Public Sector Integrity in Brazil

Case Study 3

National STD/AIDS Programme, Federal Ministry of Health

Enhancing integrity can contribute to efforts to increase performance, prevent fraud and corruption and build public trust in government programmes. This case study examines actions taken to enhance integrity in Brazil's National STD/AIDS Programme – recognised world-wide as a leading example of an effective policy response to fight the HIV/AIDS pandemic. The National Programme has invested heavily in the prevention and treatment of HIV/AIDS and other sexually transmitted diseases (STD). The programme provides free and universal access to anti-retroviral medicines and other preventive goods for vulnerable groups and people living with HIV/AIDS. This case study provides proposals for action to increase transparency and citizen engagement, implement a risk-based approach to internal control and embed high standards of conduct in the National STD/AIDS Programme.

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Introduction

Brazil's National Sexually Transmitted Diseases and Acquired Immunodeficiency Syndrome (STD/AIDS) Programme is recognised world-wide as a leading example of an effective policy response to fight the human immunodeficiency virus (HIV) and AIDS pandemic. Created in 1985, the National Programme has invested heavily in the prevention and treatment of HIV/AIDS and other sexually transmitted diseases (STD). Since 1996, Brazil's Federal Ministry of Health has guaranteed free and universal access to anti-retroviral treatment for people living with HIV/AIDS. In 2010, the National STD/AIDS Programme budget was approximately BRL 1.1 billion, or 1.7% of the Federal Ministry of Health's total budget. Of this amount, procurement of anti-retroviral medicines declined from approximately 85% of the National Programme's total budget in 2003 to 43% in 2009 (see Table D.1). These figures do not include STD/AIDS-related expenditure undertaken by other federal public organisations (e.g. social security for disability allowances and statutory sick pay) or by sub-national governments (i.e. states, the Federal District and municipalities).

Table D.1. **National STD/AIDS Programme budget**

	2003	2004	2005	2006	2007	2008	2009	2010
Federal Ministry of Health annual budget, in billions BRL	30.6	36.5	40.5	43.6	46.4	48.4	59.5	66.9
National STD/AIDS Programme, in billions BRL	0.7	0.8	0.9	1.3	1.4	1.3	1.4	1.1
National STD/AIDS Programme, as % of total Federal Ministry of Health budget	2.3	2.3	2	3	2.9	2.8	2.4	1.7
Anti-retroviral spending, as % of total Federal Ministry of Health budget	1.9	1.7	1.6	1.5	1.3	1.1	1.0	1.3

Notes: Figures do not include STD/AIDS-related expenditure undertaken by other federal ministries (e.g. social security for disability allowances and statutory sick pay) or by sub-national governments (i.e. states, the Federal District and municipalities)

Source: United Nations General Assembly Special Session (UNGASS) (2008), *Brazilian Response to the AIDS Epidemic, 2005 – 2007*, Brazilian Ministry of Health, Health Surveillance Secretariat, National Programme STD and AIDS, *http://data.unaids.org/pub/Report/2008/brazil_2008_country_progress_report_en.pdf*, Federal Ministry of Health.

Enhancing integrity can contribute to efforts to increase performance, prevent fraud and corruption and build trust in government programmes. The 2009 OECD Economic Survey of Brazil found that despite considerable progress in many areas, substantial scope remains for making government operations more cost-effective (OECD, 2009a). A 2007 World Bank Public Expenditure Tracking Survey of Brazil's Unified Health System (*Sistema Único de Saúde*), through which the National STD/AIDS Programme is delivered, found that many of the challenges facing the health sector are linked to governance. Among the challenges it identified were the lack of incentives and accountabilities to ensure that services are affordable and of acceptable quality, both of which are essential to raising health status (World Bank, 2007). These challenges are, however, not limited to Brazil. Waste, fraud and corruption are considered pervasive challenges in the health sector internationally, with negative effects on health status and social welfare of society.[1]

This case study examines actions taken by the Federal Ministry of Health to enhance integrity in Brazil's National STD/AIDS Programme. It is structured into four parts. The first part provides an overview of the programme's institutional and governance

arrangements. The second part focuses on efforts to increase the transparency and citizen engagement within the programme. The third part focuses on efforts to adopt a risk-based approach to internal control within the programme. The fourth part focuses on efforts to create and evaluate actions to promote high standards of conduct among public officials involved in the programme.

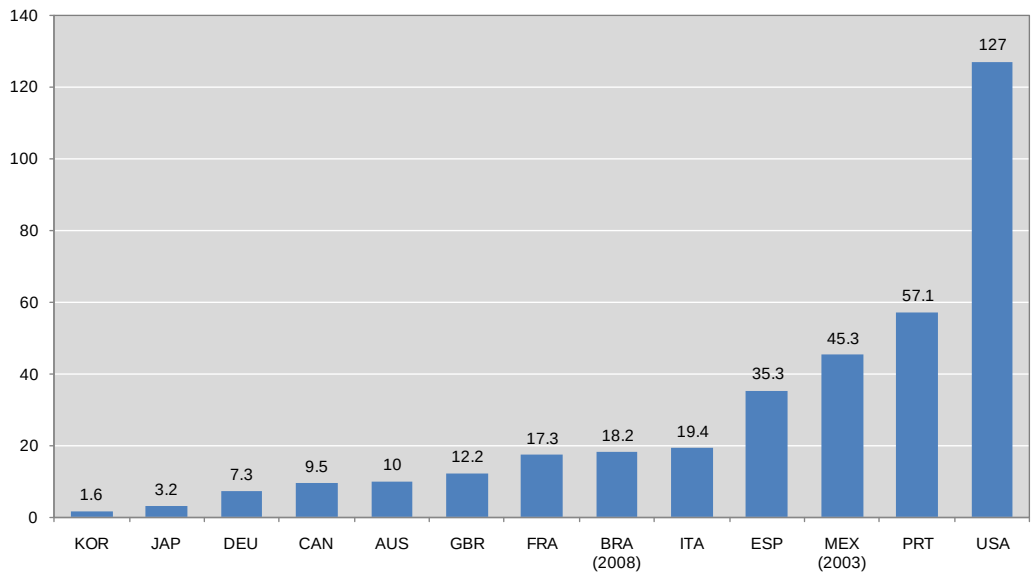
Box D.1. **Brazil's HIV/AIDS epidemic – A snapshot**

Between 1980 and 2009 a total of 544 846 AIDS cases were identified in Brazil, with 35 000 new cases in 2008 alone. During the same period 217 019 people died from AIDS in Brazil, 11 500 in 2008 alone. Since 2004, the prevalence of HIV infection has been contained to 0.6% among the more general population. During the period 1997-2007, AIDS-related mortality decreased 50% and morbidity 77%. Moreover, the number of AIDS patients who had at least one hospitalisation per year decreased from 81% in 1997 to 19% in 2007, saving the government BRL 1.1 billion during this period. AIDS incidence rates in Brazil are currently 18.2 per 100 000 inhabitants.

According to the World Health Organisation, Brazil's epidemic is concentrated in nature. The prevalence of HIV infection, while over 5% in sub-groups most at risk to HIV infection (i.e. men who have sex with men, sex workers, intravenous drug users and prisoners), is less than 1% among the more general population. While government of Brazil efforts have been successful in stemming the pandemic, different epidemiological profiles are emerging involving regions of the country and specific groups most at risk. The epidemic has been spreading to females and towards the interior of the country. In 1985 the male-to-female AIDS incidence ratio was 15:1; in 2008 it was 1.5:1 in Brazil. AIDS incidence figures have been declined in the south-east and mid-west regions of Brazil but are increasing in the north, north-east and south.

AIDS incidence rates

New cases per million inhabitants

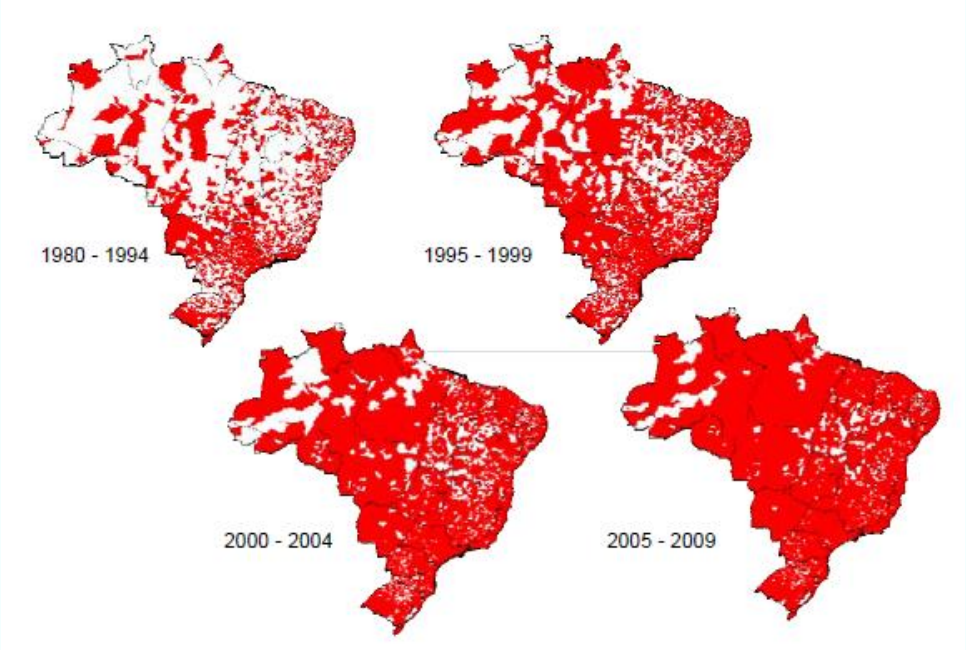


Notes: Three-year average (2004-06). The incidence rate of AIDS is the number of new cases per million inhabitants at year of diagnosis. Data for recent years are provisional due to reporting delays, which are sometimes for several years depending on the country.

Box D.1. **Brazil's AIDS epidemic – A snapshot** *(cont'd)*

Municipalities reporting at least one case of AIDS

By year of diagnosis



Notes: Cases notified to the Disease Notification Information System (*Sistema de Informação de Agravos de Notificação*) and registered in the System for Control of Laboratory Examinations (*Sistema de Controle de Exames Laboratoriais*), System for Logistic Control of Drugs (*Sistema de Controle Logístico de Medicamentos*) up until the end of June 2009 and declared in the Mortality Information System (*Sistema de Informacoees de Mortalidade*) from 2000 to 2008. Preliminary data for the last five years.

Source: Adapted from OECD (2009), *Focus on Citizens: Public Engagement for Better Policy and Services*, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264048874-en*; UNGASS (2010), *Brazilian Response to the AIDS Epidemic, 2005 – 2007*, Brazilian Ministry of Health, Health Surveillance Secretariat, National Programme STD and AIDS, *http://data.unaids.org/pub/Report/2008/brazil_2008_country_progress_report_en.pdf*.

Overview of the National STD/AIDS Programme

The National STD/AIDS Programme's mission is to formulate and promote public policies for STDs, HIV/AIDS and viral hepatitis based on the principles and guidelines of Brazil's Unified Health System. These principles are universal access, equity, integral care, decentralisation and democratic governance.[2] The National Programme's objectives are: *i)* to reduce the incidence of HIV/AIDS and viral hepatitis; *ii)* to control the spread of STDs; and *iii)* to improve the quality of life of people living with HIV/AIDS. The Unified Health System also emphasises decentralisation and direct participation by patients and citizens in the management, control and monitoring of health actions and service delivery through participatory health councils and health conferences.

The procurement and distribution of anti-retroviral medicines for people living with HIV/AIDS is a key activity of the National STD/AIDS Programme. Free and universal access to anti-retroviral treatment has been a priority of the programme since 1996. Approximately 187 000 patients currently receive treatment using 19 anti-retroviral medicines distributed through the Unified Health System. Other key activities of the National Programme include: *i)* the procurement and free distribution of male and female contraception; *ii)* the procurement of free STD and HIV testing; *iii)* mobilising non-governmental organisations to support the prevention of STDs and AIDS to vulnerable segments of the population and citizens more generally; and *iv)* the development and dissemination of educational and other materials to raise awareness of STD and AIDS. Informaton was not available on the breakdown of National STD/AIDS Programme expenditure allocated to these key activities.

The programme's implementation arrangements are highly decentralised, as in the case of the Unified Health System

The Federal Ministry of Health is the lead public organisation for the National STD/AIDS Programme. The programme's implementation and its success, however, involves a broad range of actors at all levels of government. It involves, among others, various secretariats within the Federal Ministry of Health, a number of federal public organisations, sub-national (state and municipal) health secretariats and non-governmental organisations. In general, primary and secondary care is the responsibility of municipal governments and management of high-level referral facilities is the responsibility of state governments. In addition, and as will be discussed in the part "Promoting transparency and citizen engagement", citizens play an active role in the delivery of the programme through deliberative and advisory health councils at all levels of government. Oversight and control of the programme is also shared between the Office of the Comptroller General of the Union, the Federal Court of Accounts and its sub-national counterparts. These are discussed in the part "Implementing a risk-based approach to internal control".

Federal Ministry of Health

The Secretariat of Health Surveillance within the Federal Ministry of Health is responsible for formulating and implementing policies and strategic projects to promote the surveillance, prevention, care and protection of human rights of vulnerable populations and people living with HIV/AIDS. Created in 2003, the secretariat is also responsible for: *i)* promoting co-operation with non-governmental organisations in the National Programme; *ii)* financing activities in relation to preventing and diagnosing HIV/AIDS and assisting people with HIV/AIDS; and *iii)* promoting and articulating inter-sectoral government policies to promote human rights for people living with HIV/AIDS and other vulnerable groups. Figure D.1 presents the organisational structure of the Federal Ministry of Health.

In 2009, the STD and AIDS Department (*Departamento de DST, Aids e Hepatites Virais*) was created within the Secretariat of Health Surveillance to assist in efforts to scale up and improve the management of the National STD/AIDS Programme. The department has 219 officials spread across 15 offices/divisions throughout Brazil. Of these, only 19 are Federal Ministry of Health officials. A further 12 are seconded from state and municipal health secretariats and 3 are seconded from the United Nations Office on Drugs and Crime. Most of the remaining 185 professionals are consultants hired

through the United Nations Office on Drugs and Crime (UNODC) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO).

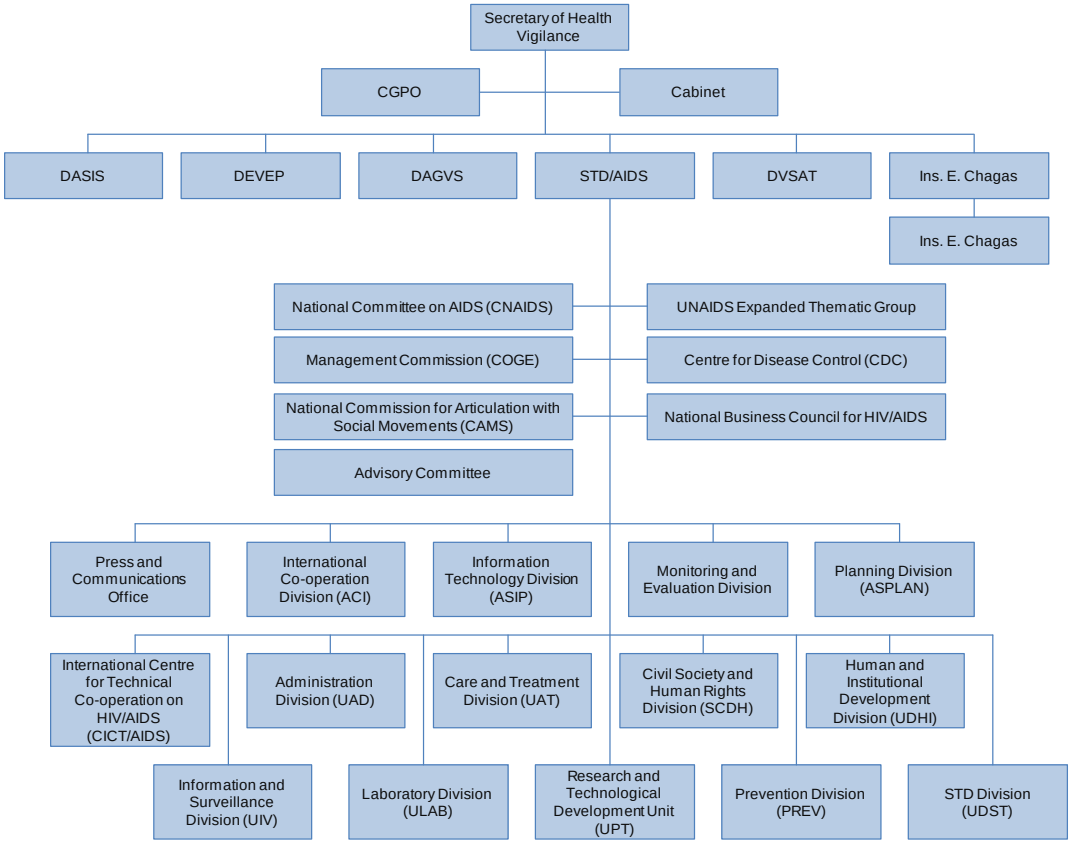
In addition to the Health Surveillance Secretariat, two other secretariats within the Federal Ministry of Health are involved in the execution of the National Programme: the Executive Secretariat and the Strategic and Participatory Management Secretariat. The Executive Secretariat is responsible for supervising and co-ordinating activities related to internal management within the federal ministry. This includes planning, budgeting, information and information technology resources, human resources and general services. It monitors public health expenditure through the Health Budget Information System (*Sistema de Informações sobre Orçamentos Públicos de Saúde*) and its interface with the management systems of the federal public administration (i.e. the Human Resource Administration System, the Integrated General Services Administration System).

The Strategic and Participatory Management Secretariat is responsible for *i)* formulating and implementing policies on citizen participation for the Unified Health System; *ii)* articulating the Federal Ministry of Health's activities with the various government and non-governmental stakeholders related to health; *iii)* formulating the ombudsman policy and and co-ordinating the activities of the Unified Health System Ombudsman Department; *iv)* conducting internal control actions and audit of the Unified Health System and co-ordinating the implementation of the Unified Health System's national auditing system. It is comprised of four departments: *i)* the Participatory Management Support Department; *ii)* the Monitoring and Evaluation Department; *iii)* the Ombudsman Department; and *iv)* the National Audit Department.

Much of the procurement of anti-retroviral medicines is conducted by international organisations (see Table D.2). Federal Law no 10 191/2001 provides the framework for the procurement of immuno-biological products, medicines and other materials used to implement health policies by the Federal Ministry of Health and the public organisations which it oversees. This law allows for the procurement of immuno-biological products, insecticides, medicines and other materials by international and multi-lateral organisations of which Brazil is a member on behalf of the government for contracts financed by resources from international organisations, such as grants and loans. An international organisation may optionally choose to procure in accordance with Federal Law no. 8 666/1993. The procurement of other goods, services and works are regulated by the general procurement framework of the federal public administration.

Technically aspects of anti-retroviral medicines provided by the National STD/AIDS Programme are defined by the STD/AIDS Department according to recommendations of the Advisory Committee for Anti-Retroviral Therapy in Adults and Adolescents Infected with HIV and the Advisory Committee for Anti-retroviral Therapy in HIV Infected Children and approved by the Federal Minister of Health.

Figure D.1. **Organisation of the Department of STD, AIDS and Viral Hepatitis**



Source: Federal Ministry of Health.

Table D.2. **National STD/AIDS Programme procurement spend**

In millions BRL and number of contracts

	2005	2006	2007	2008	2009	2010
Federal Ministry of Health						
Number of contracts	1	0	0	0	0	n.a.
Budgeted	6.2	0.0	0.0	0.0	0.0	n.a.
Actual	6.2	0.0	0.0	0.0	0.0	n.a.
United Nations Educational, Scientific and Cultural Organisation						
Number of contracts	234	180	15	30	108	n.a.
Budgeted	11.2	7.9	1.4	1.2	6.9	n.a.
Actual	10.1	4.8	1.1	0.7	1.6	n.a.
United Nations Office of Drugs and Crime						
Number of contracts	213	132	245	238	187	n.a.
Budgeted	5.9	8.0	16.7	17.2	3.0	n.a.
Actual	3.7	5.4	9.0	15.0	2.5	n.a.
Total						
Number of contracts	448	312	260	268	295	n.a.
Budgeted	23.3	15.8	18.3	18.4	10.0	n.a.
Actual	20.0	10.2	10.2	15.7	4.0	n.a.

Notes: n.a. = information was not available.

Source: Federal Ministry of Health.

State and municipal governments

The practical aspects of implementing national health policies, including the National STD/AIDS Programme, are the responsibility of state and municipal governments. State and municipal governments must identify the proportion of pregnancies of HIV-positive populations, report cases and tacitly compile an STD Related Indicator (*Índice Composto Relacionado às DST*), distribute medicines and record information on people living with HIV/AIDS. Activities at the level of state and municipal governments are financed through the regular mechanisms of the Unified Health System, including:

- Direct fund-to-fund transfers to state and municipal health funds. These earmarked transfers represent nearly all of the financing for general health services (i.e. primary, medium and high care).
- Incentives policies funds to finance actions or health inputs defined by the Federal Ministry of Health (e.g. special medicines) or those targeting specific population groups (e.g. vulnerable groups and people living with HIV/AIDS).
- Direct federal payments to providers for services delivered, for example, to hospitals through the Hospital Information System and Authorisation for Hospital Admissions Systems. Direct federal payments have, in recent years, been gradually replaced by fund-to-fund transfers.
- Administrative and transfer agreements (*convênios*) between federal public organisations and sub-national public and not-for-profit organisations to fund specific activities such as investment programmes or the provision of services.

Information was not available on the share of the National STD/AIDS Programme financed through these four mechanisms.

A key element, however of the National Programme is an incentive policy. Created in 2002, the National STD/AIDS Programme Incentive Policy allows for the automatic transfer of funds via the National Health Fund (*Fundo Nacional de Saúde*) to qualifying states and municipalities, primarily determined by population and epidemiological criteria and in accordance with a pre-agreed Plan of Action and Goals. This strategy was adopted as a means of overcoming difficulties associated with administrative and transfer agreements between the federal government and public organisations in states and municipalities. Currently 26 states, the Federal District and almost 500 municipalities receive funds for the National STD/AIDS Programme through the Incentive Policy. These municipalities account for over 60% of the national population and almost 90% of reported AIDS cases in Brazil (see Table D.3).

