exchange;
- f) payment conditions for any differences between the item offered and the item to be received.

26) The items acquired through exchange must be inventoried with their real value, without any deductions corresponding to the goods offered in exchange for them.

27) Each real estate property under the Agency’s responsibility, be it leased or Agency property, must have a Property Note (BI).

28) The Property Notes must be sent to the SERE at the end of each fiscal year, whenever a new property is acquired or a

lease contract is signed or renewed.

29) Besides the Property Note, copies of the leasing contracts or their renewing, as well as the documents relative to the acquisition of real estate properties, duly translated, must be sent to the SERE.

30) The inventory and the situation of the items must match in respect to location, responsibility for safekeeping and state of conservation.

31) A periodical survey and examination of all durable goods in use must be made to detect those unused, in need of repairing, anti-economic or beyond repair.

32) All events concerning equity items such as loss, robbery, lifting, damage or disaster must be immediately communicated to the SERE so adequate measures may be taken.

33) The Agency must follow SERE's instructions to form the verification and informal and/or formal investigation of the facts in case of loss, robbery, lifting, damage or disaster concerning equity items.

Vehicles

All vehicles belonging to the Agency must be registered in the equity inventory.

Each vehicle belonging to the Agency must have its Vehicle Note (BV).

All fields in the Vehicle Note must be properly filled.

Any vehicle hiring through rent or leasing must be authorized by the SERE.

The vehicle licenses must be kept up to date.

Official vehicles may be used only for activities directly and strictly related to the tasks of the Agency (TCU Minute no. 53/90 – Annex III).

An efficient control and recording of the use of the vehicles and the expenses with fuel must be kept.

The operational cost of the vehicles must be assessed, in order to identify those in need of repairs or which may be alienated due to their being provenly anti-economic or beyond repair (item 5.1 of the IN/SAF no. 09/94).

Agency bookkeeping

- 1) Bookkeeping must be updated whenever possible by staff officers duly qualified for the task.
- 2) The functional responsibility for the accounting and the responsibility for the safekeeping and control of the funds and for the payments must be formally segregated.
- 3) The units must use accounting systems reflecting clearly and accurately their actual equity situation.

Accounting statements

The accounting statements must be ordered according to the sequence and the regular form of addition of their elements, and signed by the person responsible for the Agency's bookkeeping and countersigned by the proper diplomatic authority. The statements must include, among others, the following obligatory elements:

- a) currency exchange reports registering all currency exchange operations during the period, specifying the fund allotment from which the currency was drawn, date of operation, value exchanged and the total in local currency obtained from it;
- b) copies of all documents proving the realization of currency

exchange operations;

c) copies of bank statements and monthly reports on bank account balancing;

d) copies of documents proving all expenses incurred (invoices, bills, receipts, etc), which must be issued to the Agency's name and include:

d.1) clear qualification and quantification of acquired goods or services rendered, date, total and unit value, when applicable (this information must be translated by the Agency into Portuguese, except when written in Spanish, English, French or Italian);

d.2) full identification of the issuer (supplier or service provider), with, in the case of the latter, full name, number of identity document and address.

Formalization of nomination for commanding positions

1) All nominations for heading positions in the different sectors of the Agency, including the Consular Sector, must be formalized.

Personnel (Decree no. 1570/95):

Hiring of local help:

- 1) The hiring of local help must be preceded by a public selection process, according to the Decree no. 1570/95;
- 2) Work contracts must be formalized and signed.
- 3) The tasks of the Support Clerk for general services must be defined in the work contract (Article Fourth of Decree no.. 1570/95).

Social security and labor relations:

- 1) The labor and social security status of locally hired help must be fully regularized (Decree no.. 1570/95 and Laws no.. 8745/93 and 7501/86).
- 2) The labor and social security laws of the country in which the Department is located must strictly observed (Article 15 of Decree no. 1570/95).
- 3) Local help must be registered in the social security system of the country in which the Department is located (Single Paragraph, Article 15, Decree no.. 1570/95).
- 4) All Brazilian nationals hired as local help who cannot be

registered in the local social security system due to legal restrictions must be registered in the Brazilian social security system (Article 17 of Decree no.. 1570/95).

5) Medical assistance equivalent to that provided the public system in which the department is located must be ensured for the person hired as local help who, due to the laws of this country, is not entitled to public medical assistance extended to his or her family, through the hiring of a private health insurance company of known aptness, tradition and efficiency in the market (Article 16 of Decree no.. 1570/95).

6) The Agency must deduct and transfer to the social security system the percentages established by law.

