

Individual Performance Management in the Government of the Federative Republic of Brazil

Alexandre Kalil Pires¹

1. Brazil: Brief Overview²

1.1. General Information on Brazil

Diversity is Brazil's trademark. During its 500 yearlong history, several people have contributed to the construction of this nation, which counts with a diversified culture and a huge territory.

The country's geography features a strong concentration of economic activities and population on a rather small part of its territory, which has led to a high concentration of both income and wealth, as well as to social exclusion. To interfere in this scenario and to build a country with equal opportunities for all are the main challenges being faced by citizens and public policies alike.

The Brazilian territory covers 8.5 million square kilometers, occupying almost half (47%) of Latin America. The country is the home to 20% of the world's biodiversity, of which the Amazon Rain Forest is the most striking example, with 3.6 million square kilometers.

Being a federative democracy, authority in Brazil is distributed among several different and independent bodies, with different functions, including a controlling system, responsible for assuring that none of these bodies may disregard the law and the Constitution. The country's political and administrative organization comprehends three powers, i.e., the Judiciary, the Executive and the Legislative, based on the autonomy of the Union, the Federal District, 26 States and 5563 municipalities (IBGE, 2003).

¹ Deputy Secretary of Public Management, at the Brazilian Ministry of Planning, Budget and Management.

² Information obtained from Brazil's official website on the Internet (www.brasil.gov.br).

Brazil is the fifth most populated country in the world, totaling 50 million families or around 180 million people (2004), 81% of which occupy urban areas. The fertility rate, which reached 6.3 in 1960, now stands at 2.3 children per couple. Such a decrease, associated with the improvement of social indicators and quality of life, will cause the majority of the population to be between 15 and 44 years of age in the next four decades. That will represent one of the largest labor and consumer markets among American countries.

1.2. Information on the Brazilian Public Administration

The Brazilian Federal Public Administration is made up by a set of bodies and entities of the Executive, Legislative and Judiciary.

In the Executive, the organization of the State apparatus is as follows:

- a) One central (or direct) administration, made up by autonomous bodies, directly subordinated to the President of the Republic (ministries and staff of the Presidency of the Republic), responsible for designing public policies and for following up, evaluating and inspecting their compliance, and
- b) a decentralized (or indirect) administration, made up by public law entities (government agencies or *autarquias* and public foundations) and private law entities (public companies and mixed economy societies), responsible for the implementation of public policies. All entities of the indirect administration are linked to a body of the direct administration, responsible for the supervision of its activities.

Among the several bodies that make up the Presidency of the Republic, the Office of the Comptroller General is responsible for the internal control of the whole federal public administration. External control is carried out by the Federal Court of Accounts, a body of the Legislative, to whom the Executive has to submit its accounts on an annual basis.

As demonstrated in Table 1, Brazilian Federal Public Administration presently counts with about 1 million active public workers, 89% of which is in the Executive;

8% in the Judiciary and 3% in the Legislative. 53% of all Federal Executive labor force are civil servants, and 47% are military personnel.

All public servants working at public law bodies and entities are subject to the statutory work regime established by Law 8112/90. The statutory regime works through adhesion, i.e., there is no individual contract, but the servant adheres to the rules of the statute, as established by law. According to the Brazilian Federal Constitution, all public servants hold a permanent position, to which they have access by means of a public competition or admission exam, which provides them with stability, so that they may only be dismissed as the consequence of a judicial prosecution after an administrative proceeding, in which he or she will be entitled to legal defense.

The essential differences between the statutory labor regime and the general regime practiced by the private sector and some of the municipalities are: (a) life-long employment stability after a 3-year long probation period; (b) social security contribution based on the total income, without salary ceilings; (c) absence of security fund (*Fundo de Garantia*) in case of dismissal, since dismissal only may take place for the sake of the public service or by the servant's own initiative; (d) retirement according to the last salary received, to be extended to pensioners, including the part of the remuneration associated to the performance bonus received when the servant was still active, paid in accordance to its minimum percentage; and (e) matching of salary readjustments for both retirees and active servants.