Table D.3. **National STD/AIDS Programme Incentive Policy coverage**

Period	Number of states and municipalities	Population coverage	AIDS-cases coverage
1998-2002	26 states, Federal District, 150 municipalities	40.5%	68.5%
2003-2006	26 states, Federal District, 427 municipalities	58.6% (2006)	87.1% (of cases 1980-2006)
2008	26 states, Federal District, 498 municipalities	68.1% (2008)	88.6% (of cases 1980-2006)

Source: Federal Ministry of Health.

Non-governmental organisations

The Department of STD, AIDS and Viral Hepatitis operates a broad range of strategies to co-ordinate with non-governmental organisations and social movements engaged in fighting AIDS and in relation to service delivery. The activities of these organisations and movements centre primarily on preventative measures for vulnerable populations, promoting human rights, and fighting discrimination and prejudice. For example, there are 47 federally funded legal aid services to provide guidance to people living with HIV/AIDS and vulnerable populations spread across Brazil's 26 states. Some state governments also fund non-governmental organisations' projects to provide legal aid. Non-governmental organisations providing services to prevent STDs and AIDS are contracted through administrative agreements, discussed later in the part "Implementing risk-based internal control".

Promoting transparency and citizen engagement

Promoting transparency and citizen engagement is considered essential for enhancing the accountability and control of public organisations (see e.g. OECD, 2001; 2003; 2005; 2009a). The role of transparency and citizen engagement in fighting corruption is also recognised in international conventions against corruption. Transparency provides citizens with the information they need to oversee and evaluate government decision making and public policies. Citizen engagement can also create a shared responsibility for service delivery and a shared role for taking corrective actions. Together, transparency and citizen engagement can facilitate: *i)* better policy outcomes at lower costs; *ii)* higher compliance with decisions; and *iii)* improved equity in access to policy making and service delivery. It can also help to improve policy performance and fiscal legitimacy by helping governments to: *i)* better understand and respond to citizens' evolving needs; *ii)* leverage knowledge and resources from beyond the public administration; and *iii)* develop innovative solutions to policy problems and their implementation.

Increasingly, OECD member countries are adopting proactive transparency measures to ensure that citizens get immediate access to public information and avoid the cost of engaging in administrative procedures to access the information. Transparency, while a necessary condition, is not sufficient to guarantee effective citizen engagement. Having recognised this problem, many OECD member countries are investing in lowering barriers to engage the "willing but unable" and make engagement attractive to the "able but unwilling". Finally, these same countries are recognising the inherent risks associated with increasing transparency and citizen engagement. Like any actions undertaken by the government, careful risk management is required. Possible risks include delays in public decision making, capture of processes by special interest groups, consultation fatigue and conflicts among participants. These risks can inadvertently undermine public governance and trust in government.

The STD/AIDS Programme is closely associated with the government-wide initiatives to promote expenditure transparency

STD/AIDS Programme expenditure data was among the first made available on the Transparency Portal of the Federal Public Administration (*www.portaldatransparencia.gov.br*), together with data from the Unified Health System (*Sistema Único de Saúde*) and the Family Grant Programme (*Programa Bolsa Familia*). Created in November 2004, the Transparency Portal provides free real-time access to

information on budget execution as a basis to support direct monitoring of federal government programmes by citizens. Access to the portal is available without registration or password. Data are automatically extracted and published on the portal from existing management information systems of the federal public administration, eliminating the need for any specific actions by federal public organisations to publish information. Since May 2010, revenue and expenditure data are updated daily.

Whereas most OECD member countries do not have a publicly available government budget execution reporting system, Brazil has three – raising some questions concerning duplication. In addition to the Transparency Portal, two other portals exist within the federal government for monitoring federal government budget execution: *i)* SIGA Brasil (meaning "to follow up" in Brazilian Portuguese) is run by the Federal Senate (*Senado*); and *ii) Fiscalize* (meaning "to monitor") is run by the Chamber of Deputies (*Câmara dos Deputados*). There are two portals within the legislature due to co-existing budget research units within the two chambers of the National Congress (i.e. the Federal Senate and Chamber of Deputies).

A strong publicity campaign and emphasis on usability by the Office of the Comptroller General of the Union has positioned the Transparency Portal as the most well-known online government budget execution reporting system. The Transparency Portal features a direct mail system that allows citizens to receive email notifications on specific revenue and expenditure data. This system began with about 1 500 subscribers in April 2007 and has increased to more than 34 500 subscribers in December 2010. Information on the Transparency Portal is also available through a quarterly bulletin produced by the Office of the Comptroller General of the Union since December 2008. The bulletins provide statistics on access as well as new features available through the Transparency Portal. It also includes select information on actions and results of other transparency policies of the federal government.

Finally, the Office of the Comptroller General of the Union, together with the Secretariat for Social Communication (*Secretaria de Comunicação da Presidência*) of the Office of the President of the Republic, has released three television commercials as part of a campaign titled "The Right to Know." These commercials were televised 550 times during different time slots between August 2009 and January 2010 on 18 open and cable television channels. Information on the Transparency Portal is also disseminated by press releases and in the federal government's interaction with the media.

In addition, the Federal Ministry of Health complies with federal government obligations for transparency

The Federal Ministry of Health publishes a dedicated transparency page containing information on budget execution (*www3.transparencia.gov.br/TransparenciaPublica/index.jsp?CodigoOrgao=36000&TipoOrgao=1&consulta=0*). Information contained in the Federal Ministry of Health Transparency Page has been standardised by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management. The page includes information on: *i)* general budget expenditure; *ii)* procurement and administrative contract expenditure; *iii)* administrative and transfer agreement expenditure; and *iv)* travel and *per diem* expenditure. As in the case of the Transparency Portal, data available on the Federal Ministry of Health Transparency Page are automatically extracted and published from existing government back-office management information systems, removing the need for any specific action by federal

public organisations to publish information. Transparency pages are also required to include a glossary and to use easy-to-understand language.[3]

It should be duly noted that all federal public organisations involved in the delivery of the National STD/AIDS Programmes also maintain their own respective transparency pages. These include the National Supplementary Health Agency (*Agência Nacional de Saúde Suplementar*), the National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*), the Brazilian Company of Blood Derivatives and Biotechnology (*Empresa Brasileira de Hemoderivados e Biotecnologia*), the National Health Fund (*Fundação Nacional de Saúde*), the Oswaldo Cruz Foundation (*Fundação Oswaldo Cruz*), "Christ the Redeemer" Hospital (*Hospital Hospital Crito Redentor S/A*) and "Our Lady *Coceição"* Hospital (*Hospital Nossa Senhora Da Coceição S/A*). However, the transparency pages of these organisations do not make explicit what information is linked to the National STD/AIDS Programme.

Standardisation of the transparency pages by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management means that the Federal Ministry of Health's page is identical in appearance and content to the transparency pages of these and over 400 other federal public organisations. Standardisation and compliance with the transparency page requirements across the federal public administration is achieved because almost all transparency pages are managed by the Office of the Comptroller General of the Union. Unlike many transparency pages, such as that of the Secretariat of Federal Revenue, the Federal Ministry of Health's page does not have a user-friendly URL.

The content of the Federal Ministry of Health Transparency Page could be expanded over time. It could also include, among other items: *i)* relevant laws and regulations; *ii)* Charter of Citizens' Services (discussed below); *iii)* annual management reports; *iv)* annual procurement plans; and *v)* external audit reports. In the medium-long term, it may be beneficial to assess the possibility of streamlining and standardising the websites of federal public organisations to include the information currently contained within the transparency pages. At present, the transparency pages are stand-alone websites separate from that of the federal public organisation. However, because of policy responsibilities as well as centralised management of the transparency pages, such changes are beyond the scope of the Federal Ministry of Health. They would need to be decided by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management.

Non-financial performance information on the National STD/AIDS Programme is also made available by the Federal Ministry of Health

The Federal Ministry of Health publishes information on health actions and management of the Unified Health System through the "Situation Room" (*www.saude.gov.br/saladesituacao*). The Situation Room contains information on: *i)* demographic, territorial and legislative issues in states and municipalities, including legislative amendments and health administrative agreements by state or federal members of National Congress; *ii)* epidemiological and operational data related to diseases considered as public health issues as a basis for understanding and analysis used in the formulation and evaluation of policies; *iii)* health actions and the accomplishment of goals and financial transfers related to the Federal Ministry of Health's main actions and activities; and *iv)* budgetary information related to the Federal Ministry of Health, by budgetary unit, programme and action, information on health professionals financed

through the Unified Health System and Health Pact (*Pacto pela Saúde*) indicators. Much of this information is presented at the municipal level, although data can also be searched by state, geographical region or specific health policy issue.

The move to publish non-financial performance information is an evolving area in Brazil. DadosGov (*http://i3gov.planejamento.gov.br/coi*) provides data on government policy areas and programmes. Information on policy areas, such as the economy, social development, education and employment are available from 2003. Information may be obtained as tables, graphs and maps accompanying metadata and addresses of suppliers of data. The site also provides the extraction of the data in different formats (*e.g.* CSV, RTF, PDF, XLS, XML). DadosGov is developed by the Committee for Organisation of Information of the Presidency of the Republic. This committee's executive secretariat is composed of officials from the Deputy Office of Information for Decision Support, Secretariat of Institutional Relations (within the Office of the President of the Republic) and the Secretariat of Logistics and Information Technology (within the Federal Ministry of Planning, Budget and Management). Currently, a working group led by the Federal Ministry of Planning, Budget and Management is moving towards creating a National Infrastructure for Open Data (*Infraestrutura Nacional de Dados Abertos*).

Information was not available regarding efforts by the Federal Ministry of Health to ensure integration and avoid duplication of information made available through its transparency page and the Transparency Portal and its Situation Room. The initiatives have been led by different actors – the transparency pages by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management, the Transparency Portal by the Office of the Comptroller General of the Union and the Situation Room by the Federal Ministry of Health.

Efforts have begun to expand transparency to all levels of government, in a phased manner, by 2013

Since 2009, all levels of government are required to publish on the Internet detailed real-time information on their budget expenditure, similar to the Transparency Portal (see Complementary Law no. 131/2009). This law, amending the 2000 Fiscal Responsibility Law (Complimentary Law no. 101/2000), gives 3 deadlines for the phased implementation of increased transparency requirements: 1 year for states, the Federal District and municipalities with over 100 000 inhabitants; 2 years for municipalities with 50 000-100 000 inhabitants; and 4 years (*i.e.* until May 2013) for municipalities with less than 50 000 inhabitants. It also establishes the possibility of sanctions for non-compliance with the new transparency requirements, like the withholding of voluntary transfers from the federal government, which are very important for smaller states and municipalities. The Fiscal Responsibility Law states that responsibility for sanctioning local governments that fail to comply with these obligations falls under the jurisdiction of the legislative branch (either directly or with the support of the Federal Court of Accounts), the internal control authorities and the Office of the Public Prosecutor.

To support the implementation of the amended Fiscal Responsibility Law, the Office of the Comptroller General of the Union created in December 2009 individual transparency pages for each state, municipality and the Federal District. Previously, only 12 states had their own transparency page. Some Brazilian states have gone further, and publish information on public works such as Ceará (*cameras.gabgov.ce.gov.br/cameras*), Santa Catarina (*www.sicop.sc.gov.br/sicop*) and Espírito Santo (*www.siges.es.gov.br/transparencia/projetos.aspx*). In Santa Catarina,

citizens have been able to use spatial maps for searching public works performed in their state since 2000, including emergency works responding to the 2008 floods.

Reporting of financial and non-financial performance information contribute to budget transparency

Brazil has long been recognised for the strength of its budget transparency in comparison to both OECD member countries and other emerging economies (see e.g. IMF, 2001; Blöndal *et al*., 2003; IBP, 2006, 2008, 2010). Brazil's Law on Fiscal Responsibility is similar in many respects to fiscal responsibility legislation that exists in a number of OECD member countries. For example, Australia's Charter of Budget Honesty Act 1998, New Zealand's Fiscal Responsibility Act 1994 and the United Kingdom's Code for Fiscal Stability 1998. Brazil's Law on Fiscal Responsibility includes an obligation for the federal government to publicly disseminate, including electronically *i)* the four-year Pluri-Annual Plan (*Plano Plurianual*); *ii)* the three-year Budget Guidelines Law (*Lei de Diretrices Orçamentárias*); *iii)* the draft Annual Budget Law (*Projeto de Lei Orçamentária Anual*); *iv)* the Annual Budget Law (*Lei Orçamentária Anual*); *v)* in-year budget execution reports; and *vi)* year-end government accounts.

Some with access to the Federal Ministry of Health Transparency Page, the Transparency Portal and the Situation Room, however, have found their usability and functionality challenging. For example, the Federal Ministry of Health Transparency Transparency Page and Transparency Portal do not offer the possibility to search more than one year in order to allow for time-series analysis. Nor do they allow users to generate graphs for analysis. Supporting citizens to do additional analysis can contribute to better accountability and direct social control. In the immediate future, the portal could be changed to allow online comparisons of expenditure data across years. Expenditure data from the Federal Ministry of Health Transparency Page and the Transparency Portal could also be made downloadable. At the time this case study was written, the Office of the Comptroller General of the Union was developing online analytic tools to assist citizens access expenditure information contained in the Transparency Portal and was considering making the data downloadable. In the medium-term, online analytic tools could be developed and expenditure data could be complemented with non-financial performance data. This could be supported, in part, by the launch of the Cost Information System of the Federal Public Administration (*Sistema de Informação de Custos na Administração Pública Federal*) discussed in the part "Implementing risk-based internal control".

Issues of access and usability are among the main challenges of using new technologies to support proactive transparency

According to the Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*), only 35% of Brazil's population had access to the Internet in 2008. These numbers reflect significant gains in Brazil to expand Internet access in recent years. Though this has increased from 20% in 2005, it is still far below many OECD member countries. In comparison, Internet penetration is over 90% in Korea and around 40-45% in Portugal and Spain. A lack of infrastructure affects large segments of Brazil's population, mainly in rural areas, and is the primary barrier to Internet connectivity. Brazil's figures are more on par with Chile (32%) but much higher than in

Mexico (10%) (OECD, n.d.). As in many Latin American countries, mobile technologies adoption has largely outpaced Internet adoption in Brazil. In 2008, more than 50% of Brazil's population had mobile phones, whereas this number was below 35% in 2005. The use of the Internet by Brazilian citizens to access government services and information online is relatively limited. A 2009 survey of 20 000 households found that only 27% of the population over 16 years of age accessed e-government services within the previous 12 months (CGI, 2009).

The federal government has expressed concern over the high use of new technologies in disseminating information but feels that it is the only means to provide information in a reliable, timely and cost-effective manner. Previously, the Office of the Comptroller General of the Union conducted a pilot to disseminate information on government activities through information kiosks run by a state-owned bank with branches in every Brazilian city. The transaction costs of providing information and keeping it up to date were too high. Rather, the federal government is taking action to close the country's digital divide. The National Plan for Broadband Internet Access (*Plano Nacional de Banda Larga*), for example, aims to provide low-cost and high-speed broadband connections to nearly 90% of Brazil's population by 2014. It will reduce the current average price charged for broadband access by 70% in 4 278 (out of 5 564) municipalities and to expand the current 13.5 million households that have access to the Internet in Brazil to 35 million during this period. The Office of the Comptroller General of the Union is also working with non-governmental organisations and municipal participatory councils to disseminate the information more broadly.

Measuring the impact of these government-wide transparency initiatives is the responsibility of the Office of the Comptroller General of the Union

The Office of the Comptroller General of the Union measures the average time spent on the Transparency Portal as well as its bounce rates (i.e. the percentage of visitors leaving the site after viewing only the page on which they landed), pages per visit, number of visitors, most demanded queries, among other data. Access numbers have been used to identify demands for different queries and the depth of information researched by users. This analysis allows web managers to prioritise the most requested information in the layout of the site. Bounce rates can be used to improve the frequently asked question section, for example. The current measures do have limitations, however. The Office of the Comptroller General of the Union notes that more detailed monitoring of the use of the Transparency Portal would require registration and passwords and that this may result in diminished use. Information was not available on the use of the Federal Ministry of Health's transparency page. The Federal Ministry of Health does not measure the impact of its transparency page or the Situation Room.

While the Office of the Comptroller General of the Union has decided not to introduce registration and passwords that could support monitoring activities, a number of other channels are available. For example, and as mentioned above, there are currently more than 30 000 subscribers to the Transparency Portal direct mailing system (as of July 2010). They could be periodically surveyed, using online instruments, on their use of the Transparency Portal and the transparency pages of the federal public administration. This would allow an assessment of existing users but not necessarily those that do not use the portal. Capturing such information could be achieved by working in partnership with other organisations that conduct annual household surveys of the use of e-government or information and communications technologies more generally. Such partnerships have

the potential to reduce the cost of surveys while capturing the views of citizens that do not currently use, or are not necessarily aware of, the transparency page, Transparency Portal and Situation Room.

The Federal Ministry of Health established a Charter of Health Services Users' Rights in 2006

This charter contains six basic principles for citizens to access the health systems, as a means to support continual improvement within Brazil's health system: *i)* every citizen has the right to orderly and organised access to health systems; *ii)* every citizen has a right to timely and effective treatment for health problems; *iii)* every citizen is entitled to service, free from any discrimination; *iv)* every citizen is entitled to care that respects their values and their rights; *v)* every citizen is responsible for ensuring their treatment occurs in an appropriate manner; and *vi)* every citizen has the right to health managers' commitment to the previous principles. Each principle is elaborated in greater detail within the charter. The same Federal Ministry of Health decree established the rights and responsibilities of citizens, local, state and the federal governments.[4]

All health units throughout the country, both public and private, are obliged to post the Charter of Health Services Users' Rights in an easily accessible location. Moreover, it obliges all public health managers, health professionals, non-governmental organisations and individuals to ensure their effective recognition and implementation. Information was not available on how this charter was developed, how it is communicated to citizens other than obliging all health units throughout the country to post it in their premises, how the implementation of the charter is evaluated, or what its impact has been.

The Federal Ministry of Health is required to establish a Charter of Citizens' Services as part of a new government-wide policy

Since 2009, all federal public organisations are obliged to publish a Charter of Citizens' Services to orient their activities to citizens and promote accountability.[5] Brazil's actions to establish such charters are similar to, and have been influenced by, those in a growing number of OECD member countries and emerging peers (e.g. Argentina, Italy, Mexico, Netherlands, Spain and the United Kingdom). The Charter of Citizens' Services is one element of Brazil's National Programme for Public Management and De-bureaucratisation (*Programa Nacional de Gestão Pública e Desbirocratização*) and the development of a Model of Excellence in Public Management (*Modelo de Excelência em Gestão Pública*).[6] As part of the National Programme for Public Management and De-bureaucratisation, the Federal Ministry of Planning, Budget and Management is also to provide public organisations guidance on: *i)* evaluating quality and user satisfaction; *ii)* measuring performance and developing performance indicators; and *iii)* simplifying internal management protocols and procedures.

Federal public organisations are required to include the following content in their charters: *i)* the types of services provided and ways to access them; *ii)* the necessary documentation and information to be provided by citizens to access services; *iii)* the main steps and maximum time for the delivery of services; and *iv)* channels through which federal public organisations are to communicate with citizens. Two additional obligations exist related to the Charter of Citizens' Services. First, federal public organisations are obliged to access information from existing official federal government-run databases where available, instead of from citizens, as an element of cutting red tape. Second,

federal public organisations are obliged to evaluate user satisfaction of their services and to publish the results of these surveys on an annual basis. Aside from these requirements, the formulation of a Charter of Citizens' Services is largely decentralised, with the intention of developing ownership of the document within public organisations.

The Charter of Citizens Services go beyond the basic rules to protect citizens' rights and support public service delivery outlined in Federal Law no. 9 784/1999 on administrative procedures within the federal government. This law outlines the principles that the federal public administration should recognise, including legality, proportionality, morality and efficiency. Moreover, it gives citizens the right to, among others: *i)* be treated with respect by public officials; and *ii)* be made aware of administrative proceedings in which they have an interest. Federal Law no. 9 784/1999 also obliges taxpayers to provide truthful information in good faith, to be courteous and to divulge all necessary information and comply with requests for clarifications when interacting with the federal public administration.

In revising its charter, the Federal Ministry of Health can benefit from the experience of other federal public organisations

By the end of October 2010, eight federal public organisations had published a Charter of Citizens' Service.[7] These charters are made available in printed format at points of service and electronically on the Internet. There is, however, great heterogeneity in the style of charters that have been published to date. For example, the Charter of the National Institute of Social Security (*Instituto Nacional do Seguro Social*) is four pages, including two pages about the organisation and a two-page table with information on the services that it delivers. The National Health Surveillance Agency Charter of Citizens' Services is 72 pages and includes information on the structure and organisation, as well as its relationship with the National Congress.

The experiences of the early Charters of Citizens' Services highlight a number of opportunities to strengthen and increase the relevance of an eventual Federal Ministry of Health's charter beyond that required by the federal government. For example, the content of the charter could be expanded to: *i)* establish a commitment that federal officials maintain professional excellence and high levels technical knowledge; *ii)* articulate citizens' rights and obligations in interacting with the Federal Ministry of Health; *iii)* include information on what channels exist for citizens if service standards are not met; and *iv)* establish service standards for the ombudsman in handling interactions with citizens. Moreover, the Federal Ministry of Health could structure its eventual charter around its programmes allowing information on individual programmes to be published separately – of particular use for beneficiaries of the National STD/AIDS Programme.

Programme beneficiaries and citizens could also be involved in formulating the Federal Ministry of Health's charter. Current Federal Ministry of Planning, Budget and Management guidance only refers to a "working team" that must have knowledge of the organisation's service delivery processes. It notes that the team should interact with senior management officials as well as officials involved in service delivery. Nor is there any formal obligation to hold a consultation. Federal Ministry of Planning, Budget and Management guidance refers to the creation of a "working team" that must have knowledge of the organisation's service delivery processes. Involving programme beneficiaries and citizens can ensure that the charter is understood and considered relevant to stakeholders' respective needs and help raise awareness of stakeholders' rights

and obligations. Involvement of programme beneficiaries and citizens in formulating the Federal Ministry of Health Charter of Citizens' Services could be supported through participatory councils discussed below.

Ultimately, however, trust is created through the effective implementation of the charter and efforts to improve service standards over time

There is a need to develop strategies to increase awareness and understanding of the charter's content among public officials involved in the National STD/AIDS Programme. Officials need to receive training on an ongoing basis to support the implementation of the charter. This could be complemented by periodically surveying officials involved in the National STD/AIDS Programme on their understanding of the charter. This does not necessarily need to be designed as a stand-alone survey and it could also address issues of standards of conduct. In designing such a survey it would be beneficial to capture information about the functions and levels of these officials while keeping respondents' identities anonymous.