Payment of local help:

1) The monthly salaries paid to local help must not exceed the official salaries for base class chancellery officer assigned to the Department, provided local laws are respected (Article 19 of decree no.. 1570/95).

2) The payment to locally hired help must take into account the local laws and market situation (Article 19, Single Paragraph, and Decree no.. 1570/95).

3) The situation of locally hired help who may be receiving advantages and benefits not established by the labor laws of the country in which the Department is located must be regularized, except in the cases where the laws establish the

maintenance of said advantages and benefits (**caput** and single paragraph of Article 22 of Decree no.. 1570/95).

4) The payment to local help hired before July 24, 1995 (date of publication of Decree no.. 1570/95) is limited to the advantages and benefits established by local labor and social security laws, in accordance with Decree no.. 1570/95).

Other checks:

1) A formal presence control must be adopted for all officers, be they permanent or hired officers (Decision no.. 272/96 – TCU – Plenary).

FUNDAMENTAL RULES GOVERNING PUBLIC ADMINISTRATION

From the 1988 Federal Constitution:

Art. 37. The direct or indirect **public administration** of any of the Power of the Union, the states, the Federal District and the municipalities as well as their foundation **shall obey the principles of lawfulness, impersonality, morality, publicity** and, also, the following:

Art. 70. Control of accounts, finances, budget operation and property of the Union and of the agencies of the direct and indirect administration as to lawfulness, legitimacy, economic efficiency, application of subsidies and waiver of revenues, shall be exercised by the National Congress, by means of external control and of the internal control system of each Power.

Single Paragraph. Accounts shall be rendered by any individual or which uses, collects, keeps, or manages public monies, assets or values or those for which the Union is responsible or which , on behalf of the Union assumes obligations of a pecuniary nature.

Art. 71. **External control** incumbent on National Congress shall be exercise with the aide of the Federal Court of Accounts,

which shall:

II – evaluate the accounts of the administrators and other persons **responsible for public monies, assets and values** of the direct and indirect administration, including foundations and companies instituted and maintained by the Federal Government, as well as the accounts of **those who have caused a loss, misplacement or other irregularity resulting in losses to the public treasury**;

IV – **carry out**, on its own initiative or on that of the Chamber of Deputies, of the Federal Senate or of a technical or inquiring committee, inspection and audits of an accounting, financial, budgetary, operational or property nature in the **administrative units of the Legislative, Executive and Judiciary Powers** and other entities referred to item II.

VIII –, in case of illegal expenses or irregular accounts apply to the responsible parties the sanctions provided by law which shall establish, among other comminations a fine proportional to the damages caused to the public treasury.

§ 3rd. Decision's of the Court's resulting in the imposition of a debt or fine shall have **the effectiveness of an execution instrument**.

Art. 74. The Legislative, Executive and Judiciary Powers shall maintain an integrated system of internal control for the purpose of:

I – evaluating the attainment of the goals established in the pluriannual plan, the implementation of government programs and of the budgets of the Union;

II – verifying the lawfulness and evaluating the results as to effectiveness and efficiency, of the budgetary, financial and property management in the agencies and entities of the federal administration, as well as the use of public funds by private legal entities;

III - exercising control over credit transactions, collateral signatures and guarantees operations, as well as over the rights and assets of the Union.

IV - supporting external control in the exercise of its institutional mission.

§ 1. The persons responsible for internal control shall, upon learning any irregularity inform the Court of Accounts of the Union about it, subject to joint liability.

§ 2. Any citizen, political party, association or labor union has standing under the law to denounce irregularities or illegalities to the Court of Accounts of the Union.

From Law nr. 8443/92 (Organic Law of the Federal Court of Audits):

Article 1 - In accordance with the Constitution of Brazil and in the manner established in this Act, the prerogatives of the Brazilian Court of Audit, an institution for external control, are the following:

I - judge the accounts of administrators and other persons responsible for public money, goods and assets of the agencies of the Branches of the Federal Government and of entities of indirect administration, including foundations and societies instituted and maintained by the Federal Government, and the accounts of those responsible for loss, deviation or any other irregularity which results in loss for the public treasury;

II - carry out, by its own initiative or at the request of the National Congress, of its Houses or its respective Committees, accounting, financial, budgetary, performance and property control of the agencies of the branches of the Federal Government and of the other entities referred to in the previous clause;

IX - apply to those responsible the sanctions foreseen in arts. 57 to 61 of this Act;

§ 1. In the judging of **accounts** and in the control duties under its jurisdiction, the Court shall decide on the legality,

legitimacy and economy of management acts and of expenditures arising from them, as well as on the application of subsidies and the renouncement of revenue.

as well as on the application of grants and income wavers.

