

Survey on the effectiveness of Anticorruption Authorities

Background Information

1. Please enter country name in the space below

Brazil

2. The name of the agency

Office of the Comptroller General

3. The date of establishment

May 28th 2003 (As Office of the Comptroller General)

4. Contact Information

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5. Webpage

www.cgu.gov.br

Legal Environment

6. What are the main anticorruption laws of your country?

- Federal Constitution of 1988 (provisions on: internal control bodies; public procurement; recruitment of public officials; impropriety offence; and responsibility crimes of the President of the Republic)
- Penal Code (Decree-Law n. 2.848, of December 7th 1940): bribery of domestic public officials; bribery of foreign public officials; traffic of influence in international business transactions; fraud; embezzlement; misappropriation of public funds; and other offences;
- Responsibility crimes procedural law (Law 1,079/1950);
- Law on the Liability of Mayors and City Council Members (Decree-Law 201/1967);
- Official Misconduct Law (Law 8.429/92);
- Brazilian Court of Accounts Law (8.443/1992);
- Public Procurement Law (8.666/93);
- Attorney General Office's Organic Law (Complementary Law 73/93);
- Public Prosecutor's Office Organic Law (Complementary Law 75/1993);
- Law on the obligation to report assets and income in the Executive, Legislative and Judiciary (Law 8,730/1993);
- Violations against the economic order (Law 8.884/94);
- Law on prevention and repression of criminal organizations' activities (law 9,034/1995);
- Phone communication interception law (Law 9,074/1995);
- Public service corporations regulation Law (Law 8,987/1995);
- Money Laundering (Law 9.613/98);
- Administrative procedure for the Federal Public Administration (Law 9,784/1999);
- Victims and Witnesses Protection Federal Program Law (Law 9,807/1999);
- Fiscal Responsibility Law (Complementary Law 101/2000);
- Crimes against Public Finances (Law 10,028/2000);
- Executive Branch Internal Control Law (Law 10.180/2001);
- Law on the secrecy of Financial Institutions operations (Law 105/2001);
- E-procurement system Law (Law 10,520/2002);
- Brazilian Office of the Comptroller General Law (Law 10.683/2003);
- Regulation on Politically Exposed Persons (Circular 3,339/2006 of the Central Bank);
- Fund Transfers Regulation (Decree n. 6170/2007);
- High-level Officials Code of Conduct;
- Public Officials Ethics Code (Decree n. 4.061);
- Full Transparency Law (Complementary Law n. 131/2010).
- Access to Information Law (Law n. 12,527 of November 18th 2011)

7. Does your government have a single or primary anticorruption strategy?

Given the plurality of public authorities dealing with integrity and anti-corruption policy in Brazil, the National Strategy Against Corruption and Money Laundering (Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro - ENCCLA) was established in 2003. The National Strategy aims to foster co-ordination among public authorities in the various stages of preventing and combating money laundering and, since 2005, corruption. The Integrated Management Cabinet for Prevention and Combat Against Corruption and Money Laundering is composed of 60 public organisations of the executive, the Office of the Public Prosecutor, the National Congress and the Judiciary. These authorities meet once a year to review the effectiveness of co-operation and co-ordination in combating organized crime and corruption. In addition, a core group of National Strategy members meets every two months. The annual meeting also determines the main objectives and targets for the National Strategy for the following year. In the context of the National Strategy, a major effort has been made to improve the co-ordination between the Office of the Comptroller General (CGU), the Office of the Public Prosecutor and the Federal Court of Accounts.

Some key results from ENCCLA in preventing and combating corruption include: i) the creation of the National Registry of natural and legal persons declared ineligible before or barred from contracting with the public administration; ii) the expansion of the voluntary resource transfer monitoring and control system, including the computerization of accountability procedures; iii) the launch of a consolidated public registry of persons subject to administrative sanction decisions who are of particular interest to anti-corruption and anti-money laundering efforts; and iv) the drafting of legislation to regulate the liability of legal persons for acts committed against the public administration. At its 7th meeting, in November 2009, the National Strategy also approved 21 actions to be adopted in 2010, including publication in the Government Gazette of the National Registry of Individual Taxpayer (Cadastro de Pessoa Física) the number of officials appointed to public office and a risk analysis of fraud in public procurement procedures and contracts in connection with the 2014 World Cup and the 2016 Olympic Games.

The Office of the Comptroller General also launches, for each year, a comprehensive plan of action targeting specifically integrity and anticorruption issues (CGU's Integrity Plan). The plan comprises CGU's different areas of work, namely internal control/audit, guidance to public managers, disciplinary actions and corruption prevention, which roughly correspond to Chapter II of the UNCAC on preventive measures against corruption.

8. Does your country have freedom of information legislation?

Yes No

9. Does your country have conflict of interest legislation?

Yes No

10. Does your country have a financial disclosure system to help prevent conflicts of interest?

Yes No

Institutional Environment

11. What are the main functions and operations of your agency? Please check all that apply

Research Prevention Investigation¹ Prosecution Forensic Accounting Policy²

¹ Investigation relates to investigative audit actions, including joint initiatives with the Federal Police and the Federal Public Prosecutor's Office, as well as assets and financial investigation of public officials and procedures related to administrative liability of legal or natural persons in their relations with the Federal Public Administration.