The Federal Ministry of Health could also establish, during the process of formulating its charter, a framework to assess its implementation as a basis for continuous organisational improvement. This includes efforts for ensuring business process support charter commitments and performance against these commitments. Formally, monitoring and evaluation of the charter's implementation is the responsibility of the Office of the Comptroller General of the Union. At the time this case study was written, the Office of the Comptroller General was still deciding on what would be the best procedure to monitor the adoption and efficiency of the policy. While responsibility for monitoring and evaluating the implementation of the charter has been placed within the Office of the Comptroller General of the Union, this should serve as a means of independence evaluation and assurance of Federal Ministry of Health evaluation activities.

For example, the STD/AIDS Department has a dedicated Communication Division that could play an active role in this regard. This division have four main activities: *i)* interacting with newspapers, radio and television networks as well as press relations bodies to supply information on STDs, HIV/AIDS and the National STD/AIDS Programme; *ii)* co-ordinating the publication of leaflets, books, educational videos and other reference material on STDs and HIV/AIDS; *iii)* collaborating with advertising agencies, civil society and the federal government for the design of campaigns and specific actions related to STDs and HIV/AIDS; and *iv)* managing the STD/AIDS Department's Internet page. These activities both include actions that are targeted at the general population as well as populations vulnerable to STD/AIDS (e.g. transvestites, transsexuals, men that have sex with men and prostitutes).

The Federal Ministry of Health could also encourage monitoring of its charter by non-governmental organisations. To facilitate external evaluation by civil society groups, the Federal Ministry of Health could establish protocols for receiving and reviewing the results of evaluations. It could also establish guidelines for use by non-governmental organisations in conducting their own evaluations.

The Unified Health System Ombudsman is a channel for citizen interaction and feedback on the National STD/AIDS Programme and the conduct of officials

Established in 2003, the Unified Health System Ombudsman Department was one of the earlier ombudsman units in Brazil. In 2002, there were 40 ombudsman units within

the federal government; in 2010 there were 157, including one in each federal ministry. The creation of the Unified Health System Ombudsman Department followed efforts since 1996 to directly engage with citizens (see Table D.4). The Unified Health System Ombudsman is appointed and may be removed at any time by the Federal Minister of Health. Only in a small number of public organisations in Brazil, such as regulatory agencies, are ombudsman nominated by the President of the Republic and approved by the Federal Senate. The Unified Health System Ombudsman Department is located within the Secretariat for Strategic and Participative Management and staffed with 272 officials, making it the largest ombudsman within the federal public administration. In comparison, 75% of federal public ombudsman units have fewer than 6 officials.

Table D.4. **Development of the Unified Health System Ombudsman System**

Year	Description
1996	Launch of the AIDS Questions (*Pergunte AIDS*) by the Federal Ministry of Health National STD/AIDS Co-ordinator, with the aim of answering citizens' questions on STD/AIDS and the National STD/AIDS Programme.
1997	Launch of the Health Line (*Disque Saúde*) by the Federal Ministry of Health National STD/AIDS Co-ordinator, expanding the "AIDS Questions" service and incorporating information services on other diseases, health actions and policies, as well as a channel for registering complaints and suggestions.
2003	Presidential Decree no. 4 726/2003 established the Unified Health System Ombudsman Department linked to the Federal Ministry of Health Secretariat of Participative Management.
2005	Unified Health System Ombudsman guidelines were promulgated following a period of public consultation
2006	Launch of the Unified Health System Ombudsman (information) System (*Sistema OuvidorSUS)* by the Unified Health System Ombudsman together with the Federal Ministry of Health Information Systems Department as a tool managing interactions with citizens.
2008	The Unified Health System Ombudsman Department launches a national network of ombudsman offices for the Unified Health System to improve health managers' ability to respond to citizens' demands. Pilot projects were conducted with the Bahia state heath secretariat and Recife and Guarulhos municipal health secretariats.

Source: Secretariat of Participative Management, Federal Ministry of Health.

The Unified Health System Ombudsman serves as a channel for engaging with and mediating issues between citizens and health managers, as well as serving as a tool to help define actions for improving the management of the Unified Health System. The formautlion of its mandate followed discussions at the 12th National Health Conference in December 2003. This discussion included: *i)* establishing and implementing, in the three levels of government, a continuous dialogue with the Unified Health System, through a toll-free telephone service; *ii)* developing surveys to assess users' and health professionals' satisfaction of the Unified Health System; and *iii)* using the ombudsman to strengthen direct social control and citizen engagement within the Unified Health System. After a period of public consultation, the Unified Health System Ombudsman Policy guidelines were promulgated in 2005.

The guidelines establish responsibility for the Unified Health System Ombudsman Department to, among other things, *i)* formulating measures to enhance users' access to the Unified Health System Ombudsman; *ii)* proposing measures to ensure citizen access to information on existing individual health agencies; *iii)* supporting the creation of decentralised structures within the Unified Health System Ombudsman; *iv)* delegating responsibility for correcting problems identified by reports sent directly to the Unified Health System Ombudsman; *v)* implementing policies to encourage the involvement of users and non-governmental organisations in evaluating services provided through the

Unified Health System; *vi)* co-ordinating studies and research related to the activities of the Unified Health System Ombudsman to improve the delivery of health services.

In 2010, the mandate of the Unified Health System Ombudsman Department was expanded. The changes make the Unified Health System Ombudsman Department also responsible for: *i)* promoting discussion with the Federal Ministry of Health of suggestions from non-governmental organisations aimed at expanding access and improving health services; *ii)* creating measures to ensure the confidentiality of citizens' identify at all stages of processing complaints or requests for information; *iii)* formulating recommendations to correct problems identified in reports sent to the Unified Health System Ombudsman regarding administrative misconduct; and *iv)* recommending the withdrawal or correction of administrative acts that do not meet the objectives and standards required by health and other legislation. Information was not available on the drivers behind these changes to the mandate of the Unified Health System Ombudsman Department or planned actions to effectively implement these changes.

The Unified Health System Ombudsman Department is part of the Ombudsman System of the Federal Public Administration

The Ombudsman System of the Federal Public Administration is headed by the Office of the Ombudsman General of the Union (*Ouvidoria-Geral da União*) located within the Office of the Comptroller General of the Union. As the central unit of the system, the Ombudsman General of the Union also provides guidance to ombudsman units by facilitating the exchange of information and articulating good practices. The Office of the Ombudsman General of the Union includes 24 officials (including 8 contractors and interns) with a budget of BRL 350 000 (USD 210 000; EUR 150 000). Within the Ombudsman General of the Union, an ombudsman relations unit manages training for public officials working in ombudsman units and develops educational programmes to promote direct social control. In 2009, the Office of the Ombudsman General of the Union held its first annual ombudsman workshop. The workshop was technical in nature with 80 participants from ombudsman units of federal public organisations.

Brazil's Ombudsman General of the Union together with the Unified Health System Ombudsman Department function as an organisational ombudsman (or a citizen's relations unit) rather than a classical (parliamentary) ombudsman as found in many OECD member countries. An organisational ombudsman provides an alternative means of dispute resolution. In this regard, both the Ombudsman General of the Union and ombudsman units have only informal methods for helping to resolve complaints or reports by citizens. They do not have any powers of investigation or organisational independence from the management of the public organisation to which they are attached. Rather, it is the Office of the Federal Public Prosecutor that fills the responsibility of a classical ombudsman in Brazil through its public-interest litigation function. Consumer rights and environmental issues have been top priorities in protecting the public interest. Moreover, the Office of the Federal Public Prosecutor can intervene proactively in court to protect individual and collective rights and interests. If criminal behaviour is present, federal public prosecutors can also bring the alleged offenders to court.

The Ombudsman General of the Union does not establish common procedures or minimum standards for ombudsman units within federal public administration organisations. To encourage better case management within ombudsman units, one option would be for the Office of the Ombudsman General of the Union to provide tools to help

ombudsman units manage interactions with citizens – though this is beyond the scope of the Federal Ministry of Health.

The Unified Health System Ombudsman Department's "Health Line", a free-call centre, provides a key channel for for citizens

The Health Line provides eight services to citizens, including one focusing specifically on submitting complaints, reports and suggestions to the Federal Ministry of Health. This particular service provides information on how to contact the Unified Health System Ombudsman Department, directing the user to the attended service (information cannot, however, be lodged through the automated service). Other services relate to: *i)* campaigns by the Federal Ministry of Health; *ii)* diseases and health guidelines, including information on referrals to health services; *iii)* stopping smoking, including information on legislation and contact details for supporting health services; *iv)* the prices of medicines, in partnership with the National Health Surveillance Agency, including the maximum price that can be charged by private pharmacies; *v)* Federal Ministry of Health programmes, including information on Unified Health System policies and actions, including legislation as well as providing the address and phone services that can meet the needs of the user; *vi)* Humanitarian Assistance to Haiti, including information on how the citizen can make donations or volunteer; and *vii)* Influenza AH1N1, including information on causes, symptoms and assistance.

An attended service is also available through the Health Line, enabling citizen to speak directly to the staff of the Unified Health System Ombudsman Department between 7am and 7pm, Monday through Friday. In addition, citizens may submit complaints or requests for information via mail, email, the Internet and in person. The Federal Ministry of Health encourages users to try to resolve issues directly with the concerned organisations at the federal, state or municipal management of the Unified Health System before contacting the Ombudsman Department. This initiative is deemed important to ensure the effectiveness of the decentralisation and to strengthen mechanisms for public participation in the implementation of public health policies. Information was not available on how this encouragement is effectively communicated to citizens and public organisations involved in the delivery of the National STD/AIDS Programme.

Through the Unified Health System Ombudsman Department, citizens can: *i)* report possible misconduct by Federal Ministry of Health and other public officials involved in the Unified Health System (e.g. collection procedures, medical negligence); *ii)* report dissatisfaction with health services (e.g. delay in treatment, excessive queuing, lack of medicines); *iii)* request access to health services and/or care (need for medical treatment, medicine); *iv)* request guidance or clarification related to health (e.g. disease information, programmes, campaigns); *v)* compliment or show satisfaction or gratitude for a service provided by the Unified Health System; and *vi)* suggest or propose actions deemed helpful to improve the Unified Health System (improvement in health services, programmes and health initiatives).

The Unified Health System Ombudsman does not publish a statement on its website or elsewhere explicitly informing citizens that filing complaints will not result in discrimination. Fear of retribution can be a powerful disincentive for citizens thinking of making a complaint. In order to attempt to eliminate fear of retribution, the Federal Ministry of Health could inform citizens that they will not be discriminated against as a result of any complaint. This could be built into training guidelines and procedural documentation for ombudsman officials.

The Unified Health System Ombudsman (Information) System support the monitoring of interactions with citizens

This system was developed by the Unified Health System Ombudsman Department together with the Federal Ministry of Health's Department of Informatics (DATASUS). Implemented in April 2006, this system records all interactions, irrespective of the channel (e.g. mail, telephone, email or Internet, face-to-face interactions) with citizens by the Unified Health System Ombudsman Department. The system helps to categorise reports and requests received by the Unified Health System Ombudsman Department about the National STD/AIDS Programme. Moreover, it help the Unified Health System Ombudsman Department to channel these reports and requests to the competent division or public organisation involved to take due diligence in responding to reports and channel the response back through the Unified Health System Ombudsman Department.

The Unified Health System Ombudsman publishes reports by period of time (i.e. month, trimester and year) and by public policy area by year (e.g. STD/AIDS, malaria, dengue fever, diabetes, etc.). A report is released every trimester analysing interactions with citizens such as complaints or demands for information. The analysis includes the quantity and type of complaints received by region, category of service or programme and basic socio-demographic information about citizens that contacted the ombudsman. It does not, however, include a comparison with previous periods of time. The content of these reports are extracted from the Unified Health System Ombudsman (Information) System (*Sistem OuvidorSUS*).

These reports are accessible on the website of the Unified Health System Ombudsman. In 2010, the Unified Health System Ombudsman began to prepare reports by region.[8] These were not, however, available at the time this case study was written. Information on how the reports are used internally within the Federal Ministry of Health or by the various commissions and councils to improve the service provided through the Unified Health System was also not available.

There is scope for the Unified Health System Ombudsman Department to improve reporting and management of information regarding its interactions with citizens. This particularly relates to the quality of the "resolution" of interactions with citizens. At presents the ombudsman reports simply highlight the concerns of citizens. They do not include information on how many reports were provided with substantiating evidence or what happened as a consequence of the report (i.e. was it investigated and if so was the information found to be valid or invalid?). OECD member countries collect far more detailed information on the status of processing feedback from citizens.

Evaluations of the ombudsman function could also be conducted to provide recommendations for its improved performance. Evaluations could address, for example: *i)* the existing beneficiaries' feedback system, including the different types of feedback, the available channels for beneficiaries' to provide feedback and the procedures and institutional responsibilities for handling this feedback; *ii)* the means to classify and resolve beneficiaries' complaints, the timeliness of resolution of these complaints together with any barriers facing beneficiaries and mechanisms in place to address fear of retribution when lodging complaints; and *iii)* the levels of awareness of and satisfaction with the complaints handling system among beneficiaries, including approaches to measure and promote awareness of the system, and improvements to the system as a result of feedback from customer and staff surveys.

Transparency in the STD/AIDS Programme and Federal Ministry of Health has been achieved in the absence of a comprehensive freedom of information law

At present, various pieces of primary and secondary legislation define the rights of citizens to request information from the public administration and identify information that cannot be disclosed. For example, Federal Law no. 8 159/1991 on the National Public Archives establishes citizens' right to access information contained in administrative documents except those considered vital to national security or that violate the privacy of an individual. Federal Law no. 9 784/1999 regarding Administrative Procedures establishes citizens' right to access and obtain copies of documents containing administrative decisions in which they have a proven interest. Federal Decree no. 4 553/2002 establishes rules for safeguarding information, documents and other materials considered sensitive to the security of the society and the state. More recently, Federal Law no. 11 111/2005 defines the exceptional circumstance for extending the classification of secrecy of a federal public act and establishes the Commission for Investigation and Analysis of Confidential Information (*Comissão de Averiguação e Análise de Informações Sigilosas*) within the Civil House of the Office of the President of the Republic to do so.

However, this legislation is based on traditional notions of passive rather than proactive transparency and does not establish well-functioning mechanisms to process requests for information. Freedom of information legislation is recognised as a key component of good governance. In this regard, the 2004 United Nations Convention Against Corruption urges all governments take necessary measures to enhance transparency in the public administration, including with regard to its organisation, functioning and decision-making processes, where appropriate.[9] Freedom of information legislation exists in all OECD member countries. This figure increased from only 3 (out of 20) OECD member countries in 1961, to 7 (out of 22) in 1970, 13 and 19 (out of 24) in 1980 and 1990 respectively, 24 (out of 28) in 2000 and 34 (out of 34) in 2010.

A comprehensive Freedom of Information Bill (no. 41/2010) is currently under discussion within Brazil's Federal Senate; it was approved by the Chamber of Deputies in April 2010. This bill replaced an earlier proposal submitted by President Lula in May 2009 and its revisions which benefited from a 2005 study by the Council on Public Transparency and Combating Corruption. The bill, as it currently stands before the Federal Senate, is broad in scope. It covers all three branches of government (the executive – including both the direct and the indirect public administration – legislative and judiciary) at federal, state and local levels. In addition, all private not-for-profit organisations receiving public funds from the budget or through social programmes, partnerships, etc. will be subject to the freedom of information requirements in connection with those funds.

Concern is often raised that freedom of information legislation is passed without giving sufficient ongoing attention to its implementation. This concern applies equally to countries that have a long history of freedom of information such as Australia, Canada and the United Kingdom (see e.g. Commonwealth Ombudsman, 1999; Australian National Audit Office, 2004; Solomon *et al.*, 2008; New South Wales Ombudsman, 2009; Government of Western Australia, 2010; Government of Canada, 2002; Worthy, 2010).

In preparing for an eventual freedom of information law, the Federal Ministry of Health may consider undertaking a number of preparatory actions. First and foremost, the Federal Ministry of Health could conduct an assessment of its current records and archives management systems. This could be complement by evaluations of the

functioning of existing channels for citizens to request information, through the Unified Health System Ombudsman Department, discussed above.

Once a freedom of information law is passed attention can focus on internal protocols for the National STD/AIDS Programme and Federal Ministry of Health more generally. Adequate attention and resources will need to be allocated to formulate internal systems and resources to monitor and evaluate the functioning of internal protocols and the effectiveness of responding to citizens requests for information. Finally, and as in the case of the charter of citizens' services, formulation of internal protocols will need to be accompanied with activities to inform managers and officials about the obligations created by freedom of information in order to create a culture of proactive provision of information. These actions will, however, inevitably be shaped by the content of the eventual freedom of information law.

Direct social control constitutes a central guideline underlying all Federal Ministry of Health policies

In order to receive federal health funding, states, the Federal District and municipalities must establish a local participatory health council. Local health councils are permanent deliberative bodies responsible for formulating and overseeing the implementation of health policies in their respective jurisdiction. They have the power to veto local health plans and health budgets. If a council vetoes a local health plan and budget the Federal Ministry of Health will not transfer funds to that municipality. These councils are composed of representatives from government, health service providers, health professionals and citizens. States, the Federal District and municipalities are also required to establish a health fund and a health plan and co-finance health expenditures in their respective budgets, including a jobs and salary Plan (*Plano de carreira, cargos e salários*) for a two-year period. Non-compliance with these requirements by municipalities, the Federal District or states will result in responsibilities being transferred to a higher level of government (i.e. from municipalities to states, from states to the federal government respectively).

During the 1990s, more than 5 500 health councils were established in Brazil, involving more than 120 000 citizens in 98% of Brazil's cities. The number of representatives range with the size of the area being represented – the municipal health council in São Paulo, for example, has 48 members (24 members and 24 substitutes), while in less-populated areas councils have approximately 12 members. Information was not available on the precise functioning of these local health councils as well as information on training or guidance for their members. The role of participatory municipal health councils in Brazil has generated significant literature. The overarching discussion centers on the efforts of implementing decentralised service delivery structures (see Box D.2).

Box D.2. **Brazil's municipal health councils**

The role of participatory municipal health councils in Brazil has generated significant literature.

Schönleitner (2004) examined participatory municipal health councils in four towns with the purpose of understanding if the institutional format of health councils encourages participation and the effective deliberation of public policies. Two councils were selected from the north-east and two from the south. In each case, one town was governed by the Worker's Party (*Partido dos Trabalhadores*), the other was governed by the opposition. The research found that the role of municipal health councils was contingent on the political will and commitment of those involved in the deliberative process. Schönleitner explained that the councilors themselves were caught in a situation where negotiation with the executive was imperative for an effective decision-making process. In so far as civic engagement and political will played a significant role in the making of municipal health councils as bodies with deliberative powers, the institutional design did not completely isolate these forces.

Cornwall (2008) examined the relationship between citizen engagement, mechanisms of accountability and democratic governance through the municipal health councils. The research drew from both on-site interviews and a review of five years of health council minutes in Brazil's north-east. Cornwall found that, while municipal health councils were an instrument of participatory governance, local political institutions and actors were rooted with informal allegiances. These allegiances trumpeted some of the deliberative process inasmuch as the deliberation of municipal health councils was still dependent on informal arrangements.

Cornwall also called attention to what engaged citizens to participate in the activities of the municipal health councils and what made the councils work better. Transparency of the councils operations and rules for participation were considered particularly significant. This included on the process of councilor selection made for a more inclusive process that allowed for both individuals and organisations to engage in city councils. It also included rules to cap the amount of time that participants can speak to ensure that all could effectively participate. Adequate infrastructure was also identify as a key variable. Rooms that were big enough to comport all the participants and mechanisms for recording and storing meeting minutes played a significant role in councils' successful functioning.

Tatagiba (2008) examined the ongoing challenges of municipal health councils and their governance structures. This research highlighted that even though the institutional framework provided avenues of participatory governance, counter examples showed that the composition of the municipal health councils was not always representative of local realities. Municipal health councils had participants that largely represented themselves, rather than the citizens that they were elected to represent. Tatagiba also noted that educational and income levels of the council members were above the average of the population, suggesting some degree of classism in council composition.

Moreira and Escorel (2009) examined the functioning of the municipal health councils using 18 variables to measure autonomy, organisation and access. "Autonomy" refers to the capacity of councils to function independently of the municipal executive, measuring the more structural aspects of autonomy, for example physical location, equipment, human and financial resources. "Organisation" refers to the existence of internal bodies and to the performance of qualification and meetings. "Access" refers to the possibility for all councilors to run for the position of council president and for the population to take part in the daily life of the councils.

Box D.2. **Brazil's municipal health councils** *(cont'd)*

Drawing upon a 2007 survey answered by 5 463 municipal health councils (98% of total), their analysis shows that municipal health councils were constrained with respect to autonomy and organisation. Most of these councils had been operational for more than a decade: 4 190 (77%) of those surveyed were established between 1991 and 1997 and a further 312 (6%) before 1991. Since 1997, a further 785 councils (14%) have been established reflecting the establishment of new municipalities.

In terms of autonomy, only 265 (5%) of all councils studied had their own budget and only occurred in municipalities with more than 2 million inhabitants; 940 (17%) had their own administrative support teams and only occurred in municipalities with more than 500 000 inhabitants; and 906 (17%) had their own council headquarters. In terms of organisation, 82% of councils have monthly meetings and 66% of councils had not cancelled meetings during the 12 months preceding the research for reasons of a lack of quorum, however, 90% of councils did not participate in training. In terms of "access", more than 80% of councils had meetings open to the public and more than 75% provided citizens opportunities to intervene and speak in meeting.

Efforts have also been undertaken to mainstream citizen engagement through participatory councils at a national level

The National Health Council is a permanent deliberative body responsible for: *i)* formulating strategies and controls the implementation of the National Health Policy; *ii)* establishing guidelines to be observed in the preparation of health plans; *iii)* developing timetables for the transfer of Unified Health System funds to states, the Federal District and the municipalities; and *iv)* monitoring the actions of private sector health care, accredited under contract or agreement, among others. The Council is comprised of representatives from government, health service providers, health professionals and users of the Unified Health System. There are 48 permanent members to the Council, of which 25% are representatives of government, health service providers, the National Council of Health Secretaries, the National Council of Municipal Health Secretaries and private healthcare organisations; 25% are representatives of health professionals; and 50% are representatives of users of the Unified Health System.

In order to deal specifically with AIDS policies in Brazil, in 2003 the National Health Council set up a specific sub-group specifically dedicated to the question of AIDS, known as the STD/AIDS Policies Monitoring Committee (*Comissão Permanente de Acompanhamento de Políticas de DST/AIDS*). During the last few years, the STD/AIDS Policies Monitoring Committee has been an important forum for dialogue on issues that directly concern people living with HIV/AIDS and the fight against the criminalisation of HIV transmission, and also for tracking financial resources for HIV/AIDS actions transferred directly to state and municipal authorities.