Article 2. For the performance of its duties, the Court shall receive, in every term, the roll of accountable officials and its alterations, and other documents or information which are deemed necessary, as prescribed in the Internal Regulation.

Sole paragraph. The Court may request from the Minister of State of an area or from an authority of an equal hierarchical level other elements essential for the performance of its duties.

Article 3. The Brazilian Court of Audit, in the extent of its duties and jurisdiction, has regulatory power, thus being able to issue normative acts and instruction on matters of its competence and on the organization of the suits which should be submitted to it, ensuring compliance, under the penalty of responsibility.

.....

Article 5 - The Court's jurisdiction encompasses:

I - any individual, organization or entity to which clause I of Article 1 of this Act refers to, who utilizes, collects, holds, manages or administers funds, goods or assets that are public or for which the State is responsible, or who, in its name, commits to obligations of a pecuniary nature;

II - those responsible for loss, deviation or another irregularity which results in loss for the public property;

.....

VI - all those who must submit it accounts or whose acts are subject to its control by the express provision of the law;

.....

VIII - the successors of administrators and accountable officials to which this article refers to, up to the limit of the value of the assets transferred, according to the terms of clause XLV of Article 5 of the Federal Constitution;

Article 6. The officials indicated in clauses I to VI of Article 5 of this Act are subject to the executing of accounts and, except for the provision of clause XXXV of Article 5 of the Federal Constitution, can only be relieved of this responsibility by a decision of the Brazilian Court of Audit.

Article 7. The accounts of administrators or accountable officials to which the previous article refers to shall be annually submitted to judgment by the Court, in the form of a rendering of accounts, organized according to the rules established in the internal rule.

Article 8. In view of neglect in the duty of rendering accounts, of non-corroboration of the application of the revenue transferred by the State, as prescribed in clause VII of art 5 of this Act, of the occurrence of embezzlement or misplacement

of public funds, goods or assets, or, still, of the practice of any kind of illegal, illegitimate or anti-economic act which results in loss to the public treasury, the competent administrative authority, under the penalty of solidary responsibility, shall take immediate measures aimed at the institution of a special rendering of accounts for the detection of facts, identification of the accountable officials and quantification of the loss.

Article 42. No document or information can be withheld from the Court in its inspections or audits, under any pretext.

Paragraph 1 In the case of withholding of documents or information, the Court shall establish a deadline for the presentation of the documents, information and clarifications judged to be necessary, notifying the fact to the Minister of State controlling the area or an authority of an equal hierarchical level, for the appropriate measures.

Paragraph 2 Once the deadline has expired and the requirement is not fulfilled, the Court shall apply the sanctions prescribed in clause VI of Article 58 of this Act.

Article 87. The following prerogatives shall be assured to the civil servant to which the previous article refers to, when accredited by the President of the Court or, through a delegation of his, by heads of the Technical Units of the Court Executive Office, to carry out functions of auditing, inspections, and searches expressly ordered by the Court or by its Presidency:

I - free access into agencies and entities subject to the jurisdiction of the Brazilian Court of Audit;

II - access to all of the documents and information necessary for the performance of his job;

III - competence to request, under the terms of the Internal Regulation, from those responsible for the agencies and entities subject to inspections, audits and searches, the information and documents necessary for the examination and preparation of the suits and reports expressly assigned to him by his immediate superior.

From Law nr. 8666/93 (Tender Bids and Contracts)

Article Third. The object of Tender Bid is guaranteeing the observance of the constitutional principle of **equality under the law** and the selection of the **most advantageous proposal for the Administration**, and it shall be processed and judged in strict accordance with the **basic principles of lawfulness, impersonality, morality, equality, publicity, managerial probity, attachment to the bidding instrument, objective judgement** and all related principles.

§ 1. Public officers are **forbidden** from:

I - admitting, anticipating, including or tolerating, in the bidding statements, clauses or conditions that may

compromise, restrict or frustrate their competitive character and establishing preferences or distinctions based on origin, place of headquarters or residence of the bidders, or **any other circumstance impertinent or irrelevant** for the specific purposes of the contract;

From Law nr. 8112/90 (Legal Rules for Public Servants):

Article 143. The authority that becomes aware of any **irregularity** in public service is obliged to promote an **immediate investigation of the facts**, through a formal investigation or a disciplinary administrative process, ample defense being assured to the defendants.