Public employees that are members of the labor force of public companies and mixed economy societies (private law public entities, members of the indirect administration) are hired in accordance with the private sector's general labor regime, which is governed by CLT, the Consolidated Labor Law. The Federal Government counts with 115 state-owned companies. Workers that retire under the CLT regime and its pensioners are beneficiaries of the Brazilian Social Security System and, therefore, do not receive a pension from the Union.

The structure of public law bodies and entities is endowed with special positions and commissioned positions, which may be granted or dismissed freely. These are destined to the high administrative, management or advisory functions at

federal bodies and entities. These functions may be held either by civil servants, the holders of permanent positions, as well as by professionals without any link with public administration. A recent federal policy – established by Decree 5497/2005 – has determined minimum quotas for the exclusive provision of commissioned positions for public servants, that is, permanent servants, the holders of permanent positions, aiming to contribute to the professionalization of bureaucracy and to maintaining existing competences in the public sector.

Presently, there are 22,300 such special and commissioned positions within the Federal Executive, whereas less than 30% of them may be occupied by servants without any links with the public administration. State-owned companies have their own structure.

In 2006, annual expenditures with the payroll of public law bodies and entities in the Federal Public Administration – encompassing the labor force of the Executive, the Legislative and the Judiciary – totaled R\$ 107 billion, which equals US\$ 53.5 billion. Out of this amount, about R\$ 84 billion referred to expenditures incurred with the payroll of the Federal Executive, of which 70% were destined for the payment of active servants.

Table 1
Labor Force Indicators and of the Payroll of the Brazilian Public Administration
– Year 2006

| | Labor force (active servants) | | Annual expenditures with payroll – year 2006 (R\$ current million) | | |
|--------------------|-------------------------------|------|--|-----------------------------------|------------|
| | Absolute amount | % | Active servants | Inactive: retirees and pensioners | Total |
| Executive | 965.998 | 89% | 57.566,50 | 27.363 | 84.929,50 |
| Legislative | 27.238 | 3% | 3.779,90 | 1.688,50 | 5.468,40 |
| Judiciary | 91.025 | 8% | 14.227,40 | 3.172,80 | 17.400,20 |
| TOTAL | 1.084.261 | 100% | 75.573,80 | 32.224,30 | 107.798,10 |

Source: Boletim Estatístico de Pessoal da Secretaria de Recursos Humanos do Ministério do Planejamento, Orçamento e Gestão, January 2007.

2. The History of Individual Performance Evaluation in the Brazilian Federal Executive³

The first guidelines for the application of performance evaluation tools to servants in the Brazilian public administration have arisen in the 1930's⁴, when the merit system was institutionalized by means of public competition (entry exam) and guidelines were set for the first ranking of positions and for promotions based on merit and seniority.

From an historical perspective, it can be said that the performance evaluation systems for servants that have been implemented in 1966, 1977 and 1980, reaffirmed meritocracy as an absolute criterion, conditioning seniority promotions to good performance. In other words, even though evaluation plans contemplated functional progress⁵ seniority, at least in its formal aspect, it depended on the public servant's performance evaluation.

The 1960 restructuring of the federal public servant career⁶ has linked promotions based on merit and seniority – the so-called functional progression⁷ - to compliance to criteria that observed the graphic scale methodology, establishing that only servants that had obtained at least half of the maximum points that could be obtained were allowed to be promoted by seniority. The plan introduced in 1977 adopted performance evaluation in the federal public administration by the forced distribution method, applied to the totality of civil servants in the Executive that were

³ The information and data in this document are based on the study “*Tendências Internacionais dos Sistemas de Avaliação do Desempenho: Contributo para a experiência brasileira em articulação com as directrizes para os planos de carreiras*” (International trends in Performance Evaluation Systems: Contribution to the Brazilian experience in articulation with the guidelines for career planning), by Maria Ermelinda Carrachás, prepared under the EuroBrasil 2000 Project, in 2006.