The National AIDS Commission (*Comissão Nacional de AIDS*) advises and co-ordinates many components of the National Programme including medical, legal and managerial dimensions. Created in 1986, it is comprised of representatives of civil society organisations and people living with HIV and AIDS (elected by their peers in national congresses), universities, as well as state and municipal health service managers. The Commission meets every two months. Dimilar commissions have been set up at state level in Brazil's 26 states and Federal District and also at municipal level in municipalities that receive specific resources from the federal government via the Federal

Ministry of Health to prevent AIDS. Since the late 1990s the National AIDS Commission has been represented on the National Health Council.

The use of deliberative and advisory councils is not unique to the National STD/AIDS Programme. In October 2010, there were 61 national councils involving 1 752 participants: 785 from the federal government and 957 from non-governmental organisations. Of these national councils, 38 had membership comprised of more than 50% by non-governmental organisations (29 with 50-74% and 9 with 75-99%) (da Silva, 2009).

In addition, the STD/AIDS Department has created two advisory bodies: *i)* the Management Committee of STD and AIDS Actions (*Comissão de Gestão das Ações de DST e Aids*); and *ii)* the National Commission of Relations with Social Movements (*Comissão Nacional de Articulação com Movimentos Sociais*).

The Management Committee of STD and AIDS Actions is an advisory body that assists the STD/AIDS Department in the formulation of policies for prevention and control with the aim of incorporating STD/AIDS actions into the health service decentralisation process so as to promote its technical, political and financial sustainability. It is made up of ten representatives of states and the Federal District STD/AIDS programmes and ten representatives of municipalities, elected regionally from among their peers. The Management Committee of STD and AIDS Actions convenes every 40 days. Information was not available on the functioning or activities of the Management Committee of STD and AIDS Actions.

The National Commission for Relations with Social Movements provides a formal space for the engagement of key civil society actors working in partnership with the STD/AIDS Department. Its objective is to enhance the effectiveness of national policies for prevention of STD/AIDS and treatment of people living with HIV/AIDS. It is comprised of representatives of civil society organisations from all regions of the country. It is comprised of 10 representatives of AIDS forums in the 26 states and the Federal District and 10 representatives of national networks and movements (e.g. people living with HIV/AIDS, prostitutes, women, homosexuals, transvestites and transsexuals, Afro-descendents, indigenous people, etc.).[10] Members serve for two years. The commission regulates its own activities through its own bylaws. It meets twice a month for one day. Information was not available on the functioning or activities of the National Commission for Relations with Social Movements.

Implementing a risk-based approach to internal control

Internal control is commonly recognised as the set of means put in place to mitigate risks and to provide reasonable assurance that public organisations: *i)* deliver quality services in an efficient manner and in accordance with planned outcomes; *ii)* safeguard public resources against misconduct and (active and passive) waste; *iii)* maintain and disclose reliable financial and management information through timely reporting; and *iv)* comply with applicable legislation and standards of conduct (see e.g. INTOSAI, 2004). Reasonable assurance is achieved through management systems and control actions that mitigate risks and an independent and objective assessment of their functioning. Effective internal control, no matter how well conceived and operated, can provide only reasonable – but not absolute – assurance to decision makers and public managers about the integrity of their organisation's operations. The role of internal

control in preventing corruption in public organisations is also recognised in international conventions against corruption.

Implementing a risk-based approach to internal control purports to ensure that control measures are proportionate to the potential vulnerabilities facing individual public organisations. Rather than simply regulating internal practices and procedures, organisations must put in place a systematic process and adequate capability (i.e. knowledge, resources, etc.) to assess and use assessment results to adjust management systems to prevent risks from (re-)occurring in a cost-effective manner. It also necessitates an *ex post* assessment of risk-mitigating actions, recognising that earlier diagnosis and actions may not always have the desired effect. Although internal auditors can provide play valuable input into internal control, the internal auditor should not be a substitute for a risk-based approach to internal control. Finally, to be effective, internal control needs to be integrated with other organisational systems that feed directly into management frameworks and decision-making processes as a means of strengthening public governance.

Internal control within the Federal Ministry of Health is shaped by government-wide policies and systems

Federal Law no. 10 180/2001 articulates the aim of internal control as evaluating government actions and the management of public officials, and supporting the function of external control. It describes the internal control function as responsible for: *i)* assessing the achievements of the targets set in the federal government's Pluri-Annual Plan; *ii)* evaluating the implementation of government programmes with respect to their objectives and quality of management; *iii)* providing information on the physical and financial status of projects and activities in the federal budget; *iv)* creating the conditions for the exercise of direct social control over federally funded programmes; and *v)* preparing the Annual Accounts of the President of the Republic to be sent to the National Congress. Federal Law no. 10 180/2001, thus, emphasises internal control more as an *ex post* rather than *ex ante* activity.

Government-wide policies on internal control are formulated by the Office of the Comptroller General of the Union, the central internal control authority of the federal public administration. Within the Office of the Comptroller General of the Union it is the Secretariat for Federal Internal Control, in particular, that establishes policies and guidelines on internal control. In addition, policies and guidelines on general management, human resource management, information management and procurement management – that also contribute to a sound system of internal control – are the responsibility of the Secretariats of Secretariats of Management, Human Resources and Logistics and Information Technology within the Federal Ministry of Planning, Budget and Management. Policies and guidelines on financial management and accounting are the responsibility of the Secretariat of Treasury within the Federal Ministry of Finance.

While there are instances where these three federal authorities work closely together, it does not appear to always be the case. For example, the Secretariat of Management is working with federal public organisations to re-engineer their internal practices and processes to improve service delivery. Business process re-engineering is as much about making changes to mitigate operational risks and administrative wrongdoing as retooling for efficiency gains and cutting administrative red tape. Office of the Comptroller General of the Union involvement, however, is limited to evaluating, rather than providing input into the design of business process re-engineering. Mechanisms for closer co-ordination

in the modernisation of the internal control framework between the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management (in particular the Secretariat of Management, Logistics and Information Technology) and the Federal Ministry of Finance (in particular the Secretariat of the National Treasury) could be explored – though this is beyond the scope of the Federal Ministry of Health.

Internal control is supported by government-wide back-office information systems that provide for the segregation of duties and documentation of decision making

Core among these is the Federal Government Financial Administration System (*Sistema de Administração Financeira do Governo Federal*), an accounting and financial reporting system. All budget transactions – including commitment, verification and payment – must be performed and recorded through this system. At the commitment (*empenho*) stage, proposed expenditure is verified to ensure that it has been approved by an authorised official, that the expenditure is correctly categorised, that there is a corresponding budget appropriation and that sufficient funds are available. At the verification (*liquidação*) stage, documentation that goods have been received or that the service has been performed is verified. Before the payment (*pagamento*) stage, confirmation is needed that an invoice and other documents requesting payment are correct and that the supplier has been correctly identified. Individual users must provide their identity number to access the system and all transactions are recorded.

In parallel with the Federal Government Financial Administration System, a number of other common management information systems exist for budgeting, procurement, administrative agreements and human resources. The Integrated General Services Administration System (*Sistema Integrado de Administração de Serviços Gerais*), operated by the Federal Ministry of Planning, Budget and Management, supports procurement internal control. Its Commitment Registration Module (*Subsistemas de Minuta de Empenho*) automatically records expected payments associated with awarded contracts in the Federal Government Financial Administration System facilitating control in contract payment. Its Contract Management Module (*Sistema de Divulgação de Contrato*) presents the necessary information to facilitate contract monitoring by procurement officials and supports electronic archiving of all procurement files.[11]

Most of the core government management systems are integrated into the Federal Government Financial Administration System. Some, such as the Integrated Human Resource Administration System (*Sistema Integrado de Administação de Recursos Humanos*) and the Administrative Agreement and Transfer Contract Management System (*Sistema de Gestão de Convênio, Contrato de Repasses e Termo de Parceria*) are, however, not yet fully integrated. Together, these systems directly support internal control by ensuring that all transactions and significant events are documented, authorised and only executed by officials acting within the scope of their authority. Moreover, automation also assists in creating reliable and timely data that can be captured and communicated to various levels within public organisations for management decision making. Similarly, these systems serve as direct input into programme evaluation and audit necessary for supporting policy learning and adjustment.

The Secretariat of the National Treasury is currently in the process of introducing a new management system to measure the efficiency of government programmes. The Cost Information System of the Federal Public Administration will automatically combine information from various management systems in order to assess and evaluate options for

the delivery of public functions and services. These other systems include the Federal Government Financial Administration System, Integrated Human Resource Administration System, Information Management and Planning System, Integrated General Services Administration System, etc. The system's management module will provide pro-forma reports to enable public managers to extract information in a structured and timely manner. The Secretariat of the National Treasury has a team that is responsible, among other activities, for creating new reports to meet the needs of the system's users. Information was not available on when the system would be rolled out to the Federal Ministry of Health.

The Federal Ministry of Health also utilises specific information systems to support internal control of the National STD/AIDS Programme

Core among these is the AIDS System (*Sistema AIDS*) which records and makes available information on the National STD/AIDS Programme Plan of Action and Goals used in planning and budgeting at all levels of government. The system interfaces with the Health Budget Information System and National STD/AIDS Programme Incentive Policy Framework Monitoring System (*SIS-Incentivo*) in addition to the Federal Government Financial Administration System, discussed above. The Health Budget Information System collects and makes available information on health revenue and expenditure at all levels of government. These systems provide information on complementary health activities and transfers to United Nations organisations and direct payments made by the Federal Ministry of Health and other public and not-for profit organisations, respectively. The National STD/AIDS Programme Incentive Policy Framework Monitoring System records and makes available information on the implementation of activities financed by the incentive programme.

The AIDS System also supports the development of an annual procurement plan for the National STD/AIDS Programme. This is supported and integrated with two other systems: the Drugs Logistics and Control System (*Sistema de Controle e Logistica de Medicamentos*) and the Preventive Goods Monitoring System (*Sistema de Monitoramento de Insumos de Prevencao*). These two systems support the control and distribution of medicines and other preventive goods at all levels of government. For dispensing organisations, it helps to calculate demand, schedule inventory replenishment and record patients use and changes in their drug regimens.

A special advisor supports the Federal Minister for Health on matters of internal control

Special advisors on internal control are responsible for overseeing internal control within their respective federal ministries. The special advisor has a dual reporting line to the Federal Minister and Executive Secretary (i.e. deputy federal minister) in the Federal Ministry of Health and to the Comptroller General of the Union. As a level 5 supervisory and management official, the special advisor is one level below the executive secretary and heads of functional secretariats. Special advisors on internal control are tasked with approving their respective federal minister's annual financial accounts and management report. They also closely interact with the Secretariat of Federal Internal Control to define their respective federal ministry's annual audit plan and are responsible for monitoring the implementation of audit findings and recommendations. The special advisor is liable for any damages and losses attributed to irregularities of which they become aware if they do not report the fact within 15 days to the Comptroller General of the Union.

Special advisors on internal control are selected by their respective federal ministers. Their appointments are, however, subject to final approval by the Comptroller General of the Union. Although the Comptroller General of the Union can refuse appointments and has done so in the past, approval is considered procedural in nature. In practice, more than half of all special advisors for internal control are financial and control analysts seconded from the Office of the Comptroller General of the Union.

Within the Federal Ministry of Health, the Special Advisor on Internal Control is supported by a number of organisational units. For example, the Office of Planning and Evaluation (*Coordenação Geral de Planejamento e Avaliação*) co-ordinates the preparation of the federal ministry's financial accounts. These accounts are submitted to the Federal Ministry of Planning, Budget and Management and contain details on the execution of the Federal Ministry of Health's budget. They are subsequently consolidated by the Federal Ministry of Planning, Budget and Management and submitted to the Office of the Comptroller General of the Union for inclusion in the government's year-end accounts. The Federal Ministry of Health also submits an annual management report on its annual activities directly to the Office of the Comptroller General of the Union. After a review by the Office of the Comptroller General of the Union, the annual management report is forwarded to the Federal Court of Accounts.

In addition, the Federal Ministry of Health's Special Advisor on Internal Control is supported by a small number of dedicated administrative officials. The Office of the Comptroller General of the Union has allocated five finance and control career officials to work with the special advisor. This allocation is formalised by an agreement between the Office of the Comptroller General of the Union and Federal Ministry of Health. This arrangement is a relatively new development and has only been applied in four other federal ministries, including the Federal Ministries of Transport, Culture, Education and Social Development and Fight Against Hunger. It reflects the priority of these policy areas for the Lula administration. These finance and control career officials were recruited through a competitive entrance exam conducted in 2008 by the Office of the Comptroller General of the Union.

Detailed regulations support internal control of procurement and administrative contracts for the National STD/AIDS Programme

Federal Laws no. 8 666/1993 on Procurement and Administrative Contracts and no. 10 520/2002 on Reverse Auctions define the modalities for public procurement in Brazil. This framework establishes preference for unrestricted competition (*concorrência*) in general and for reverse auctions (*pregão*) – and electronic reverse auctions (*pregão electonico*), in particular – for off-the-shelf goods and standardised services. Unrestricted competition is required for procurement above BRL 650 000 (USD 390 000; EUR 280 000) for goods and services, and BRL 1 500 000 (USD 890 000; EUR 645 000) for works and engineering services. These thresholds are not indexed to price levels and have remained unchanged since 1998. There are no minimum or maximum thresholds guiding the use of reverse auctions. This modality is obligated for all procurement of off-the-shelf goods and standardised services. Three objectives underline the preference for electronic reverse auctions: *i)* efficiency, by promoting more streamlined procedures and standardising goods and services procured; *ii)* control, by making information available to audit authorities; and *iii)* transparency, by providing online real-time information to stakeholders and opening participation to a larger pool of suppliers.

These laws establish publishing requirement for procurement notices and amendments, the responsibilities of procurement committees and auctioneers, the rules for awarding contracts and post-award amendments, procedures for recording decision-making and sanctions for administrative misconduct by procurement officials. For example, Federal Law no. 8 666/1993 on Procurement and Administrative Contracts establish the minimum publicity time and circulation requirements. In addition, a prior public hearing must be held for tenders or a series of simultaneous or successive tenders with an estimated value exceeding 100 times the competition threshold of works and engineering services (*i.e.* BRL 1.5 million). The hearing must be convened at least 15 working days before the planned date of publication of the call for tenders, with a notice published at least 10 working days before the hearing through the same channels as those for publishing the tender notice. Many of the procurement regulations and decision making are supported by the Integrated General Services Administration System, discussed above.

However, as noted at the beginning of this case study, much of procurement for the National STD/AIDS Programme is guided by Federal Law no 10 191/2001. This law allows for the procurement of immuno-biological products, medicines and other materials by international and multi-lateral organisations of which Brazil is a member on behalf of the government for contracts financed by resources from international organisations, such as donations and loans. These international organisation are not required to conduct procuremenet in accordance with Federal Law no. 8 666/1993.

Many of the challenges affecting procurement of goods within the National STD/AIDS Programme relate to management, particular at sub-national levels

The STD/AIDS Department distributes goods to state and municipality secretariats of health and their health units. It is obligatory for these organisations to: *i)* check the supply of medicines in relation to the quantities and delivery terms; *ii)* store the medicines properly, given their temperature, humidity and light requirements; *iii)* control inventories and avoid losses; and *iv)* conduct periodic inventory checks. As noted by the 2007 World Bank Public Expenditure Tracking Survey of Brazil's Unified Health System, materials management is a key challenge facing Brazil's Unified Health System (see Box D.3).

An Internal Control Manual, issued in 2001 by the Secretariat of Federal Internal Control describes the planning of control activities within the Internal Control System of the Federal Public Administration. The manual provides an overview of the main steps in planning internal control actions and the key documents involved. It lays out procedures and sources of information for preparing planning documents and for monitoring compliance with the recommendations and determinations of the internal and external control bodies. It also sets forth some general guidelines on the use of benchmarks and indicators. This manual is not, however, applicable to sub-national governments involved in the National STD/AIDS Programme. Moreover, the current manual is more theoretical than operational in nature and there no information is available on how the manual is used by public managers within the National STD/AIDS Programme or the Federal Ministry of Health. There are, at present, no plans to revise the current Internal Control Manual by the Office of the Comptroller General of the Union.

Box D.3. **Procurement and materials management in Brazil's Unified Health System**

The 2007 World Bank Public Expenditure Tracking Survey assessed public procurement, among other resource management issues, within Brazil's Unified Health System at different levels of government. It surveyed 6 states, 17 municipalities (municipal health secretariats), 49 hospitals (public and philanthropic) and 20 outpatient clinics (state and municipal) drawing upon data for the years 2001 to 2003, with particular emphasis on 2002. Its findings distinguish between the procurement of medical supplies and medicines as well as equipment and installations. While the sample reflects the different components of the Unified Health System, it is too small and does not allow statistical extrapolation of the results. Nevertheless, it does provide some insights into issues facing health procurement in Brazil.

In relation to materials management, it found:

- Current materials management (procurement, storage and distribution of supplies and medicines; procurement and maintenance of equipment and installations) rules limit the likelihood of misappropriating resources (including corruption or favouritism to certain suppliers).
- Rigidities often translate into delays or cancellations of purchases because of irregularities and, as a result, suppliers often raise their prices as a means of factoring in the costs of uncertainties in dealing with the public sector.
- Rigidities and lengthiness in the procurement process encourage managers to resort to creative circumvention of the rules, including fragmenting purchases into smaller bits to use simpler and more agile purchasing methods, albeit at the cost of higher prices.
- Rigidities often result in medical supplies and medicines being unavailable, with secretariats and health units having to resort to emergency procurement procedures (which allow the use of direct purchasing), at a much higher price, to meet immediate demands.
- Rigidities are compounded by inadequate planning, low capacity in supply management, inadequate control of stocks, the existence of multiple storage areas and stocks in hospitals, and inefficient modes of dispensing drugs to patients.
- Most secretariats check inventories regularly (e.g. physical count) for purposes of control and verification, although the frequency varies considerably, ranging from monthly to annually. Inventory control is computerised in all states, but in only one-third of municipalities.
- Few health secretariats find significant discrepancies between the quantity recorded in the inventory control system and what is actually found by physical inspections, although the incidence of such discrepancies is generally believed to be quite common.
- A frequent cause of stock leakage is inadequate recording of shelf labels (when recording is done manually). The measures taken are usually strictly administrative ("revising the process"); there were no cases where officials reportedly held accountable were investigated, or where those found to be responsible punished.
- Few states have a routine procedure for monitoring the expiration dates of supplies in stock. Most of the municipalities reported maintaining some type of control.

Box D.3. **Procurement and materials management in Brazil's Unified Health System** *(cont'd)*

- Donations of medicines (and some other supplies and equipment) from the federal government (and state government in the case of the municipalities), often of substantial value, is only recorded in the warehouse, and is not accounted as revenue nor included as an expense, underestimating municipal health expenditures.

Source: World Bank (2007), *Brazil: Governance in Brazil's Unified Health System (SUS), Raising the Quality of Public Spending*, World Bank, Washington, D.C.

Changes to administrative and transfer agreements support internal control and reduce the risk of fraud and abuse within the National STD/AIDS Programme

Administrative agreements involve the transfer of financial resources from the budget of a federal public organisation with a sub-national public or private not-for-profit organisation for the implementation of activities as part of a federal government programme. Transfer agreements are an instrument whereby the transfer of financial resources is processed through an institution or federal public financial agent acting as a representative of the union. They are distinguished from administrative contracts because of their not-for-profit nature. Since 2002, the federal government has been taking action to strengthen the management internal control measures for administrative and transfer agreements used by the federal public administration. The actions have been led by the Office of the Comptroller General of the Union, the Federal Ministry of Planning, Budget and Management and the Federal Court of Accounts. This has been achieved both through individual actions and collectively through the Council on Transparency and Combating Corruption, an advisory body affiliated with the Office of the Comptroller General of the Union.

The revised legal framework for administrative and transfer agreements aims to rationalise the use of agreements by public organisations through a number of restrictions. For instance, agreements with sub-national public organisations must have a minimum value of BRL 100 000 (USD 60 000; EUR 43 000). Public organisations are also prohibited from entering into agreements with organisations that have: *i)* defaulted on other administrative agreements or have insufficient qualifications; and *ii)* exceeded a certain total threshold value of partnerships, defined as a percentage of their total net income. In addition, the framework establishes: *i)* clear rules against conflicts of interest in agreements with private not-for-profit organisations, banning agreements with organisations owned, led or controlled by public officials or their spouses, partners and close relatives; *ii)* a cap on the agreement/transfer amounts that can be used for administrative expenditure (5% of the total agreement amount); and *iii)* standard agreement clauses granting access by public officials of the awarding authority and internal and external auditors to all documents and information related to the execution of the agreement.

A key action in strengthening control of administrative agreements is the launch of a dedicated database registering and supporting the management of administrative and transfer agreements. Launched in September 2008, this management system allows public organisations to carry out price comparisons required for the procurement of goods and

services exceeding certain thresholds by private not-for-profit organisations. All administrative acts and procedures related to the establishment, execution, monitoring, reporting and auditing of agreements must be recorded in the Administrative Agreement and Transfer Contract Management System (*Sistema de Gestão de Convênios e Contrato de Repasses*). All not-for-profit organisations interested in entering into agreements with a federal public organisation must be registered within the system. Information about the identity of the directors or managers of the organisation, a certification of compliance with tax obligations, evidence on the technical and operational capacity, are recorded in the system. Registration is valid for a period of one year.

The system is being gradually implemented since 2008, with several modules already completed. As part of this implementation, training sessions have been and are being conducted for both federal managers and representatives of the organisations that are parties to the contracts. It is expected that with the full implementation of the Management System for Agreements and Contracts with Transfers of Federal Funds, effective transparency in the use of federal funds transferred to entities through contracts will be achieved. The Administrative Agreement and Transfer Contract Management System – which is run by a management committee with representatives of the Secretariat of the National Treasury, the Secretariat for Federal Budget and the Secretariat for Logistics and Technology (both at the Federal Ministry of Planning, Budget and Management), as well as the Secretariat of Federal Internal Control – produces quarterly management reports providing consolidated data and disaggregated information on individual agreements.[12]

Risk management has yet to be introduced as a means of addressing specific vulnerabilities associated with health services and the national programme

Over the last five years, the Office of the Comptroller General of the Union has placed increasing emphasis on risk management as a preventive measure against misconduct and corruption. Its vision is to instil a positive risk management culture within public organisations to complement and reinforce existing management controls. To do so, the Office of the Comptroller General of the Union is developing tools to help public managers effectively manage risks in their operations. Its major activity in this regard is the development of a generic risk management methodology that is based on self-assessment by public managers.