Article 144. The accusations of irregularities shall be the object of investigations provided they are presented in writing and the accusers are identified by name and address, which shall be verified.

Single paragraph. When the facts denounced do not configure any misdemeanor or felony, the accusation shall be dismissed for lack of object.

From Law nr. 4320/64 (Federal Financial Law Regulations):

Article 34. The fiscal year shall be coincident with the calendar year.

Article 35. Are included in the fiscal year:

I - Income collected during the year;

II - lawful expenses commitments made during the year.

Article 62. Payments of expenses may be done only when requested after its regular settlement.

Article 63. An **expense settlement** is the verification of the rights acquired by the creditor, based on evidential **titles and documents** of the respective credits.

§ 1. This object of this verification is to investigate:

I - The **origin and the object** of what is to be paid;

II - The **exact amount** to be paid;

III - To **whom** it must be paid to extinguish the obligation.

§ 2. The settlement of expenses for **goods supplied** or for **services rendered** shall be based on:

I - contract, adjustment or agreement;

II - note of commitment; and

III - **proof** of delivery of goods or of effective providing of services.

Article 94. All **goods** of permanent nature are subject to **analytical registers** indicating the elements needed for the

perfect characterization of each one and of the agents **responsible** for their safekeeping and administration.

Article 95. The bookkeeping must keep synthetic records of all movable and non-movable assets.

Article 96. The **general survey** of movable and non-movable assets must be based on the **analytical inventory** of each administrative unit and the elements of synthetic records in the bookkeeping.

From Decree nr. 200/67 (Organization of Federal Administration):

Article 73. No expense shall be made without credits to support it, or, when charged on an improper allotment, all supply assignments or service providing whose cost exceeds the limits established by law is forbidden.

Article 77. All acts of financial management must be based on **documents proving** the operation and entered on bookkeeping records, through their classification in the proper account.

Article 79. The accounting must investigate the **costs** of services to be able to assess the **management results**.

Article 84. When found that something was not accounted for, or there has been an embezzlement, a deviation of funds or any other irregularity resulting in loss for Public Property, the administrative authorities, under penalty of co-responsibility and without loss of disciplinary procedures, shall take immediate steps to ensure the repayment of the losses and start an accounting process. The facts must be communicated to the Court of Audits.

Article 89. Anybody having, for any reason, charge of the Union's **accounting service** is **personally responsible** for the exactness of the accounts, interim balances, balance sheets and accounting statements of actions relative to the financial and equity administration of the sector under his or her jurisdiction.

Article 90. The persons **ordering the expenses** and **responsible** for the safekeeping of the money, values and goods will be held accountable for any losses for the Public Property.

From Decree nr. 93872/86 (Unification of Treasury's Resources):

Accounting

Article 130. The Union's accounting shall be made through the functions of orientation, control and register of the activities of financial and equity administration, involving **all acts and facts** relative to the budgetary and financial administration and the **safekeeping or administration of goods belonging to the Union** or under its responsibility.

Article 131. **Every act** of financial management or that creates, modifies or extinguishes any of the Union's rights or obligations of pecuniary nature must be made through **documents proving** the operation and entered on bookkeeping records through their classification in the proper account.

Article 134. There shall be a **accounting control of the rights and obligations** arising from contracts, covenants, agreements or settlements.

Article 135. The debts and credits must be registered with full identification of the debtor or creditor and specification of their nature, amount and date of payment, when applicable.

Article 136. The bookkeeping must highlight in its records the amount of existing budgetary credits, the expenses commitments and the expenses made to the account of the

same credits, the available allotments and the financial resources programmed.

§ 1. The records mentioned in this Article must be made available to their respective managing administrative unit, for orientation and updating of the same records in the established forms.

§ 2. When the access of the managing administrative unit to said records is not possible, all the information necessary for their orientation must be given to them.

Article 137. The bookkeeping must investigate the **cost** of projects and activities, to highlight the **results of the management** (Decree nr. 200/67, article 69).

- § 1.
- § 2.

Article 41. Anybody having, for any reason, charge of the Union's **accounting service** is **personally responsible** for the exactness of the accounts, interim statements, financial statements and accounting statements of actions relative to the financial and equity administration of the sector under his or her jurisdiction.

Accounting Statement and Accounting Act

148. A **special accounting act** will be imposed on all those who fail to **account for** the use of public resources within the time limits and in the form established by law, or who commits or gives cause to **embezzlement or diversion of funds**, or who practices any **irregularity resulting in loss** for the National Treasury.

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