⁴ Starting with the “readjustment act” – Law n°. 284, of 28 October 1936, which is envisioned as the beginning of modern administration in public service.

⁵ Functional progression is the progress a permanent servant may experience while exercising his or her position in the permanent cadre, in accordance with the levels and references of the said position, in the corresponding career class, or in the career, as per position or career plan, and according to the remuneration established for that body or entity, structured both in a vertical and horizontal manner, based on qualification and professional performance. An effective provisioning position is the set of attributions and responsibilities grouped into charts, with its own denomination and entry subject to public competition.

⁶ Law n° 3780, of 12 July 1960.

⁷ See Note 4.

inserted into a single staffing and compensation plan, called the Position Classification Plan (*Plano de Classificação de Cargos - PCC*). That method established, *ex ante*, the percentage of servants whose performance could be considered high, intermediate or low – so as to minimize the trend towards evaluating servants in general according to the maximum scale.

That plan lasted for just three years. In 1980, Decree 84699/80⁸ substituted the performance evaluation system and resumed the emphasis on promotion based on seniority, thus eliminating competition among servants for growth in the career, which from now on depended exclusively from personal merit.

This system was implemented in 1980 and did not provide a solution for the previous dilemmas and was not legitimated by bureaucracy. Even though merit and performance were perceived as the main and only criteria for individual evaluation, the process was submitted to severe criticism in all its dimensions: the evaluation system itself, the procedures, and the training of evaluators. Both the evaluator and the person that was the subject of the evaluation deemed the criteria unfair and usually those with the best evaluations were perceived as being protégées, “apple polishers”, even though they were recognized as good professionals and with a high level of performance. In other words, those who did not receive a positive evaluation did not legitimate the others’ good evaluation.⁹ Seniority was considered a “necessary evil” as far as it allowed for correcting injustices incurred during the performance evaluation process, even though it encouraged employees to accommodate, since they would be promoted anyway – working or not.

Later on, laws dated 1985 and 1993 introduced an automatic progression for all servants, without any kind of requirement or link to merit and without any relation to the career’s development. The progression criterion observed fixed terms, associated to the performance evaluations: 12-month periods for evaluations higher than 75 points and 18-month periods for the remaining cases.

⁸ The provisions of Decree 84699/80 remain in force.

⁹ Livia Barbosa, *Meritocracia Brasileira: O que é desempenho no Brasil*, I Revista do Serviço Público, Ano 47, Volume 120, Número 3, Set-Dez 1996, fl. 78.

The country's new Federal Constitution was enacted in 1988. Even though the new charter was characterized by its moralizing nature and by its concern over establishing requirements for people management, it did not specifically address performance management for civil servants. The new constitutional text centralized the action of the State, 'plastered' the administration of human resources and did not succeed to achieve one of its main objectives, which was to promote the professionalization of public bureaucracy.

Law 8112/90 was issued right after the enactment of the Constitution. It instituted the unified legal regime for federal civil servants, under the statutory format.¹⁰ Law 8112/90, presently in force, addressed the performance evaluation of servants appointed for permanent positions, which should be submitted to a 24-month probation period¹¹. The Law established that they should be evaluated for their skills and their ability for performing in their positions, while also complying with aspects such as regular attendance, discipline, initiative, productivity and responsibility. A later modification to the Law (1997) established that the requirements for entry and for the servant's progress in his/her career, by means of promotion, would be defined by the law that established the guidelines of the career system in the Federal Public Administration and its regulations¹².

Starting 1994, the "forced curve" mechanism was incorporated to the regulations on individual performance evaluation associated to the payment of the existing productivity bonuses.

The 1998 State Reform Master Plan intended to reduce the size of the Brazilian State by means of outsourcing policies and to transfer non-exclusive public activities to the social sector, by means of support and partnership relationships. The Reform's objectives were: a) to strengthen the typical careers of the State, in order to

¹⁰One of the consequences of this Law was that hundreds of thousands of servants that were under the general regime before the new Constitution, opted for the statutory regime, and since they already had contributed for a long period of time under that regime, they retired with full salaries within a short period of time. Today, more than half of the personnel expenditures incurred by the federal government refer to retirees or their pensioners.