Two risk management methodologies have been developed by the Office of the Comptroller General of the Union. The first, the Corruption Risk Mapping Methodology (*Metodologia de Mapeamento de Riscos de Corrupção*), was developed in 2006 in partnership with Transparência Brasil. This methodology was piloted during 2008 in the Federal Ministries of Culture, Transport and Social Development and Fight Against Hunger. Based on the pilot, a second methodology – the Risk Management Methodology (*Metodologia de Gerenciamento de Risco*) – was developed by the Office of the Comptroller General of the Union in 2009/2010. The Office of the Comptroller General of the Union plans to apply the risk management methodology in five public organisations, or divisions therein, by 2012. While the first and second methodologies are formally articulated as complementing one another, senior officials within the Office of the Comptroller General of the Union indicate that the emphasis going forward is almost solely placed on the second methodology.

The Federal Ministry of Health could begin to introduce risk management policy, integrated with other governance, planning and management processes

An operational risk management policy defines and communicates an organisation's approach to risk, and provides high level guidance on how processes and procedures integrate risk with the everyday activities of the organisation. An organisation's risk management policy can also provide guidance to staff on the organisation's commitment to: *i)* integrate operational risk management principles into existing procedures and practices; *ii)* communicating the organisation's approach to managing operational risk; *iii)* co-ordinating the interface between operational risk management, compliance and assurance programmes within the organisation; *iv)* incorporating operational risk management training into internal staff development programmes; and *v)* ensuring that internal review and evaluation programmes consider operational risk management when developing annual audit plans.

Key elements of an organisation's operational risk management policy are: *i)* the objective and rationale for managing risk in the organisation; *ii)* clear links between the operational risk management policy and the organisation's strategic and business plans; *iii)* an outline of internal accountabilities for managing risk; *iv)* guidance on the organisation's operational risk tolerance or appetite for risk; *v)* details of the support and expertise available to help staff undertake effective operational risk management practices; *vi)* a statement on how risk management performance will be measured and reported; and *vii)* a commitment to the periodic review of the organisation's operational risk management framework.

The successful integration of operational risk management with an organisation's overarching governance, financial, assurance and compliance frameworks is reliant on ensuring that the accountability and responsibility for risk management is clearly defined both centrally within the organisation and within organisational divisions. Roles and responsibilities for those charged with implementing the risk management function need to be clearly articulated. At a central level, responsibility is needed to develop a whole-of-organisation understanding of risk and to implement supporting operational risk management infrastructure (e.g. supporting information systems) for monitoring and reporting on risks. While senior officials are ultimately accountable for risk management, it is the responsibility of all managers and staff to manage risk. Responsibility for managing specific policy, project and programme risks generally rests with individual line managers across the organisation. In this regard, senior management must also play an active role in creating a positive risk management culture within their organisation.

Additional risk management tools could be developed for Federal Ministry of Health officials

An inventory of operational risks can serve as a starting point for identifying process improvements and developing key risk indicators. Inventories can be established through self-assessment involving public officials. In the case of the National STD/AIDS Programme, this could include senior public manager, municipal programme co-ordinators and members of the social control councils. These officials know best the operating environment of the programme and its associated risks. Information necessary for developing an inventory of operational risks can be collected using structured questionnaires and/or (moderated) workshops. Information collected through self-assessment activities can be peer reviewed by senior and other public officials including

the special advisor on internal control and audit authorities to identify risks that may have been deliberately omitted by officials. Structured questionnaires offer the advantage of easy data recording, particularly given the large number of officials and dispersed geographic location involved in the Federal Ministry of Health programmes. Moderated workshops, however, can also contribute to raising awareness about risks across different organisational units. In many cases, both surveys and workshops are conducted together. Risk inventories are best updated periodically but keeping in mind the costs (time and money) of conducting such an exercise.

Business process maps can help to link information on macro-processes, activity flows, risks and internal control as a means of improving integrity and cutting administrative red tape. Sound documentation of business processes is a basic requirement for a well-functioning process organisation. Process mapping also makes establishing links between cause and effect possible and, due to the improvements it triggers, in process management. Through the documentation of processes and the identification of the organisational units involved in them, processes can be made more transparent with improved effectiveness and efficiency. Furthermore, it is crucial not only that the documentation exists, but that it is accessible to officials in as simple a format as possible. Undocumented or poorly documented processes increase risks. Appropriate process descriptions also help new officials become acquainted with their tasks. It is recommendable to first define the processes that are especially critical with regard to operational risks then to prioritise them. Where business process maps are not available, they can sometimes be quickly sourced from internal audit, developed as part of audit and inspection activities.

Key risk indicators make it possible to identify areas with elevated risks early on and to take appropriate action. They allow trends to be identified and can serve as indicators in early-warning systems, e.g. in combination with a traffic-light system (i.e. red, yellow and green). Risk indicators are frequently defined specifically for a service area by creating an inventory of operational risks and business process mapping. They can also benefit from other sources such as performance against service delivery standards, reports originating from taxpayers (e.g. ombudsman, media, etc.), internal audit findings and administrative disciplinary procedures.

The Federal Ministry of Health is one of the few organisations in the direct public administration with an "in-house" internal audit function

Federal Law no. 8 080/1990 establishes a National Audit System operating at the three levels of Unified Health System management, responsible for internal supervision, monitoring and evaluating health actions. The Federal Ministry of Health Control Department was established as the internal auditor of the Unified Health System since the early 1990s. In 2000, the Control Department was renamed the National Audit Department of the Unified Health System (*Departemento Nacional de Auditoria do Sistema Único Saúde*). Information was not available on the drivers behind this name change or other developments that happened with the change in name. Since 2006, the National Audit Department of the Unified Health System has been located within the structure of the Secretariat for Strategic and Participatory Management in response to efforts to further institutionalise the Unified Health System, further decentralise health service delivery and financing.

In comparison, internal audit within Brazil's direct federal public administration is highly centralised within the Secretariat of Federal Internal Control (see Table D.5). This

centralisation, implemented in 2000/2001, represents a deliberate policy shift, though its roots can be traced back to the early 1990s. Previously, all organisations of the direct federal public administration (i.e. federal ministries) had their own Secretariat of Internal Control (*Secretaria de Controle Interno*). These secretariats were responsible for internal control, and internal audit, of administrative units within their respective federal ministry and agencies and foundations under the ministry's direct supervision. The policy shift regarding internal audit was driven by concern over the independence of the secretariats of internal control from undue influence of high officials, as articulated by a 1992 audit report by the Federal Court of Accounts. This triggered centralisation in the 1990s, with the secretariats of internal control progressively losing significance as the Secretariat of Federal Internal Control located within the Office of the Comptroller General of the Union consolidated its influence. The secretariats of internal control within organisations of the direct public administration were discontinued altogether in 2001.

Table D.5. **Models of internal audit within Brazil's direct federal public administration**

Centralised (under the Secretariat of Federal Internal Control)	Decentralised (in federal ministries or functional secretariats)	Collaborative (i.e. Secretariat of Federal Internal Control, Federal Court of Accounts)
Agrarian Development	**Post-2001 centralisation of internal audit**	Specific programmes (e.g. Family Grant Programme)
Agriculture	Secretariat of Federal Revenue	
Cities		
Communications	**Pre-2001 centralisation of internal audit**	
Culture	Office of the President	
Development and Trade	Defence	
Education	Foreign Affairs	
Environment	Unified Health System (DENASUS)	
Finance		
Fisheries		
Justice		
Labour and Employment		
Mines and Energy		
National Integration		
Planning, Budget and Management		
Science and Technology		
Social Development and Fight Against Hunger		
Transport		

Source: OECD.

National Audit Department has a dule role of promoting standardisation of internal audit within the Unified Health System and conducting audit activities

The National Audit Department of the Unified Health System promotes standardisation through: *i)* establishing guidelines, standards and procedures of auditing actions of the Unified Health System; *ii)* promoting the interaction and integration of audit activities among the three levels of government participating in the management of the Unified Health System; *iii)* encouraging technical co-operation between audit units among the three levels of government participating in the management of the Unified Health System; and *iv)* supervising the technical and administrative execution of audit activities undertaken by members of the Federal National Audit System. Its udit activities include: *i)* evaluating the lawfulness of the use of funds transferred by the National Health Fund to individuals and organisations under the Unified Health System; *ii)* determining the appropriateness, quality and effectiveness of procedures and health

services available to citizens; *iii)* providing a conclusive opinion based on audit activities on amounts to be reimbursement to the National Health Fund caused by mismanagement and waste; and *iv)* supporting monitoring and evaluation management of the Unified Health System, including the National STD/AIDS Programme.

In 2009, the National Audit Department of the Unified Health System initiated 1 310 audits, of which 696 were completed before the end of the fiscal year – against an original target of 1 000. Audits focused on general health assistance, the management of medicines and strategic programmes (see Figure D.2A). Of these audit activities, approximately 40% were planned by the National Audit Department of the Unified Health System. The rest were initiated based on outside requests: 22.4% by the Federal Ministry of Health functional and administrative secretariats and 21.7% from federal and state public prosecutors and the Attorney General of the Union (See Figure D.2B). Information was not available on the number of audit activities conducted by the National Audit Department of the Unified Health System which related to the National STD/AIDS Programme.

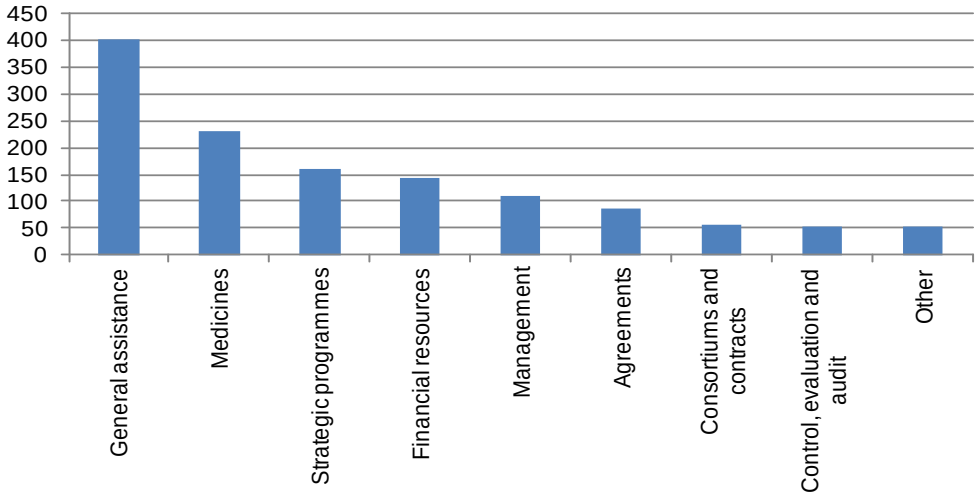
In 2010, the National Audit Department of the Unified Health System produced its first audit plan with announcing its intention to create a more structured audit programme and reduce the extent to which this programme is driven by external requests. It has established a target that 70% of audits be based on internal audit planning. The National Audit Department of the Unified Health System audit activities are supported by an Audit System (*Sistem Audit DENASUS*). This system helps to define, plan and execute internal audit activities as well as monitor audit findings.

There are currently 744 officials within the National Audit Department of the Unified Health System, including 404 technical and 340 administrative/support staff. Technical staff includes 151 doctors but only 4 auditors. Information was not available about the training available to staff within the National Audit Department of the Unified Health System. The number of staff working on audit has increased in recent years but follows a decrease from 1 226 to 686 between 1997 and 2006. Senior audit officials have expressed concern about expected staff turnover and capacity in the next five years because of its ageing workforce. Constitutional Amendment no. 23/1999 created a small opportunity for public officials who, upon reaching the retirement age of 65, wish to remain in public employment until the age of 70. However, specific measures for preparing for transition have not been undertaken, for example retaining select officials beyond retirement, recruitment of new officials, development of fast-track careers to fill gaps in positions.

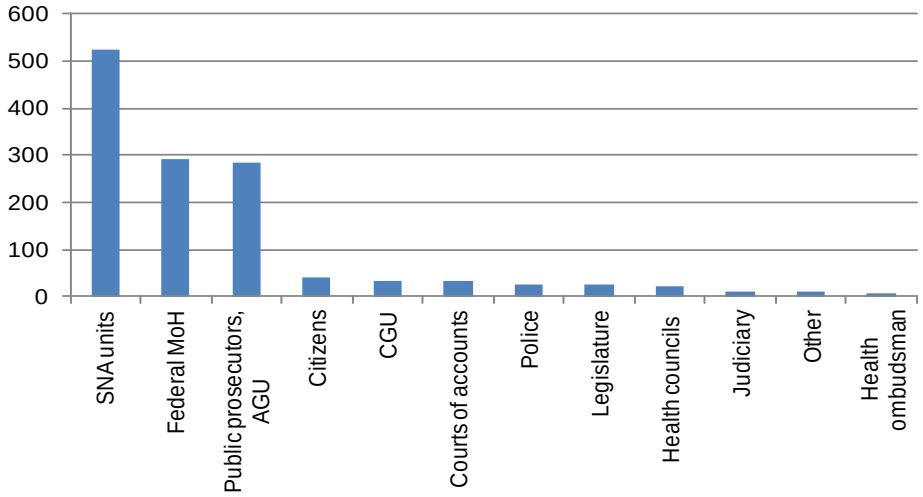
The National Audit Department of the Unified Health System releases an annual management report providing a summary of its activities, *vis-à-vis* its Pluri-Annual Plan (currently 2008-11). Audit reports are also publicly available through the National Audit Department of the Unified Health System website searchable by local government, but not by date or subject.

Figure D.2. **National Audit Department of the Unified Health System audit**

A. Focus of audits, 2009



B. Source of audit requests, 2009



Source: DENASUS, Federal Ministry of Health.

The National Audit Department of the Unified Health System is complemented by the Secretariat of Federal Internal Control

The Secretariat for Federal Internal Control provides a shared internal audit and inspection service for organisations of the direct federal public administration. Each organisation of the direct federal public administration is supported by a dedicated "internal audit division" within the Secretariat of Federal Internal Control. One division is responsible for auditing, among others, administrative units of the direct administration that are under the authority of the Federal Ministry of Health, both in Brasília and in Brazil's 26 states, including the National STD/AIDS Programme.

There are four main types of audit activities conducted by the Secretariat of Federal Internal Control: *i)* programme audits; *ii)* financial audits; *iii)* random audits; and *iv)* investigative audits. Programme audits analyse financial, non-financial and compliance activities, with particular attention to performance against the targets set in the Pluri-Annual Plan and the Annual Budget Law. Public organisations are selected for programme audits based on a risk model. Financial audits verify information provided by federal public organisations as input into the external rendering of accounts. Public organisations are selected for financial audits by the Federal Court of Accounts, with the participation of the Secretariat of Federal Internal Control, based on materiality and relevance. Random audits examine the implementation of federal programmes by sub-national governments. Municipalities and states are selected by the national lottery system, verifying financial and non-financial information, compliance and effectiveness.[13] Investigative audits are driven by concerns of compliance and integrity raised in other audit activities and external requests. Such requests may come from the Office of the President of the Republic, the Department of Federal Police, the Office of the Federal Public Prosecutor, members of the National Congress, the Federal Court of Accounts or citizens. Information was not available on the number of audits conducted by the Secretariat of Federal Internal Control concerning the National STD/AIDS Programme and Federal Ministry of Health.

The creation of the random audit programme in 2003 constitutes a fundamental change in the approach to auditing the implementation of federal programmes by local governments that first began in 1995. The key differences between these two approaches centre on the selection of municipalities and the focus of the audits. First, since 2003, municipalities are selected at random using the national lottery system rather than a statistical method applied by the Secretariat of Federal Internal Control. To ensure a fair and impartial selection, representatives of the media, political parties and civil society are invited to attend the drawings of municipal governments. Second, random audits cover the operations of municipalities in full, including their management systems, rather than simply the execution of a selected programme. Random audits were applied to states, large municipalities and specific programmes in 2004, 2007 and 2008, respectively. Empirical evidence of the impact of these audits suggests that they have had an impact on the electoral performance of incumbent parties and mayors. Information was not available on the extent to which random audits address management of the National STD/AIDS Programme or Unified Health System more generally.

The Secretariat of Federal Internal Control also conducts audits to ascertain and quantify individual liability for damages and losses to the federal public administration.[14] This is done through a special investigation of accounts (*tomada de especial contas*). As part of such an investigation, the Secretariat of Federal Internal Control issues an audit report and certificate indicating any rules or regulations breached, identifying the official responsible, and quantifying the damages and losses incurred. Between 2001 and 2010, special investigations of accounts identified damages and losses to the state of approximately BRL 4.6 billion (USD 2.8 billion; EUR 2.0 billion). Many of these concerned the failure of federal public officials to render financial accounts or irregularities associated with the use of public funds by the federal public administration and funds transferred to sub-national public organisations and private not-for-profit organisations through administrative agreements. Information was not available on the number of special investigation of accounts concerning the National STD/AIDS Programme or the Federal Ministry of Health more generally.

More recently, the Office of the Comptroller General of the Union has introduced permanent monitoring of expenditures (*acompanhamento permanente dos gastos*), a form of remote audit. Part of the Office of the Comptroller General of the Union's 2007-10 Institutional Integrity Plan (*Plano de Integridade Institucional*), it involves continuous monitoring of public policies and programmes using expenditure data and knowledge of management processes. The Office of the Comptroller General of the Union reports that the outputs of this activity enable better understanding of: *i)* the structure, capacity and workforce of administrative units; *ii)* the profile and evolution of expenditure and costs of government programmes; *iii)* the main suppliers and their participation in procurement and administrative contracts; *iv)* actual expenditure in respect to market price, the good or service that was received or how it was used for the intended purposes; *v)* areas for improvement for management and internal control; and *vi)* situations that deserve clarification or further investigation.

Modern audit techniques are increasingly used for the detection and monitoring of possible irregularities in procurement and administrative contracts

In 2006 the Office of the Comptroller General of the Union launched a pilot to identify potential conflicts of interest between public officials and suppliers in public procurement and administrative contracts. The Office of the Comptroller General of the Union sampled 13 million suppliers and 588 000 public officials and found that some 2 500 federal public officials were owners or shareholders of approximately 2 000 companies which had supplied over BRL 400 million (USD 239 million; EUR 172 million) in goods and services to the federal public administration between 2004 and 2006. Moreover, there were cases in which 313 of the 2 000 companies had supplied goods and services to the public organisation in which its owner or shareholder was employed. While these results did not immediately imply misconduct, they resulted in investigations by the Secretariat of Federal Internal Control. No information was available on the results of further investigations into these cases.

Following this exercise, the Office of the Comptroller General of the Union launched the Public Spending Observatory (*Observatório da Despesa Pública*) in 2008 as the basis for continuous detection and sanctioning of misconduct and corruption. Through the Public Spending Observatory, expenditure data is crossed with other government databases as a means of identifying atypical situations that, while not *a priori* evidence of irregularities, warrant further examination. As discussed in Chapter 3, the Public Spending Observatory is a horizontal project within the Office of the Comptroller General of the Union. It is operated by the Secretariat of Corruption Prevention and Strategic Information but draws upon the expertise of the Secretariat of Federal Internal Control and the Inspectorate General of Administrative Discipline.

Based on experience over the past several years, a number of routine cross checks related to procurement and administrative contracts have been created by automatically crossing data on a daily basis. This exercise generates "orange" or "red" flags that can be followed up and investigated by officials within the Office of the Comptroller General of the Union. In many cases, follow-up activities are conducted together with the special advisors on internal control within each organisation of the direct federal public administration (*i.e.* federal ministries) and internal audit units within organisations of the indirect federal public administration (*i.e.* agencies and foundations). Examples of these cross checks related to procurement and administrative contracts include possible conflict of interest, inappropriate use of exemptions and waivers and substantial contract

amendments. A number of cross checks also relate to suspicious patterns of bid-rotation and market division among competitors by sector, geographic area or time, which might indicate that bidders are acting in a collusive scheme.

While computer-assisted audit techniques have been successful at crossing procurement data with other government databases to identify orange and red flags, it serves more as an *ex post* control by the Office of the Comptroller General of the Union. Its application, together with responsibility for vetting orange and red flags, could be devolved to become a means of *ex ante* due diligence by public managers. This could strengthen internal control and emphasise the accountability of procurement officials and public managers. Care, however, is necessary to ensure that red flags are properly vetted and employed.

Co-ordination between the National Audit Department and the Secretariat of Federal Internal Control occurs through two channels

First, internal audit units are required to submit an Annual Plan of Internal Audit Activities (*Plano Anual de Atividades de Auditoria Interna*) and an Annual Report of Internal Audit Activities (*Relatório Anual de Atividades de Auditoria Interna*) to the Secretariat of Federal Internal Control as a basis for evaluation. Second, internal audit units are required to periodically meet with the Secretariat of Federal Internal Control to monitor the implementation of the Permanent Plan of Measures.

An Annual Internal Audit Activities Plan of is submitted for review by the National Audit Department of the Unified Health System to the Secretariat of Federal Internal Control before end-October. The plan includes information on planned internal audits and their objectives as well as planned institutional development and capacity-building actions. Within 20 days of receipt of the plan, the Secretariat of Federal Internal Control issues comments on the planned activities and can recommend additional internal audit actions, as appropriate. The annual internal audit plan is subsequently approved by the Federal Ministry of Health and shared with the Office of the Comptroller General of the Union. Information on the observance of these deadlines was not available.

At the end of every budget year, the National Audit Department of the Unified Health System prepares an Annual Report of Internal Audit Activities by end January. The Annual Report of Internal Audit Activities includes: *i)* a description of actions undertaken by the National Audit Department of the Unified Health System; *ii)* recommendations made by the National Audit Department of the Unified Health System and Secretariat of Federal Internal Control; *iii)* information on organisational or administrative factors that impacted on internal audit; and *iv)* the status of institutional development and capacity-building activities of internal audit. The content of these reports is protected and subject to banking, tax or business confidentiality.

Since the end of 2008, the National Audit Department of the Unified Health System is obliged to meet three times per year with the Secretariat of Federal Internal Control (typically January, March-June and October). These meetings help the Secretariat of Federal Internal Control to monitor the implementation of the Permanent Plan of Measures. Information on progress in addressing recommendations is entered into an internal database to support the activities of the Secretariat of Federal Internal Control. Recommendations may be given one of the following statuses: *i)* fulfilled; *ii)* revised; *iii)* postponed at the request of the public manager; *iv)* reiterated, recommendation only partially implemented; *v)* reiterated, recommendation refused by the public manager but

not accepted by the Secretariat of Federal Internal Control; and *vi)* refusal of the recommendation accepted by the Secretariat of Federal Internal Control. The Permanent Plan of Measures does not include audit recommendations from the Federal Court of Accounts.