² Formulation of anticorruption policies.

12. Is there one agency in charge of coordinating AC efforts across agencies?

Yes No

If Yes, Please specify: _ The Office of the Comptroller General works as the public body responsible for overseeing the implementation of the International Conventions against Corruption ratified by Brazil (OAS, OECD and UNCAC), as well as the central body for Brazilian internal control, disciplinary, transparency and ombudsman systems.

13. Does your agency have the ability to share information or data with

(a) Other agencies within your government, and

Yes No

(b) Government partners from other countries?

Yes No

14. Please enter current size of permanent staff in the space below

2.280 (Through July 2012)

15. Number of prosecutors (if applicable)

Not applicable

16. Number of investigators (if applicable)³

About 2.100 investigators

17. Number of cases handled annually (if applicable)⁴

In 2011, the following investigations were carried out: 10.524 investigative audit actions; 74 assets and financial investigation of public officials; and 12 procedures related to administrative liability of legal persons in their relations with the Federal Public Administration. Plus, CGU monitored 1.788 investigations carried out by federal ministries and agencies (as the central body for disciplinary actions in the federal Executive Branch).

18. Please enter the name of other agencies with similar functions.

Federal agencies responsible for combating corruption in Brazil, besides the Office of the Comptroller General:

- The Federal Police Department - Ministry of Justice
- The Department of Assets Recovery and International Cooperation – Ministry of Justice
- The Office of the Attorney General
- The Federal Revenue Secretariat
- The Financial Activities Control Council – Brazil’s Financial Intelligence Unit
- The Federal Court of Accounts – Legislative Branch
- The Federal Public Prosecutor’s Office

³ Investigators here refer to the concept of investigations carried on by CGU, as explained in foot note n. 1.

⁴ The concept of cases here is connected to the explanation given in foot note n. 2. The cases cover a wide range of procedures, including from ordinary audits to review of retirement concessions and the follow-up on anonymous reports.

19. Does your agency have a system to monitor performance of staff?⁵

Yes No

20. Are the human resource management, i.e. recruitment, promotion, termination built on the emphasis of staff integrity and professionalism?

Yes No

21. Who appoints the head of your agency?

The head of the Brazilian Office of the Comptroller General is a Minister of State, appointed by the President of the Republic.

22. Who has the authority to remove the head of the ACA?

The President of the Republic

23. Is there any term limit for the head of the ACA?

Yes No

If Yes, Please specify:

24. Is the agency subject to judicial review?

Yes No

25. Is the agency subject to expenditure reviews?

Yes⁶ No

26. Does your agency publish an annual report of activities?

Yes No

27. Does your agency measure performance?

Yes No

If yes, against what indicators?⁷

- Number of investigations conducted
- Number of investigations concluded
- Ratio of number of investigations/staff
- Percentage of total budget allocated to outreach activities and communication
- Other, please specify

⁵ For the purpose of the public officials' promotions.

⁶ By the Federal Court of Accounts (external control body linked to the Legislative Branch).

⁷ The measurement of performance occurs for the areas of work referred to in footnote n. 2.

28. Does your agency keep a comprehensive skill list of its staff?

Yes No

29. Is the staff provided with regular training and refresher training to ensure that their skills are up-to-date?

Yes No

30. Are employees protected by law from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

Yes No

31. Does your agency have a communication strategy?

Yes No

32. Does your agency have a comprehensive corporate plan?

Yes No

33. Is there a strategy in formulating partnership with outside agencies in fighting corruption?

Yes No

34. Is there strategy in dealing with media?

Yes No

Resource Mobilization

35. Does your agency have budgetary autonomy?

Yes No

36. What is the annual budget of your agency?⁸

The budget is determined on a yearly basis. For 2012, it is of R\$ 67 million (about US\$ 37.2 million).

37. Is the annual budget determined by (Please choose the answer/s that best fits your agency)

<input checked="" type="radio"/>	Number of staff
<input type="radio"/>	Number of investigations
<input type="radio"/>	Budget is constitutionally mandated
<input checked="" type="radio"/>	Other, please specify – Determined by the Agencies spending capacity records of previous years (spending history)

38. How much does it roughly cost to (please enter the dollar amount per stated activity)

Not applicable

\$	File a case	\$	Manage a paper case	\$	Analyze a case
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39. Any Donor Involvement?

⁸ Exchange rate: US\$ 1 = R\$ 1,80. Figures represent the combined total of: capital expenditure, personnel expenditure and other expenses.

Yes No

40. Does your agency use a computerized system to handle cases?

Yes No

Social Environment

41. Does your agency offer a mechanism for citizens to report anonymously complaints or offer information on corrupt activities?

Yes No

42. Does your agency or government provide a hotline to report corruption?

Yes No

43. Does your agency produce regular public reports of its activities?

Yes No