¹¹ Even though this Law has not been altered, as of Constitutional Amendment n° 19/1998, the probation period was raised from 24 months to 36 months, in accordance with the interpretation of the Brazilian Federal Supreme Court.

¹² Law n° 9.527, of 10.12.97.

rescue the capacity for central design and coordination of public administration policies; and b) to endow public structures in charge of the execution of State activities with greater flexibility, whenever authority and power should be required. In order to attract and retain qualified labor force within the State apparatus, especially at the central public administration bodies, a mechanism of individual performance evaluation was adopted, as a strategy for enabling a better remuneration of the State's qualified staff, without having to grant linear readjustments to the whole of public administration. That's when performance bonuses were established.

At this time – by means of Constitutional Amendment no. 19, enacted in 1998 – a new criterion for dismissal was introduced: public servant performance. According to numeral III, § 1, Art. 41, a permanent civil servant only may lose his or her position in case of insufficient performance, to be assessed by means of a periodic evaluation procedure, as per complementary law, legal defense being granted.

Hence, dismissal for insufficient performance was conditioned to the existence of a systematic evaluation procedure. Since such procedure has not been defined until today, this possibility of dismissal has not been applied either. The absence of a complementary law, though, has not been an impediment for the arising of ordinary laws, which have linked evaluation systems to remuneration purposes, which has contributed to an even less demanding evaluation by higher officials.

In this same line of reasoning, in 1995, by means of Provisionary Measure¹³ n° 1548/95, which has been converted into Law n° 9.625/9, a Productivity Performance Bonus (*Gratificação de Desempenho de Produtividade* - GDP), was established, thus recovering the concept of a performance evaluation based on remuneration. Such bonus was granted based on a “point basket”, where each point corresponded to a percentage of the baseline pay. Such institution became generalized, until it consolidated a model and a reference to be followed by other related careers.

In June 1999, a performance bonus was implemented for auditing careers, contemplating the part associated to individual performance evaluation and another

¹³ A Provisionary Measure is an act of the President of the Republic, the Head of the Executive, an act of law, rendered as such due the relevance and urgency of the matter, remaining in force for 60 days. A Provisionary Measure must be submitted to the National Congress, in order to be sanctioned as a Law, so that it may not become ineffective after the 60-day term.

associated to the evaluation of institutional performance. It was based on the following calculation: 50% referred to the servant's baseline pay; 20% referred to the body's institutional performance and up to 30% was based on individual performance. Nevertheless, it should be highlighted that the forecasts regarding the institutional evaluation component on the civil servant's bonus, even though an innovating concept, did not derive from the existence of a methodology that allowed for determining the bodies' and entities' institutional performance on a quantitative and objective manner. Considering the need to comply with the formal requirement of counting with a benchmark for calculating the pay associated to institutional performance, the results of the evaluation of the execution of government planning were used – the Pluriannual Plan, which has been set up for evaluating government programs, and not the performance of bodies and entities.

In spite of such difficulty, the model was quickly copied and several bonuses have arisen, with similar characteristics. During the 1995-2002 period, variable bonuses associated to individual and institutional performance thrived within the Federal Executive, thus encompassing all career plans and all special position plans, i.e., the whole PCC.

3. Present Status of Individual Performance Evaluation within the Federal Executive.

The legal order that established the individual performance evaluation system under Brazilian Public Administration presently is structured as follows:

- a) The Federal Constitution, in the new reading provided by Constitutional Amendment no. 19, of 1988, makes reference to the performance evaluation of civil servants in two articles: the promotion of servants in their careers becomes subject to their participation in courses, *implying in the institution of appropriate mechanisms for performance evaluation*¹⁴ and for capacity building in each

¹⁴ The § 2 of art. 39 of the Constitution establishes that the Union, the States and the Federal District must keep schools of government for the training and ongoing education of civil servants, whereas the participation in courses is one of the requirements for promotion in the career.