Co-ordination also exists between the National Audit Department of the Unified Health System and other integrity actors

Two clear and well-cited examples of this co-ordination are Operation Vampire (*Operação Vampiro*) and Operation Leech (*Operação Sanguessuga*). Operation Vampire was triggered by the Department of Federal Police in May 2004 resulting in the arrest of 17 people on charges of fraud in the Federal Ministry of Health's bidding process for blood products. Six of those arrested were Federal Ministry of Health officials. The investigation by the Department of Federal Police began in March 2003 at the request of the National Audit Department of the Unified Health System, which had also requested the Federal Court of Accounts to audit its procurement activities between1999 and 2004. The Operation Leech was a joint action that dismantled fraud in the selling of overpriced ambulances across Brazil. It involved the National Audit Department of the Unified Health System, the Department of Federal Police, the Federal Court of Accounts and the Office of the Comptroller General of the Union. Together they audited 1 400 administrative agreements with approximately 600 municipalities.

Internal audit activities are subject to various levels of evaluation to address issues of quality and impact

All internal audits conducted by the Secretariat of Federal Internal Control are subject to three levels of quality control: first, by the co-ordinator of the audit team; second, by the supervisor of the audit team (typically the official in charge of a regional office or a division in the central unit); and third, by the central division that requested the audit or inspection work. Reviews focus on a variety of issues, such as the formal aspects of the report, consistency of the audit findings (i.e. are the findings supported by adequate evidence?), appropriateness of the recommendations (i.e. are they appropriate and feasible?) and the verification of audit documentation. Co-ordinators of the audit team must also complete an assessment on the participation of their audit team as input into professional development. The assessment takes into account the professional conduct of auditors such as organisation and compliance with professional confidentiality standards. Information was not available on quality controls conducted by the National Audit Department of the Unified Health System.

The Secretariat of Federal Internal Control is currently developing a web-based monitoring system – "Monitor-web" – to support the effective monitoring of internal audit recommendations. The software is intended to allow managers to more easily implement, and internal audit authorities (including decentralised and network internal audit) to monitor, internal audit recommendations. It is expected that Monitor-web will also reduce the paperwork necessary for public managers to comply with internal audit recommendations, allowing public managers to respond to recommendations and register their "action plans" online. The Monitor-web system will replace the manual monitoring of internal audit recommendations. Information was not available on the measures planned to ensure that the Monitor-web system is integrated and information exchange

with the National Audit Department's systems to facilitate better co-ordination of audit activities.

Besides the regular reviews, inspections of compliance are carried out by the Secretariat of Federal Internal Control Department of Planning and Co-ordination to evaluate internal audit activities. These inspections focus on audit planning, quality of audit reports and the role of team co-ordinators and supervisors. Information was not available on reviews of the National Audit Department audit activities of the Unified Health System by the Secretariat of Federal Internal Control. The Secretariat for Federal Internal Control also has the possibility to conduct a peer review of internal audit activities within the federal public administration was included in the Internal Audit Manual in 2001. The objective of the peer review is to assess if the internal audit unit under review is effectively performing its functions. Its inclusion was an aspiration in line with international good practice. However, to date, no peer reviews of internal audit units have been conducted. Senior officials within the Secretariat for Federal Internal Control informed the OECD Secretariat that peer reviews remain a goal, but no specific date has been set for their introduction.

Performance indicators relating to internal audit in Brazil are limited to quantitative targets and evaluated on a semi-annual basis

OECD member countries are moving forward in the development of performance indicators for internal audit. Such analyses can be used for continually improving programmes in business re-engineering. Drawing on these measures allows for structured practitioner dialogue to improve effectiveness and efficiency in government operations. Yet the measurement of these dimensions – particularly outputs (i.e. the final products of public organisations) and outcomes (i.e. the desired results from delivering outputs) – is frequently crude or simply missing. While the arguments for measuring government operations are very strong, there are also risks. For example, measurement can divert scarce political, managerial and practitioner resources. Equally important, these measures only represent one contribution to managerial decision making and their designers must consider how to prevent gaming or unintended perverse outcomes from being stimulated by the presence of measurement. Discussions and initiatives on the measurement of internal audit outputs and outcomes are being undertaken by the Office of the Comptroller General of the Union.

Embedding high standards of conduct

Standards of conduct are recognised as essential for guiding the behaviour of public officials in line with the public purpose of the organisation in which they work. The "OECD Principles for Improving Ethical Conduct in the Public Service" acknowledge the critical role of, and provide guidance for decision makers and public managers to achieve, high standards of conduct (OECD, 1998). In recognition of the emerging risks at the interface of the public and private sectors, OECD member countries have since adopted "Guidelines for Managing Conflict of Interest in the Public Service" (OECD, 2003). Moreover, standards of conduct are considered a key component of sound internal control and efforts to fight against corruption. The International Organisation of Supreme Audit Institutions, for example, has revised its "Guidelines for Internal Control Standards for the Public Sector" to include ethics management (INTOSAI, 2004). The inclusion was justified because of the importance of standards of conduct for the

prevention and detection of fraud and corruption. Standards of conduct are also articulated in international conventions against corruption such as the United Nations Convention Against Corruption and the Inter-American Convention Against Corruption.[15]

Defining standards of conduct and creating administrative structures for their effective implementation are recognised as pre-conditions for effectively guiding standards of conduct among public officials. A concise, well-publicised statement of principles and standards, i.e. a code of conduct, can provide easily interpretable guidance for public officials to apply in their daily activities. It can also make it easier for public officials to identify conduct that breaches these standards as a basis for reporting it to the appropriate authority. Subsequently embedding high standards of conduct, however, requires: *i)* developing and regularly reviewing practices and procedures influencing standards of conduct; *ii)* promoting government action to maintain high standards of conduct and to address risks; *iii)* incorporating ethical dimensions into management frameworks to ensure that practices are consistent with the public administration's values; and *iv)* assessing the effects of public management reforms on standards of conduct.

While this part originally proposed to focus on efforts to embed high standards of conduct within the National STD/AIDS Programme, constraints in the review process means that it focuses only on activities in the Federal Ministry of Health. In this regard, the Federal Ministry of Health could work in partnership with other public and not-for-profit organisations involved in the delivery of the National STD/AIDS Programme. Such a review could focus the functioning and effectiveness, and confidence in, the systems to promote high standards of conduct.

Federal Ministry of Health officials fall under the same standards of conduct as other federal public officials in Brazil

Standards of conduct for Brazil's federal public officials are articulated in a combination of primary and secondary legislation. Core among these are the Code of Conduct for the Federal Public Administration (Federal Law no. 8 027/1990), Federal Law no. 8 112/1990 regarding the Public Administration and the Code of Professional Ethics for Public Officials in the Federal Administration (Federal Decree no. 1 171/1994). This legislation defines the obligations and duties of public officials and detailed sanctions for ethical breaches and administrative misconduct.[16] Together, these translate the principles of the public service as promulgated in the 1988 Federal Constitution into standards for public officials to follow in their daily activities. These principles are legality, morality (i.e. ethics), impartiality, effectiveness and publicity (i.e. transparency). In many respects, Brazil's principles of public service are similar to those of OECD member countries and widely considered as the basis for establishing a cleaner public administration and for building trust in government.

In addition, Federal Law no. 8 429/1992 defines what constitutes administrative misconduct by public officials. For example, public officials are prohibited from, among other actions: *i)* accepting, either for oneself or someone else, money, personal or real property, or any kind of direct or indirect economic advantage, in the form of a commission, gratuity or gift from any party that has a direct or indirect interest that can be accomplished or furthered with an act or omission by the public official; *ii)* accepting any employment or commission or engaging in consulting or advisory work for any natural person or legal entity that has an interest that can be achieved or furthered by an act or omission committed in the performance of a public official's functions; *iii)* accepting any economic advantages in exchange for arranging the use or investment of any public

funds; *iv)* revealing or allowing any third party to gain access to information regarding any political or economic measure that can affect the price of a commodity, good or service, before that measure is officially announced.

A separate code of conduct focuses on high, but not senior, officials within the federal public administration

The Code of Conduct for High Officials in the Federal Public Administration applies to the President and Vice-President of the Republic, federal ministers, executive secretaries, secretaries and other level 6 supervisory and management officials (*direção e assessoramento superiores*). The rationale for a separate code for high officials reflects a number of factors including: *i)* the position of these officials at the political-administrative interface and their authority as decision makers; *ii)* the heightened risks of conflicts between these officials' public and private interests, especially in cases where these officials were appointed from outside the public administration; and *iii)* the leadership role and visibility of these officials to other public officials and citizens more generally. Information on the number of high public officials (i.e. federal ministers, executive secretaries, secretaries and other level 6 supervisory and management officials) within the Federal Ministry of Health was not available. There are a total of 438 officials under the Code of Conduct for High Officials in the Federal Public Administration.

The Code of Conduct for High Officials in the Federal Public Administration does not, however, specifically address a unique characteristic of the federal public administration's human resource management system: namely the role of supervisory and management officials. As discussed in the 2010 OECD Review of Human Resource Management in Government of Brazil, these officials fulfil many of the decision-making and management functions within federal public organisations. The appointment, and removal, of these officials is made directly by the President of the Republic and federal ministers. Moreover, supervisory and management positions may be recruited externally from the federal government. In comparison, other federal public officials cannot be recruited externally. There is no ceiling on the number of persons who may be recruited externally at the most senior levels of the supervisory and management positions (i.e. levels 5 through 6). Limits, however, do exist for middle and lower level supervisory and management positions: 75% of junior supervisory and management positions (i.e. levels 1 through 3) and 50% of those in middle supervisory and management positions (i.e. level 4) must be filled by career public officials, retired public officials or employees of state-owned enterprises (OECD, 2010b).[17]

Only level 6 supervisory and management officials are, however, guided by the Code of Conduct for High Officials in the Federal Public Administration. Levels 4 through 6 supervisory and management officials, which correspond to senior public officials in OECD member countries, are regulated by the same code of conduct as career public officials: the Code of Professional Ethics for Public Officials in the Federal Administration (Federal Decree no. 1 171/1994). There is, thus, no distinction between the risks associated with the decision-making powers of many of these officials or the fact that they may be recruited externally from the private and not-for-profit sectors. Information on the number of level 5 and level 4 supervisory and management officials within the Federal Ministry of Health was not available.

Brazil's legal framework establishes sanctions for ethical breaches and administrative misconduct, including illicit enrichment

Sanctions for ethical breaches and administrative misconduct include written warnings, suspension for up to 90 days, dismissal and possible forfeiture of retirement benefits. Violations of the Code of Conduct, absenteeism and refusing to perform duties are subject to a written warning. In the case of recurring violations of the Code of Conduct or more serious misconduct such as engaging in activities incompatible with one's public office or function, a suspension of up to 90 days applies. During the suspension period, remuneration to the public official is automatically forfeited.[18] Written warnings and suspension remain in a public official's personnel file for three and five years respectively. More serious forms of administrative misconduct, such as using one's public office or function for any direct or indirect advantages, expressing grievous insubordination on the job and irregular expenditure of public funds and corruption may result in dismissal. Dismissal may also prohibit an individual from employment within the federal public administration for a period of five years or more. Thereafter, the employment of an individual previously dismissed from office may only take place after all losses to the national treasury have been paid in full.

In addition to administrative sanctions, acts of misconduct by federal public officials are subject to criminal and civil sanctions. Administrative, criminal and civil penalties may be cumulatively levied independently of one another. The Criminal Code outlines penalties for embezzlement, misuse of public funds, facilitation of smuggling and embezzlement, malfeasance, dereliction of duty and breach of confidentiality, including in public procurement. These penalties range from 1 month for the misuse of public funds to 12 years for passive bribery, entering false data into government information systems and embezzlement.

Efforts in recent years have sought to clarify and maintain the relevance of existing standards across the public administration

The continual modernisation of Brazil's federal public administration has given rise to new forms of potential vulnerabilities and conflicts of interest for public officials. The need to clarify questions concerning the interpretation of standards of conduct in Brazil has been achieved, in part, through the activities of the Public Ethics Commission. The commission issues binding resolutions and guidance notes to support the implementation of the Code of Conduct for High Officials in the Federal Public Administration. Topics covered by the commission's resolutions include participation in external activities, the receipt of gifts and measures to prevent conflicts of interest (see Box D.4). While these recommendations focus in particular on the activities of high officials, they indirectly serve as guidance for all officials.

A bill regulating conflict of interest and the use of privileged information, including in post-public employment contexts, is currently under discussion in the National Congress. Originally proposed by the Office of the Comptroller General of the Union, the federal executive advocates the bill as necessary for enhancing integrity and bringing Brazil in line with international standards. Bill no. 7 528/2006, as it was drafted at the time this case study was written, defines a conflict of interest as a situation that is generated by the diverging stakes between the private and public sectors that might compromise the public interest and performance of public functions. It defines privileged information as information that entails a high level of secrecy or information that is

relevant to the decision-making processes in the federal public administration that may have economic or financial repercussions.

If passed in its current form, Bill no. 7 528/2006 would bring about three main changes to existing rules for high officials and those in working in regulatory agencies. First, it would broaden the application of conflict of interest rules to include level 5 supervisory and management officials and other officials holding positions with access to privileged information. Second, it would broaden the scope of application of conflict-of-interest rules according to responsibilities instead of grade, i.e. it would include a lower level official acting on behalf of a higher level official. Third, it would extend the cooling-off period to one year following the departure of regulated officials from office in order to avoid the possibility of a post-employment conflict of interest. Current rules in Brazil only establish a four-month cooling-off period compared with between one and two years in OECD member countries (OECD, 2010b).

As standards of conduct are renewed, attention could further focus on understanding and analysing emerging risks facing public officials

Beyond these efforts of the Public Ethics Commission and the Office of the Comptroller General of the Union, few public organisations have sought to clarify and renew the relevance of their own standards of conducts. For example, a 2010 Public Ethics Commission survey indicated that only 44% of all federal public organisations perceived their routines for identifying areas, processes or functions susceptible to misconduct as satisfactory or above satisfactory. Information was not available on the Federal Ministry of Health. There are two caveats to this survey, however. First, there are no formal guidelines or good practice notes issued by the Public Ethics Commission or the Office of the Comptroller General of the Union, as to what constitutes a routine or how these organisations could identify areas, processes or functions susceptible to misconduct. Second, the survey was completed by public organisations themselves and has not been independently verified by either the Public Ethics Commission or another federal public authority.

Box D.4. **Examples of Public Ethics Commission's recommendations: participation in external activities, receipt of gifts and managing conflicts of interest**

The Public Ethics Commission issue binding recommendations concerning the interpretation of the Code of Conduct for High Officials in the Federal Public Administration. For example:

On participation in external activities: Resolution no. 2/2000 guides high public officials on participating in external activities such as seminars, conferences and lectures both in Brazil and abroad, particularly when the payment of travel, accommodation, meals and registration fees is not borne by the federal public administration. As a general rule, high public officials may not accept payment or reimbursement of travel and accommodation expenses incurred by an individual, organisation or association that maintains a business relationship with the federal public organisation in which the official is employed. Exceptions exist when the event is organised: *i)* as part of a prior contractual obligation with the official's public organisation; *ii)* by an international organisation of which Brazil is a member; or *iii)* by a foreign government, academic, scientific or cultural institution. High public officials may, however, accept discounts provided that it does not constitute a personal benefit. The resolution states that, when attending

Box D.4. **Examples of Public Ethics Commission's recommendations: participation in external activities, receipt of gifts and managing conflicts of interest** *(cont'd)*

in a personal capacity, expenses may be borne by the sponsoring organisation provided that the official makes information on the conditions of their participation publicly available, including the amount received or borne by the sponsoring organisation, if any; as well as a statement that the sponsoring organisation is not interested in individual or collective decisions that can be taken by the official. Participation in an external activity in a personal capacity may not, however, be undertaken to the detriment of an official's public duties.

On the receipt of gifts: Resolution no. 3/2000 guides high public officials on the receipt of gifts. As a general principle, high public officials are prohibited from accepting gifts of any value from an individual, organisation or association (or third-party representative) that: *i)* is subject to regulatory jurisdiction of the public organisation to which the official belongs; *ii)* has a personal, professional or business interest in the public organisation's decisions; or *iii)* maintains a business relationship with the public official or the organisation to which the public official belongs. Exceptions exist when a gift: *i)* is made out of kinship or friendship provided that the cost is borne by the individual making the gift and not another person, organisation or association; *ii)* is made by a foreign official where there is reciprocity protocol or reason of diplomatic engagement; *iii)* has no commercial value and is made as a courtesy as long as it does not exceed BRL 100 (USD 60; EUR 43) in value; *iv)* is a general giveaway whose distribution is not more than once every 12 months; and *v)* includes prizes, money or goods granted to the public official by an academic, scientific or cultural organisation in recognition of the official's intellectual contributions; awards granted on competitive grounds for academic, scientific, technological or cultural work; and scholarships for professional development, provided that the sponsoring organisation has no interest in decisions taken by the official. In the event that refusal or immediate return of a gift is not feasible, high public officials must either hand over the gift to the National Institute for Historical and Artistic Heritage in the case of historical, cultural or artistic value or donate the gift to a charity or a philanthropic organisation recognised by the federal government.

On managing conflicts of interest: Resolution no. 8/2003 guides high public officials in managing potential conflicts of interest, both in terms of assets and activities (e.g. volunteer work in not-for-profit organisations). It outlines the general actions that may be taken, noting that the Public Ethics Commission should be informed by high public officials and will issue an opinion with regards to the adequacy of the measures adopted. General actions include disposing of property and assets that may give rise to a conflict of interest, transferring the administration of the assets that may create a potential conflict of interest to a blind trust or giving up any activities or licenses for the period in which a conflict may arise. In the case of possible specific and temporary conflicts, officials should notify their superior or other members of the advisory body to which they belong, refraining from voting or participating in any discussions on the subject until the potential conflict ceases.

1. Conversion has been done using the exchange rate from 8/10/2010, BRL 1.0000 = USD 0.5979; BRL 1.000 = EUR 0.4294.

Source: Adapted from Public Ethics Commission Resolutions no. 2/2000, 3/2000 and 8/2003.

The Federal Ministry of Health's Office of Personnel Management is responsible for co-ordinating actions to promote standards of conduct

The Ministry of Health established an ethics committee within its Office of Personnel Management in October 2006. The Office of Personnel Management is responsible for

providing guidance on standards of conduct to Federal Ministry of Health officials. All federal public organisations, both within the direct and indirect public administration, are obliged under Federal Decree no. 1 171/1992 to establish an ethics committee. These committees provide guidance and advice to public officials on standards of conduct and ethical dilemmas in their interaction with citizens and management of public resources. Committees may also launch an investigation, *ex officio* and upon submission of a well-founded report, into breaches of the code of conduct. Submissions may be made by any citizen, public official or legal person under private law or business association. Where the committee considers that the activities of a public official also constitutes a breach of administrative, civil or criminal law, a copy of the case files is shared with the Inspectorate General of Administrative Discipline of the Union, the Office of the Federal Public Prosecutor or the Department of Federal Police respectively. The legal advisory units within the Federal Ministry of Health can assist the committee if it has doubts over whether a well-founded report constitutes more than an ethical breach.

The Ethics Committee of the Federal Ministry of Health is formally composed of three representatives and their alternates, chosen from officials within the ministry. This is in compliance with Federal Decree no. 1 171/1992. Under this decree, ethics committees are required to have three members and three deputies chosen from among permanent public officials and appointed by the head of the respective public organisation. Members are meant to be appointed for a staggered term of three years, with the possibility of extension for one additional three-year term and presided by the longest serving member. Restrictions also exist on who can occupy a position on an ethics committee. For example, the head or an executive secretary of a public organisation cannot be a member of an ethics committee. Members are required to meet at least once a month and extraordinarily at the initiative of the president, members or executive secretary of the committee. Deliberations of the committee are to be taken by majority vote of its members. Committees may also appoint local representatives to assist in disseminating and communicating its work. It is the responsibility of the head of the public organisation to ensure adequate working conditions for the committee to fulfil its function, including the exercise of the committee members' duties.

Information was not available on the effective functioning of the Federal Ministry of Health's ethics committee. Surveys by the Office of the Comptroller General of the Union and Public Ethics Commission have in the past found that not all ethics committees comply with the minimum statutory requirements of Federal Decree no. 1 171/1992. For example, a 2008 Office of the Comptroller General of the Union survey of 206 federal administrative units found that only 151 (73%) had established an ethics committee. Moreover, of these 151 ethics committees, only 115 (76%) had 3 permanent members and 3 substitute members. Only 92 (61%) had members participate in capacity building activities related to their committee responsibilities. A 2010 Public Ethics Commission survey indicated that only 81% of federal public organisations perceived their ethics committee complied with the requirements of Federal Decree no. 1 171/1994. As mentioned previously, the 2008 survey was completed by public organisations themselves and responses were not been independently verified by the Public Ethics Commission or another federal public authority. In addition, difference between the design of the 2008 and 2010 surveys make it difficult to assess whether there have been improvements in compliance with Federal Decree no. 1 171/1994.

The activities of the Federal Ministry of Health's ethics committee are guided by the Public Ethics Commission

The Public Ethics Comission is the central unit of the Ethics Management System of the Federal Public Administration. Formalised in 2007, by Federal Decree no. 6 029, the commission co-ordinates, evaluates and supervises the activities of all ethics committees within federal public organisations. In order to build the capacity of the ethics committees within individual federal public organisations, the Public Ethics Commission conducts training activities for about 500 public officials every year. The training syllabus provides a conceptual overview of ethics and the Ethics Management System of the Federal Public Administration to enable high officials to lead by example and ethics committee members to adopt standardised procedures. Information was not available on how many members of the Federal Ministry of Health have received training regarding their functions and responsibilities.

In addition, the Public Ethics Commission oversees compliance with the Code of Conduct for High Officials in the Federal Public Administration. In this capacity, the commission conducts investigations, either *ex officio* or upon receipt of a credible report, of possible breaches of ethics by high public officials. In addition, and as the central unit of the Ethics Management System of the Federal Public Administration, the Public Ethics Commission co-ordinates, evaluates and supervises the activities of all ethics committees within federal public organisations. The latter was formalised by Federal Decree no. 6 029/2007 regarding the Ethics Management System of the Federal Public Administration. Information was not available on the number of investigations regarding possible ethical breaches conducted against Federal Ministry of Health high officials.

The Federal Ministry of Health is in the process of creating its own inspectorate of administrative discipline

The decision to establish an inspectorate of administrative discipline within the Federal Ministry of Health followed from a recommendation by the Office of the Comptroller General of the Union in July 2010. At the end of 2010 there were 32 inspectorates within the federal public administration, 7 were in process of being established and a further 23 were under consideration. These inspectorates are responsible for investigating possible administrative misconduct and engaging in disciplinary proceedings. As part of this responsibility, the inspectorates are required to maintain updated information of the progress and outcome of all investigations and disciplinary proceedings. Consolidated information is subsequently shared with the Office of the Inspector General of Administrative Discipline of the Union.

It is proposed that the Federal Ministry of Health inspectorate of administrative discipline will be located in Brasília with representatives in all 26 Brazilian states because of the high level of decentralisation of responsibility for implementing health policies. This representation is provided by the Federal Ministry of Health's Office of Personnel Management. In the process of establishing an inspectorate, the Federal Ministry of Health centralised the activities of initiating procedures, providing orientation and deciding on the components of disciplinary commissions in the Office of Personnel Management.

The proposed Federal Ministry of Health Inspectorate will be a part of the Administrative Disciplinary System of the Federal Public Administration

The Office of the Inspector General of Administrative Discipline (*Corregedoria-Geral da União*) is the central unit of the Administrative Disciplinary System of the Federal Public Administration (*Sistema de Correição do Poder Executivo Federal*). Launched in June 2005, this system aims to promote integrity by proposing measures to: *i)* harmonise of administrative discipline within the federal public administration; *ii)* integrate administrative discipline with internal control and audit activities; and *iii)* standardise and improve administrative disciplinary procedures (i.e. investigation and sanctioning). The system is supported by the Co-ordinating Commission for Administrative Discipline, an advisory body to the Administrative Disciplinary System of the Federal Public Administration. In addition to the Inspector General of Administrative Discipline, the commission's membership includes the Executive Secretary of the Office of the Comptroller General of the Union, the Inspector General, three Deputy Inspector Generals and representatives of inspectorates from federal public organisations.

As part of its activities, the Office of the Inspectorate General of Administrative Discipline has established mechanisms for integrating data on investigations and sanctions into administrative misconduct. The Inspectorate General has issued a Correctional Inspection Manual (*Manual de Inspeção Correctional*) and published hypothetical case studies and a full text of opinions issued by the Attorney General of the Union (*Advocacia-Geral da União*) relating to administrative discipline. It also conducts a training programme for officials working in inspectorates within federal public organisations and those involved in conducting administrative investigations. The programme was conducted in partnership with the National School of Finance Administration. Within this partnership, the inspectorate general develops the curriculum and provides instructors and the National School of Financial Administration provides all the logistical support. The inspectorate general is also developing a distance learning programme.

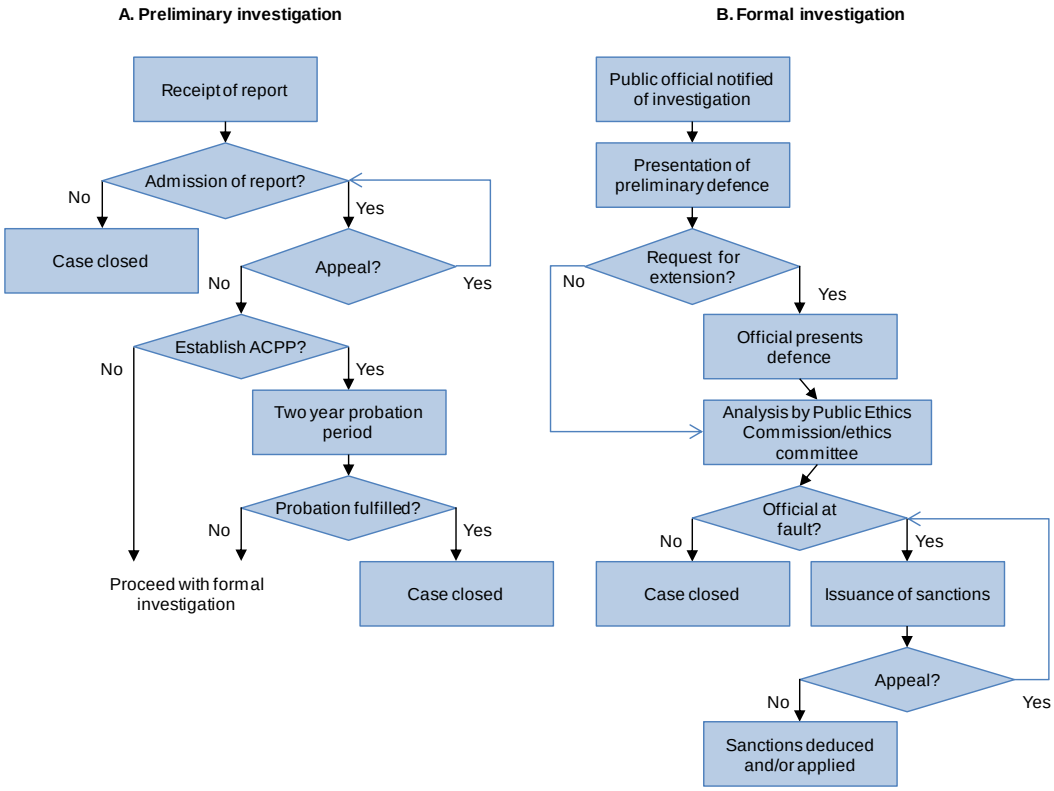
The Office of the Inspector General of Administrative Discipline may also initiate or intervene in administrative investigations and administrative disciplinary procedures when it considers a specific case to be too complex or questions the independence of an inspectorate. It may also investigate the failure of public organisations to establish an investigation or disciplinary procedure.

Procedures to investigate possible ethical breaches and administrative misconduct have been designed to guarantee an official's right of defence

Federal Decree no. 6 029/2008 establishing the Ethics Management System of the Federal Public Administration defines the general procedures for investigating a possible ethical breach by a federal public official. Public Ethics Commission Resolution no. 10/2010 provides additional guidance. Figure D.3 provides a summary of this procedure. During a preliminary investigation the Public Ethics Commission/ethics committee may offer a public official with the opportunity to recognise their own ethical breach. In such cases, an Agreement for Professional Conduct (ACPP) is formulated between the official and the Public Ethics Commission/an ethics committee highlighting the ethics breach and actions to be taken by the official to prevent a recurrence of the same ethical breach. The agreement also establishes a probationary period of two years after which, if the public official follows the terms of the agreement, the case is closed.

If an official does not accept an ACPP, or where the Public Ethics Commission/an ethics committee considers it inappropriate to offer one, a full investigation is launched. Information on the number of ACPPs issued within the Federal Ministry of Health was not available.

Figure D.3. **General procedure for investigating possible ethical breaches**

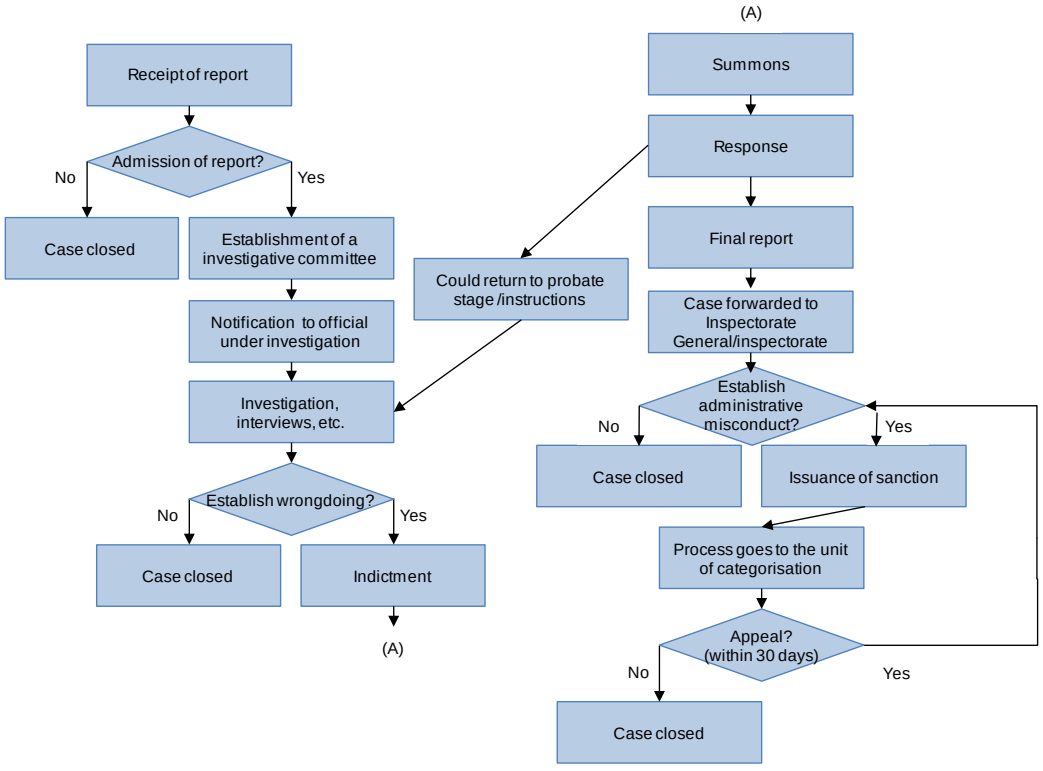


Source: OECD

In guiding a full investigation, Federal Decree no. 6 029/2008 and Public Ethics Commission Resolution no. 10/2010 establish that the Public Ethics Commission/an ethics committee must perform investigations in a timely, independent and impartial manner. The Public Ethics Commission/an ethics committee must notify an official under investigation, give the official the opportunity to present a written defence, to list up to four witnesses and to provide any supporting evidence within ten days. A ten-day extension may be granted to the official under investigation when considered necessary by the Public Ethics Commission/an ethics committee. Further, Public Ethics Commission/ethics committee members are obliged to take necessary actions to protect both the reputation of the official under investigation and the identity of the reporting person during the investigation. Upon completing an investigation and issuance of sanctions, case files are no longer deemed confidential. As the files include documents covered by legal confidentiality, access to the documents is restricted to individuals with the minimum required legal by the public organisation originally charged with their custody.

Federal Law no. 8 112/1990 defines the general procedure for investigating possible administrative misconduct by a federal public official. Figure D.4 provides a summary of this procedure. In general, the admissibility of initial information is contingent on a precise indication of the alleged irregularity connected to the performance of the public office. If the report includes sufficient information, the inspectorate opens a preliminary investigation or an administrative disciplinary proceeding, in accordance with the specific case. In the absence of sufficient evidence to open an investigation, the information is filed. In all cases, the documentation submitted remains confidential and the identities of the reporting person and the official are to be protected. Investigations into possible administrative misconduct are subject to a statute of limitations of: *i)* 180 days for disciplinary action with maximum sanction of written warning; *ii)* 2 years for suspension of up to 90 days; and *iii)* 5 years for dismissal. This does not include the statute of limitations for criminal investigations that are regulated by the Criminal Code.

Figure D.4. **General procedure for investigating possible administrative misconduct**



Source: Inspectorate General of Administrative Discipline, Office of the Comptroller General of the Union.

Investigations into possible administrative misconduct are conducted by a committee composed of three career public officials. The chair of the committee must be of equal or higher grade, or have an equal or higher level of education, than the official under investigation. Spouses, partners or relatives of the investigated official or any other person with interests at stake cannot participate in the committee. Federal public organisations must give priority to requests from investigative committees and cannot claim confidentiality as a means of withholding information. Where witnesses are public officials, a summons by the committee is addressed to the official's immediate superior, together with information on the date and time scheduled for the hearing.

The committee is obliged to perform its activities in an independent and impartial manner, and maintain the necessary level of confidentiality to protect the public interest. The meetings and hearings of the committee are closed and attendance is restricted to interested parties. Investigative committees have 60 days to conclude their reports, extendable under justification of another 60 days. The ruling authority subsequently has 20 days to render its decision, together with a report of facts established and the penalty. Members of the investigative committee may be relieved of their regular duties for the duration of the proceedings and until the release of a final disciplinary report. Courts have decided that expiration of this legal deadline cannot stop investigations nor preclude the ruling authority from imposing sanctions. In the event that the investigation concludes there has been a breach of criminal misconduct, the inspectorate of administrative discipline must send a copy of the case files to the Office of the Federal Public Prosecutor.

Public officials under investigation for possible administrative misconduct have a number of rights. This includes the right to be notified of an investigation into their conduct, to access and obtain copies of the documents related to the investigation and to be present a full defence against the allegations. The official under investigation may follow the proceedings in person or through a proxy, introduce and cross-examine witnesses and produce counter-evidence provided that it does not interrupt the proceedings of the investigation. The committee chair may, however, deny requests by the investigated official where it is considered irrelevant. An official under investigation continues to receive full remuneration during the investigation. As a precautionary measure, officials under investigation may be granted leave from their post for up to 60 days, extendable for another 60 days if the investigation is extended, in cases where their presence in their workplace can be harmful to the investigation.

It should be duly noted that reports of possible administrative misconduct committed by consultants are not investigated by the Inspectorate General of Administrative Discipline. These allegations are brought to the attention of either DENASUS or the Secretariat of Federal Internal Control, who investigate such cases and provide recommendations to the Federal Ministry of Health of the appropriate actions to be taken. Information was not available on the number of investigations conducted by DENASUS or the Secretariat of Federal Internal Control into possible administrative misconduct committed by consultants.

Table D.6. **Administrative disciplinary investigations in the Federal Ministry of Health**

Year	Administrative disciplinary procedures	Inquiries	Summary processes (*Rito Sumário*)	Total
2006	17	02	03	22
2007	11	02	01	14
2008	10	05	03	18
2009	14	09	00	25
2010	10	03	04	17

Note: Data only refers to the Federal Ministry of Health. It does not include that of other federal public organisations and sub-national (state and municipal) governments involved in Unified Health System..
Source: Inspectorate General of Administrative Discipline, Office of the Comptroller General of the Union.

Awareness of standards of conduct among Federal Ministry of Health officials is raised through socialisation, training and counselling

Codes of conduct are periodically communicated within the Federal Ministry of Health through a variety of channels. Public ethics courses targeting Federal Ministry of Health high officials are offered periodically by the Public Ethics Commission in partnership with the School of Public Administration and the School of Financial Administration, Ethics training for other federal health officials are integrated into the Federal Ministry of Health Continuing Training Programme established in 2006/07. This programme aims to train and develop the skills of federal health officials in order to continuously improve work processes, increase citizens satisfaction with health services and support the modernisation of the Federal Ministry of Health. Training activities are shaped by surveys of Federal Ministry of Health unit's needs. It includes lectures, seminars and courses on ethics in the public administration and harassment in the workplace. Information was not available on the type of training activities conducted or the effectiveness of training activities for these officials.

The Public Ethics Commission and the Office of the Comptroller General of the Union have begun co-ordinating plans to strengthen training in standards of conduct. A key element of this collaboration is the development of an online Management Training and Development Course (see Box D.5). The 40-hour course is organised in 5 modules and its contents are based on the recommendations and guidance of the Public Ethics Commission. In 2010, approximately 500, or about one-fifth of all active Office of the Comptroller General of the Union officials participated in the pilot of this course. Public officials participating in the course are evaluated on the basis of an online exam, corresponding to 80% of their final grade with the remaining 20% based on participation in other course activities. To receive a certificate, public officials must attain a grade of at least 70%. The Public Ethics Commission and the Office of the Comptroller General of the Union propose that the course certificate form a criterion for career progression. It is not, however, mandatory for federal public organisations to accept any course taken by its public officials as a requisite for promotion. Information was not available on whether the Federal Ministry of Health planned to adopt the Public Ethics Commission and the Office of the Comptroller General of the Union training.

Box D.5. **Syllabus of Brazil's Public Ethics Commission/Office of the Comptroller General of the Union ethics training course**

In 2010, the Public Ethics Commission and the Office of the Comptroller General of the Union developed a management training and development course to support training of public officials on standards of conduct. The 40-hour course is organised in 5 modules, and its contents are based on Public Ethics Commission resolutions and other guidance materials. The Public Ethics Commission and the Office of the Comptroller General of the Union propose that satisfactory completion of the course form a criterion for career progression.

- Module I. Principles of ethics: key concept of ethics as well as the prevailing values and standards, their inter-relation and functions.
- Module II. Principles of policy and public service: key concepts of public life and fundamental values of the federal public administration.

Box D.5. **Syllabus of Brazil's Public Ethics Commission/Office of the Comptroller General of the Union ethics training course** *(cont'd)*

- Module III. Ethics management in the federal public administration I: norms
- applicable to the federal public administration and governmental actors with responsibility for fostering public ethics.
- Module IV. Ethics management in the federal public administration II: exploring the Code of Professional Ethics for the Federal Public Administration.
- Module V. Addressing ethical dilemmas: identifying ethical dilemmas, ethical guidance and filing complaints, attributes and routines to reinforce ethics in the federal public administration.

Source: Public Ethics Commission and Office of the Comptroller General of the Union.

Integrity counselling is also available to Federal Ministry of Health officials as required to resolve questions and dilemmas related to integrity

Three institutional channels are available. The Office of Personnel Management within the Executive Secretariat assists personnel primarily in relation to professional dilemmas and inconsistencies between job profiles and functional activities. The Special Advisor on Internal Control provides assistance to address ethical issues and acts of corruption within the workplace. It is through the latter channel that problems are brought to the attention of the federal minister and the Office of the Comptroller General of the Union. Subjects raised by Federal Ministry of Health officials generally concern issues of personnel management and improper or undue benefit payments. Specific counselling is also available to Federal Ministry of Health managers as necessary in order to lead by example and to provide guidance to their staff. Most counselling requested by management relates to issues regarding personnel management which is deemed to require the establishment of an administrative disciplinary inquiry or proceeding as well as potential conflicts of interest. Information was not available on the means for Federal Ministry of Health officials to access this counselling, e.g. email, telephone or face-to-face counselling.

In comparison with other federal public organisations in Brazil, a 2008 Office of the Comptroller General of the Union survey identified that, of the 151 administrative units with an ethics committee, 93 (62%) maintained communication channels for public officials to seek integrity counselling and advice. Of the organisational units with an ethics committee, the main channels were through email (36%) and telephone (26%). Data on face-to-face counselling and advice was not measured. Counselling and advice from the ethics committees of individual public organisations were not, however, binding. A 2010 Public Ethics Commission Survey found that approximately 80% of all federal public organisations considered that they have fully implemented or established satisfactory channels for officials to receive guidance on the application of standards of conduct in specific situations. Of the remainder, 9% considered that the channels were unsatisfactory and could be improved and 10% had not established any such channels. As mentioned, this survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another public

authority. The different methodologies of the surveys also make it difficult to assess the scope of improvements.

Federal health officials are required to annually disclose information on their income and assets as a tool for preventing and detecting illicit enrichment

Federal Law no. 8 429/1992 regarding Government (Administrative) Impropriety establishes mandatory disclosures of assets and income by all federal public officials. It requires that disclosures be updated annually and before officials change position or function or leave office. Disclosures must be submitted to the human resource unit of the public organisation where the official works or is employed. Failure to file, deliberately delay or intentionally submit an inaccurate disclosure constitutes an administrative misconduct with the possibility of dismissal and ineligibility for any position within the public administration for a period of up to five years. The obligation for high officials to disclose information on their income and assets was reinforced in 1993 by Federal Law no. 8 730. Under this law, high officials must file a signed disclosure with the public organisation in which they perform their activities and forward a copy to the Federal Court of Accounts. Intentional submission of an inaccurate disclosure by a high official constitutes a criminal offence.

The implementation of private interest disclosures in Brazil did not, however, really come into effect until 1999 for high public officials and 2005 for other public officials. In 1999, the Public Ethics Commission was established to oversee the standards of conducts of high public officials. It subsequently issued templates and guidance for high public officials to file their private disclosures (see Resolutions no. 1/2000, no. 5/2001 and no. 9/2005). A Confidential Information Disclosure must be submitted within 10 days of taking office or within 30 days of any significant changes to the respective financial information. In 2005, Federal Decree no. 5 483/2005 allowed for public officials to authorise the federal authorities to access data from their tax returns in lieu of a formal disclosure. The adoption of tax data for private interest disclosures reduces the burden on public officials insofar that they do not have to produce the same data in two different formats – one for the tax administration, the other for the officials' human resources unit. Approximately 90% of all federal public officials opt to give access to their income tax statements.[7] Information was not available about practices in the Federal Ministry of Health.

Verification of the information contained in the private interest disclosures for other public officials is the responsibility of the Office of the Comptroller General of the Union and the Federal Court of Accounts. Within the Office of the Comptroller General of the Union, the Secretariat for Corruption Prevention and Strategic Information verifies the disclosures based on a risk assessment using a sampling adjusted for both public organisations and public officials. Organisations are selected based on a criterion of materiality (i.e. levels of expenditure and revenue collection) and red flags raised in audit activities. Individuals are selected based on their decision-making powers (i.e. level 3-6 supervisory and management officials) or function (i.e. officials in charge of procuring goods and services, overseeing the private sector or granting licenses).

To access the disclosures, the Secretariat for Corruption Prevention and Strategic Information visits the human resources unit of the involved public organisation to access the original disclosure forms. The Secretariat's officials do not remove the disclosure forms but, rather, scan and re-key the information from the scanned files as required. Once digitalised, data is crossed with other government databases to identify potential

orange and red flags to be investigated. The current data-crossing has evolved since 2006, when the Office of the Comptroller General of the Union first began examining income and asset disclosures. The Office of the Comptroller General of the Union considers that it has only developed a more systematised search method in the last year. In 2010, various government systems and databases were accessed including the Federal Government Financial Administration System (*Sistema de Administração Financeira do Governo Federal*) for contract payments, the Integrated General Service Administration System (*Sistema Integrado de Administração de Serviços Gerais*) for contracts awarded data and property registry databases maintained by the judiciary, among others.

The Federal Court of Accounts also maintains a register of disclosures to facilitate efforts to: *i)* monitor public officials' private interests; *ii)* exercise control, with the support of Office of the Comptroller General of the Union, over the legality and legitimacy of the disclosures; *iii)* detect irregularities or abuse of public office; *iv)* periodically report in the *Official Gazette of the Union* excerpts of data contained in the disclosures; *v)* report to the National Congress, or its commissions or committees, as requested; and *vi)* respond to submissions by the public concerning suspected misconduct by public officials.