career, thus creating the possibility of dismissal of a permanent servant due to insufficient performance;

- b) Law 8112/90, which provides for the legal system of federal civil public servants, establishes a performance evaluation for servants during their probation period;
- c) Decree nº 84.699, dated 29 April 1980, governs the institution of functional progression and establishes general rules for performance evaluation for the whole of public administration; and
- d) Specific laws, implementing each career or career plan, establish general criteria that must be complied with in the evaluation of servants appointed to positions that create and refer to the specific regulation (decree and/or administrative rule) the criteria that are particular to each case. In the absence of such regulation, the provisions of Decree no 84.699/80 are applicable.

Performance bonuses are mandatorily established by Law, linked to a career or career plan, governed by a decree, which establishes the criteria and the specific guidelines to be observed. They are regulated by an administrative rule issued by the highest officials or by their bodies or entities, establishing their specific procedures and criteria.

Usually the following aspects are adopted as evaluation factors during the probation period, as established under Law 8112/90: regular attendance, discipline, initiative, productivity and responsibility.

The present performance evaluation process for civil servants is associated to the payment of bonuses, which make up the monthly pay of almost all federal civil servants¹⁵. The civil servant's remuneration structure is made up by a fixed part, associated to the permanent position, provisions for higher advisory and management positions (*Direção e Assessoramento Superior - DAS*), and acquired personal advantages, in addition to a variable part, dependent upon institutional and individual performance.

¹⁵ Out of the total of federal public servants, both civil servants and military personnel, performance bonuses have not been granted to the servants of federal educational institutions, the federal police, the federal highway police, the legal sector and the Central Bank. The remuneration of these servants is based on a differentiated structure, according to which an additional subsidy is added to the baseline pay.

Usually the performance bonus, which corresponds to the variable part of the remuneration, represents a rather high percentage vis-à-vis the fixed part, which corresponds to the servant's baseline pay and, therefore, becomes an important instrument of the remuneration policy.

As an example, reference may be made to the Activity Bonus (*Gratificação de Atividade - GAE*), attributed to the Position Classification Plan (*Plano de Classificação de Cargos*) and associated plans of the government agencies (*autarquias*) and public foundations, which correspond to 160% of the baseline pay. It is common for *performance bonuses to correspond to 50 to 100% of the baseline pay*, even though there are records of bonuses corresponding to 100 to 800% of the baseline pay.

There are performance bonuses whose calculations are based on a point and/or absolute value system and others are based on certain percentages of the baseline pay.

Within the scope of the Federal Executive, today there are about 170 different performance bonuses, attributable to different careers and career plans, in accordance with a typology of about 40 bonuses.

Out of the total of federal civil servants, 93% receive performance bonuses, which corresponds to about R\$ 440 million per month (US\$ 220 million per month).

4. A Critical Analysis of the Brazilian Performance Evaluation Experience in the Federal Public Administration

Performance evaluation systems in Brazil were initially designed to produce effects upon the functional progression of the civil servants' careers. The evolution that has been verified, during an initial stage, stressed the effects of performance evaluation upon the granting or not of the progression and of career promotions, which implied in changes in pay standards, with impact upon the servant's pay, whatever way they took place.

The implementation of the Performance and Productivity Bonus, starting December 1994, inaugurated the use of performance evaluation that allowed for a remuneration complementation for some categories and public service positions, and for the renewed composition of the remuneration structure of such categories, without need for global readjustments, which reached the whole labor force.

This historical link between performance evaluation and the servants' pay, restated and strengthened through the implementation of reform policies regarding the Brazilian state apparatus (1995), is one of the main factors considered whenever the lack of national success in achieving the objectives that are inherent to performance evaluation systems is evaluated. The Brazilian practice leads servants to a condition of vulnerability, due to the discrepancy between the amount of his/her baseline pay and the bonus he/she receives. Therefore, pay becomes dependent upon the higher official's judgment. The performance evaluation system becomes a formal tool, without any value for the servant's development and for organizational management.

Performance evaluation has not succeeded in becoming the necessary and fair tool of the people management process, also because, during its whole history of application within Federal Government, there has not been one single strategy aimed at the awareness building of public servants and civil society regarding the application and the benefits of such a process, neither has there been any technical training of either evaluators or evaluated parties. The need for capacity building of the players involved in the performance evaluation has not been served, neither has the induction of the required cultural change towards result-based management taken place.

Another important aspect is the inadequacy of technical procedures and instruments applied in the successive performance evaluation systems. Only in 1980 have formal instruments for performance evaluation been implemented, with the preparation of an evaluation form. Prior to that, the process was simply the outcome of the assessment and judgment of higher officials, based on the servant's performance and behavior, which may have contributed to a discretionary and tolerant behavior by higher officials, unprepared for dealing with the process.

In all systems that have been implemented in Brazil, the real consequence of the servant's performance evaluation was, in the beginning, the progression in his/her career and, later on, the remuneration complementation. Never have development programs and professional recognition been linked to it been capable of signaling to the servant that the system's objective was not merely punitive, but rather to promote his/her professional growth.

The introduction of automatic mechanisms that tended to attribute progression, promotion or performance bonuses in a general way may have been an aggravating factor towards a total loss of meaning of the performance evaluation system, considering that the servant received the benefit merely due to seniority, without really differentiating performance. It also should be mentioned that, on several occasions, all servants benefited from automatic progressions, without any association to merit.

The quota system used during 1977-1980 and, later on, starting 1994, has shown, since the very beginning, technical weaknesses, and was, therefore, altered in order to gradually promote a smaller differentiation in performance. It ended up being distributed only in two bands, of 50% each.

Performance bonuses have generated a huge complexity and lack of articulation in the remuneration system, in which the baseline pay often assumes a rather insignificant part of the total remuneration received. The evaluation ended up being limited to a mechanism for enabling sector-wide salary improvements. The systems associated to the evaluation of institutional and individual targets did not work and ended up being subverted.

The introduction of individual performance evaluation experiences has not generated real and concrete effects upon improving the functioning of services and the action of the Administration. The above mentioned aspects ended up neutralizing any eventual positive effects upon the individual and institutional performance, and contributed to the introduction of one more formality, to be complied with in an automatic and almost ritualistic manner.

Therefore, the assessment of the historical path of individual performance evaluation systems for public servants in Brazil has led to the conclusion that, even

though the federal public administration has been equipped for that end for quite a long time – from the formal point of view – for evaluating and measuring the performance of federal civil servants, such process has never become incorporated into bureaucratic culture and, therefore, has not been implemented in a systematic manner. There has always been a great difference between law and practice.

Brazilian anthropologists and sociologists studying the subject, such as Livia Barbosa, say that meritocracy and performance evaluation have always been controversial issues in Brazilian public administration, since Brazilian society does not count with a strong established meritocratic ideology, but rather with meritocratic systems and discourse.¹⁶

In this regard, anthropologist Livia Barbosa says that, in relation to the successive plans that were implemented in the country, “Brazilian society culturally rejects evaluation. It is perceived as something negative, as a rupture in a friendly, homogenous and healthy environment, from which competition, seen as a deeply negative social mechanism, is absent¹⁷.”

From the point of view of the Brazilian cultural system, measurement and demanding of results are perceived as authoritarian attitudes, which causes evaluation processes for services – especially public ones – to be very complex. People feel diminished in their dignity when they are required to perform and/or evaluated based on their performance. As a consequence, the responsibility of each one towards achieving a result is either neutralized or excused, based on the context in which each one has acted, thus minimizing any blame to personal dignity, based on a justification of his/her performance. Thus, little individual responsibility is attributed to each individual, from the institutional point of view.

Hence, even though in discourse all segments take a stand on behalf of merit, the practice of its implementation clashes with cultural obstacles that still need to be overcome.¹⁸

¹⁶ Livia Barbosa, *ibid.*

¹⁷ Livia Barbosa, *ibid.*

¹⁸ Livia Barbosa, *ibid.*