Officials within the Federal Ministry of Health are obliged to report illegal acts, omissions and abuses of power of which they have knowledge

This obligation is articulated in the Code of Conduct for the Federal Public Administration and the Legal Framework for the Federal Public Administration (Federal Law no. 8 112/1990). It applies to a broad range of wrongdoing, including: misconduct for material gain such as fraud and receipt of illegal payment; conflict of interest, either perceived, potential or actual; maladministration and the waste of public resources; perverting transparency and accountability. Almost all OECD member countries define procedures for reporting corruption and the violation of laws. Moreover, two-thirds of OECD member countries have legislated protection for whistleblowers (OECD, 2009b).

Multiple pathways exist for public officials to report misconduct – differentiated by the type of official and the type of report. Ethical breaches involving a high public official should be submitted to the Public Ethics Commission. The commission's website[19] provides contact information – address, telephone and fax numbers, email addresses – through which reports can be channelled. Ethical breaches involving other public officials should be referred to the ethics committee of the public organisation where the official works. Administrative misconduct should be reported to the competent superior or directly to Office of the Inspector General of Administrative Discipline. Public officials may also report misconduct as a citizen to the Federal Court of Accounts, Office of the Federal Public Prosecutor and the Department of Federal Police. In each case, reports may be filed over the Internet, by telephone or in person.

Federal public officials who fail to report misconduct may face administrative discipline, including dismissal for dereliction of duty and acting in a negligent manner. Moreover, under Brazil's Criminal Code (Decree-Law no. 3 688/1941) it is an offence if an official fails to report crimes occurring in the public administration of which he/she has knowledge in the course of his/her public functions. It establishes a sanction of 15 days to 1 month, or a fine, for public officials who, by indulgence or leniency, fail to hold subordinates accountable who commit a violation in the performance of their functions or – if they do not have the authority to do so – who fail to report such a case to the competent authority.

Continued job stability represents a key protection designed to ensure public officials are able to report misconduct of which they have knowledge

Public officials may only be terminated following an administrative or court decision following an investigation that establishes wrongdoing and a full defence. In both cases, public officials have the right to appeal the decision to a higher court. This guarantee also applies to public officials during their mandated three-year probationary period and officials in supervisory and management positions. The latter, however, can be dismissed at any time as their relationship with the federal public administration is based on trust with the nominating authority. Protection is also provided against grievous threats for officials who voluntarily co-operate with police investigations and criminal proceedings. Typically, however, witness protection-type programmes are only for serious cases of misconduct.

There is, however, no dedicated legislation on protected disclosures in Brazil, such as that which exists in Australia, Canada, Korea, South Africa, the United Kingdom and the United States. While reporting is considered confidential, public officials filing unfounded disclosures against another official, or in respect to any event determined not to have occurred, are subject to administrative, criminal and civil sanctions. The Criminal Code establishes penalties ranging from six months to one year imprisonment or a fine for falsely reporting a criminal offense, infractions leading to official action arising from the notification of a criminal offense or infractions the reporting person knows was not verified. The Civil Code establishes remedies, including compensation for damages, defamation or libel. Bill no. 41/2010 on Freedom of Information, currently under discussion within the National Congress, proposes to amend Federal Law no. 8 112/1990 on the Federal Public Administration, to prohibit the application of administrative, criminal and civil liability for public officials who report possible misconduct or crimes.

In 2006, the federal government tabled a bill to the National Congress for the creation of an Incentive Programme for Public Interest Disclosures

Bill no. 228/2006 originally provided cash compensation of up to 10% of the total assets, rights and securities – or up to 10% of the total value of the proceeds of the criminal offense – effectively recovered by the national treasury as a result of disclosure to any individual coming forward to report misconduct. The proposal for cash compensation created a lot of debate within the Federal Senate. Critics argued that the cash compensation would stimulate unfounded disclosures. The latest version of the bill provides compensation only for disclosures offered by citizens. The compensation does not apply to public officials since they are already obligated by law to disclose information of wrongdoing. The last version of the text was approved by the Committee on Constitution and Justice (*Comissão de Constituição e Justiça*) of the Federal Senate in June 2009. The text now needs to be considered in a plenary, approved by the Federal Senate and then considered and approved by the Chamber of Deputies. According to the Federal Senate, this bill has yet to be included in the order of the day since June 2009.

The Federal Ministry of Health does not assess its institutions and systems for promoting high standards of conduct

A key instrument for evaluating efforts to embed high standards of conduct in the federal public administration is the annual ethics management survey commissioned by the Public Ethics Commission. Since 2001, 12 surveys have been commissioned,

conducted biannually for the first three years then annually thereafter. This case study draws upon the results of the "2010 Public Ethics Commission Ethics Management Survey". In 2009, the commission also conducted its first public opinion survey of ethics within the federal public administration. The surveys and their results, however, are not published on the Internet and only limited reference to their results can be found in the Public Ethics Commission's annual reports.

The Office of the Comptroller General of the Union conducts surveys related to institutions and systems for embedding high standards of conduct. This case study draws upon the results of a 2008 Office of the Comptroller General of the Union survey on the existence and functioning of public organisations' ethics committees. Since 2008 the Office of the Comptroller General of the Union has, in addition, sought to collect good practices from federal public organisations regarding efforts to embed high standards of conduct. Such examples can support management improvements in federal public organisations by highlighting where good practices are being employed in the public administration. To date, however, much of the activities of the Office of the Comptroller General of the Union have focused on the existence of measures and systems rather than on their functioning. Moreover, there has been no effort to verify the good practices self-proclaimed by public organisations.

A number of challenges exist in relation to the survey work conducted by the Public Ethics Commission and the Office of the Comptroller General of the Union. First, there appears to be little continuity in the topics covered and, as such, surveys do not show the changes in trends over time. This is particularly an issue facing the surveys of the Public Ethics Commission. The ability of the federal government to measure the progress made in embedding high standards of conduct could benefit substantially by standardising the annual ethics management surveys conducted by the Public Ethics Commission to allow monitoring of developments regarding standards of conduct over time. It may not be necessary to conduct the same survey every year. Alternative surveys may be conducted on a rolling basis. In addition, attention could focus on leveraging new technologies by conducting the surveys through officials email accounts, for example. This would reduce the cost of conducting the survey and increase the speed with which results can be processed.

Monitoring activities conducted by Brazil's central integrity authorities could be complemented by the Federal Ministry of Health

Monitoring and evaluation of efforts to promote high standards of conduct is not commonly adopted by individual public organisations in Brazil's federal public administration. The 2010 Public Ethics Commission Survey found that approximately one-quarter of all federal public organisations considered that they had established satisfactory systems in place to monitor their institutions and systems for promoting high standards of conduct. A further 16% report to have begun and approximately 60% have yet to begin monitoring. As mentioned, this survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another federal public authority.

The effectiveness of the institutions and systems for promoting high standards of conduct can be monitored and verified using a number of methods. For example, data can be collected on training, the number of proceedings to investigate ethical breeches or administrative misconduct and the resulting sanctions. Within the Federal Ministry of Health such information is only collected, as discussed in this case study, on

administrative misconduct and not ethical breeches. This information can also be complemented by information on concerns raised in integrity training or integrity counseling. The same survey reports that 58% of all public organisations consider the monitoring of the observance of standards of conduct as satisfactory, 23% consider it unsatisfactory and 19% do not monitor at all. Moreover, this information could also be complemented with that from the ombudsman and internal audit functions.

Alternatively, surveys can be used to assess public official's understanding of the standards of conduct that are expected. The Federal Ministry of Health could conduct survey following the completion of ethics training to assess whether training activities effectively address risks that public officials believe they are exposed. Surveys and feedback on training activities enables participants to offer their assessment of the instructors and course, its relevance to their work and concerns. Information on training available within federal public organisations currently relates more to the number of participants. The 2010 Public Ethics Commission Survey found that approximately 25% of all federal public organisations report to satisfactorily measure the degree of knowledge of standards of conduct of their officials, 23% consider their measuring activities to be unsatisfactory and a further 52% do not measure at all. Finally, the functioning of institutions and systems for promoting high standards of conduct can be assessed by audit activities.

Main findings and proposals for action

The National STD/AIDS Programme is recognised world-wide as a leading example of an effective policy response to fight the HIV/AIDS pandemic. Issues of transparency and citizen engagement have received much attention within the programme and the Federal Ministry of Health more generally. The actions to support transparency within the National STD/AIDS Programme and the Federal Ministry of Health are in compliance with requirements established by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management. The activities for direct citizen engagement through deliberative and advisory councils reflect the spirit of the 1988 Federal Constitution and federal government policies.

In comparison, implementing risk-based internal control and standards of conduct have received less attention. This has been, in part, because of the centralisation of back-office management information systems and the decentralised the programme's implementation arrangements. Moreover, operational risk management is a relatively new concept within Brazil's federal public administration. While this case study has focused on the implementation of the National STD/AIDS Programme within the Federal Ministry of Health, an examination of its implementation at a sub-national (state and municipal) level would complement this and provide a more holistic understanding of intergrity in the programme.

In order to strengthen integrity within the National STD/AIDS Programme, the Federal Ministry of Health could consider the following proposals for action:

Proposals for action to promote transparency and citizens' engagement

- Work together with the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management to create a user-friendly URL and improve access to its transparency page.

- Work together with the Office of the Comptroller General of the Union and Federal Ministry of Planning, Budget and Management to augment the content of the Federal Ministry of Health Transparency Page and support direct social control. The content of the page could be expanded to include: *i)* all relevant laws and regulations regarding the National STD/AIDS Programme; *ii)* the Federal Ministry of Health's Charter of Citizens' Services (when released); *iii)* annual Federal Ministry of Health management reports; and *iv)* external audit reports related to the National STD/AIDS Programme.
- Work together with the Office of the Comptroller General of the Union and Federal Ministry of Planning, Budget and Management to examine the possible integration of information available through the Federal Ministry of Health Transparency Page, Transparency Portal and Health Situation Room to improve access to publicly available information.
- Work together with the Office of the Comptroller General of the Union and Federal Ministry of Planning, Budget and Management to develop tools for citizens to analyse data available through the Federal Ministry of Health Transparency Page, Transparency Portal and Health Situation Room.
- Work together with the Office of the Comptroller General of the Union to monitor what data and information citizens access regarding the National STD/AIDS Programme through the Federal Ministry of Health Transparency Page, Transparency Portal and Health Situation Room.
- Explore, together with the Office of the Comptroller General of the Union, partnerships with organisations that conduct household surveys on the use of e-government services to collect information on the use of National STD/AIDS Programme data and information made available through the Federal Ministry of Health Transparency Page, Transparency Portal and Health Situation Room.
- Use the creation of a Federal Ministry of Health Charter of Citizens' Services to update the Charter of Health Services Users' Rights and ensure consistency between the two documents.
- Structure the Federal Ministry of Health Charter of Citizens' Services around its programmes to allow information on individual programmes to be published separately.
- Include within the proposed Federal Ministry of Health Charter of Citizens' Services: *i)* information on citizens' rights and obligations in interacting with all public officials (i.e. federal, state and municipal) involved in the National STD/AIDS Programme; *ii)* information on the services and standards of the ombudsman; and *iii)* a commitment that all public officials involved in the National STD/AIDS Programme maintain high levels of professionalism.
- Conduct a consultation process with relevant stakeholders during the formulation of the proposed Federal Ministry of Health Charter of Citizens' Services to ensure the final content of the document is easily understood and considered relevant to their respective needs.
- Develop protocols and procedures within the Federal Ministry of Health to effectively communicate to programme beneficiaries and citizens about information contained within its charter of citizens' services as a normal part of

routine service delivery and other outreach activities. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.

- Develop strategies and training activities to increase awareness and understanding of the Federal Ministry of Health Charter of Citizens' Services among public officials involved in the delivery of the National STD/AIDS Programme. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.
- Periodically survey officials involved in the National STD/AIDS Programme on their understanding of the Federal Ministry of Health Charter of Citizens' Service. This could be done as either a stand-alone survey or as part of other human resource or ethics management surveys. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.
- Develop a systematic approach within the Federal Ministry of Health to monitor, evaluate and communicate the results of the implementation its Charter of Citizens' Services, including publishing both quantitative and qualitative measures as part of the ministry's annual management reports. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.
- Place responsibility and allocate resources within the Federal Ministry of Health to monitor conformity with service standards outlined in its charter, and to bring the results to the attention of senior Federal Ministry of Health officials. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.
- Encourage monitoring of the Federal Ministry of Health Charter of Citizens' Services by non-governmental organisations by establishing protocols for receiving and reviewing the results of such evaluations. The Federal Ministry of Health could also publish guidelines to assist non-governmental organisations to conduct their own evaluations. Similar actions could also be introduced for the Unified Health System Charter of Health Services Users' Rights.
- Make explicit at each point for citizens to submit a complaint or report possible misconduct by officials involved in the National STD/AIDS Programme their complaint/report will remain confidential and that they will not be discriminated against as a result of it.
- Include in the Federal Ministry of Health Ombudsman Department reports to include more detailed information to issues by service area, organisational unit, response time and response type (e.g. released in full, denied in part, denied, no records, time extension, etc.). This would also require modifying the Federal Ministry of Health Ombudsman Department management system to record the necessary information.
- Evaluate the functioning of the Unified Health System Ombudsman Department and other ombudsman offices involved in the delivery of the National STD/AIDS Programme through the development of ombudsman performance indicators and through periodic audits, giving specific attention to requests for information.

- Evaluate current records and archives management within the Federal Ministry of Health and public organisations involved in the delivery of the National STD/AIDS Programme to inform preparation needed for an eventual freedom of information law.
- Allocate adequate resources to formulate internal policies and protocols and to inform public managers within the Federal Ministry of Health and organisations that are part of the Unified Health System about obligations created by freedom of information in order to create a culture of proactive provision of information.

Proposals for action to implement a risk-based approach to internal control

- Work together with the Office of the Comptroller General of the Union to develop a number of good practice guides to complement the Internal Control Manual of the Federal Public Administration. Good practices need not only originate from federal public organisations but also state and municipal public organisations, as well as private organisations, in Brazil or overseas.
- Work together with sub-national (state and municipal) governments, their health secretariats and audit bodies to review materials management practices that could give rise to waste in the distribution and utilisation of medicines and other goods for people living with HIV/AIDS.
- Work together with the Office of the Comptroller General of the Union to devolve access to information generated by cross checks to National STD/AIDS Programme officials as an *ex ante* internal control.
- Work together with the Office of the Comptroller General of the Union to develop performance indicators to measure the functioning of internal control measures within the National STD/AIDS Programme and the Federal Ministry of Health more generally.
- Formulate a risk management policy to define and communicates the Federal Ministry of Health's approach to risk, and provides high level guidance on how processes and procedures integrate risk with the everyday activities.
- Centralise responsibility within the Federal Ministry of Health for operational risk management to allow for the development of a whole-of-organisation understanding of risk and supporting operational risk management infrastructure (e.g. supporting information systems) for monitoring and reporting on risks.
- Implement risk management in a phased manner within the National STD/AIDS Programme and Federal Ministry of Health as a basis for continued learning on risk management and to refine risk management tools.
- Map business processes in collaboration with work units as a means to identify the causes and effects of the operational risks identified. It may be beneficial to limit business process mapping to particular processes in the beginning rather than to expand it to all programmes or the Federal Ministry of Health as a whole.
- Conduct periodic surveys of risks among public officials involved in the delivery of the National STD/AIDS Programme as a basis for creating and updating an inventory of operational risks. It may be beneficial for the first survey or two to be

limited to particular geographic regions rather than the Federal Ministry of Health as a whole.

- Develop key risk indicators based on the results of periodic surveys of risks among public officials involved in the delivery of the National STD/AIDS Programme, business process mapping and select audits to allow ongoing monitoring of risks by the Federal Ministry of Health.
- Work together with the Office of the Comptroller General of the Union to introduce, to learn lessons and adopt good practices from other federal public organisations and programmes that have introduced operational risk management.
- Work together with the Office of the Comptroller General of the Union, Federal Ministry of Planning, Budget and Management and national schools of administration to integrate risk management into training programmes for public officials and support the development of risk management competencies.
- Utilise risk management information to guide in the selection and planning of audit activities.
- Work together with the Office of the Comptroller General of the Union to ensure that the proposed Monitor-web system is integrated and information exchange with the National Audit Department's systems to facilitate better co-ordination of audit activities.
- Work together with the Office of the Comptroller General of the Union to conduct a peer review of the functioning of the National Audit Department of the Unified Health System by internal audit units from Brazil's indirect public administration as a means of improving the quality of the internal audit function.

Proposals for action to embed high standards of conduct

- Utilise information and data from federal, state and municipal health managers as well as officials working on internal audit, administrative discipline and ombudsman activities to identify ethical dilemmas and risks to maintaining high standards of conduct among officials involved in the National STD/AIDS Programme and potentially other federal health programmes.
- Work together with the Public Ethics Commission and Office of the Comptroller General of the Union to ensure that members of its ethics committee develop and periodically refresh the knowledge and skills they require to satisfactorily conduct their duties. Protocols could also be established to ensure new ethics committee members receive necessary training promptly upon taking their responsibilities.
- Take action to ensure systems and protocols are quickly established upon the creation of its inspectorate of administrative discipline to ensure investigations into possible administrative misconduct by federal health officials are handled promptly and with confidence of federal health officials.
- Conduct a periodic internal review of the functioning and effectiveness of – and officials' confidence in – its ethics committee.

- Require all public officials involved in the delivery of the National STD/AIDS Programme to participate in the joint Public Ethics Commission/Office of the Comptroller General of the Union online ethics training course.
- Design training activities or modules on standards of conduct for public officials involved in the National STD/AIDS Programme to more closely correspond with the risks associated with their tasks and level of management (i.e. dilemma-type training).
- Periodically evaluate federal health officials' understanding of the standards of conduct to assess their retained knowledge and understanding, and to inform the design of ongoing training activities on standards of conduct.
- Develop a framework for evaluating the functioning of the Federal Ministry of Health's systems and activities to embed high standards of conduct among officials involved in the delivery the National STD/AIDS Programme and other health programmes.

Notes

[1] Different approaches exist to examine corruption and fraud in the health sector. Savedoff (2007), for example, focuses on the roles and responsibilities of *i)* regulators; *ii)* payers (i.e. social security organisations, health insurers); *iii)* health care providers (e.g. hospitals, doctors, nurses and pharmacists); *iv)* suppliers (e.g. producers of medical equipment and pharmaceutical companies); and *v)* consumers. Vian (2007) highlights the different activities in health service delivery, namely: *i)* construction and rehabilitation of health facilities; *ii)* purchase of equipment and supplies, including medicines; *iii)* distribution and use of medicines and supplies in service delivery; *iv)* regulation of quality in products, services, facilities and professionals; *v)* education of health professionals; *vi)* medical research; and *vii)* provision of services by medical personnel and other health workers.

[2] See 1988 Federal Constitution, Article 198. See also, Organic Law of Health (Federal Law no. 8080/1990).

[3] See Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management Inter-ministerial Decree no. 140/2006.

[4] The Charter is ava ilable at *http://bvsms.saude.gov.br/bvs/publicacoes/carta_direito_usuarios_2ed2007.pdf.*

[5] See Federal Decree no. 6932/2009 regarding the simplification of public services, the waiver of the notarisation of documents and establishment of Charter of Citizens' Service.

[6] The concept of the Charter of Citizens' Service first began in 2000 with efforts to establish benchmarks of quality control for services performed by the federal government to citizens under the Quality of Service Provided for the Citizen Project (*Projeto de Padrões de Qualidade do Atendimento ao Cidadão*) (see Federal Decree no. 3507/2000). In 2005, this project was replaced by the National Programme for Public Management and De-bureaucratisation (*Programa Nacional de Gestão Pública e Desbirocratização*).

[7] This includes the Federal Ministry of Finance (*Ministério da Fazenda*), the Department of Federal Police (*Polícia Federal*) (within the direct public administration), as well as the Federal Savings Bank (*Caixa Econômica Federal*), the National Institute of Social Security (*Instituto Nacional do Serviço Social*), the Inactive Service Pensioners and Navy of Brazil (*Serviço de Inativos e Pensionistas da Marinha do Brasil*), the National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*) (within the indirect public administration) – as well as the Federal Justice Court in Mato Grosso and the Brazilian Army. The government's objective is to eventually expand the Charter of Citizen's Service to sub-national public organizations. To date, however, charters had been published in four states: Mato Grosso (legislative assembly), Pará (Hemope Foundation of the State Health Secretariat), Paraná (regional management board and regional labour court) and Maranhão (Municipal Institute of Urban Landscape [Impurities], Municipal Planning and Development, State Secretariat for Planning and Budget).

[8] Federal Law no. 8 666/1993 obliges procurement officials to document the procurement procedures with a view to gauging their regular agents of control. It enumerates that every procurement procedure should record: *i)*justification of hiring; *ii)* a reference guide containing detailed description of the object, budget estimate of costs, and physical and financial schedule of disbursements, if any; *iii)* cost spreadsheets; *iv)*

guarantee of budgetary reserve, with an indication of the respective items; *v)* authorization to open the bidding; *vi)* designation of the auctioneer and support staff; *vii)* legal advice; *viii)* tender and its annexes, if applicable; *ix)* the draft of the termination of employment or equivalent, as appropriate; *x)* original of the written proposals and supporting documents; *xi)* the minutes of the trading session, the registration of bidders approved, the submitted written and verbal proposals in order of ranking and the analysis supporting the decision, and *xii)* proof of publication of notice of the public administration.with regard to its organisation, functioning and decision-making processes, where appropriate. Such measures may include, *inter alia*: *i)* adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organisation, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public; *ii)* simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and *iii)* publishing information, which may include periodic reports on the risks of corruption in its public administration."

[9] See 2004 United Nations Convention Against Corruption, Article 10:

> Taking into account the need to combat corruption, each state party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organisation, functioning and decision-making processes, where appropriate. Such measures may include, *inter alia*: *i)* adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organisation, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public; *ii)* simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and *iii)* publishing information, which may include periodic reports on the risks of corruption in its public administration.

[10] This includes 10 representatives of non-governmental organsations, a representative of the Network of Sex Workers, a representative of a womens' movement, a representative of the homosexual movement, a representative of drug users, a representative of people living with HIV/AIDS, a representative of students, a representative of Afro-descendents movements, a representative of transgender movement and a representative of indigenous peoples.

[11] Federal Law no. 8 666/1993 obliges procurement officials to document the procurement procedures with a view to gauging their regular agents of control. It enumerates that every procurement procedure should record: *i)* justification of hiring; *ii)* a reference guide containing detailed description of the object, budget estimate of costs, and physical and financial schedule of disbursements, if any; *iii)* cost spreadsheets; *iv)* guarantee of budgetary reserve, with an indication of the respective items; *v)* authorisation to open the bidding; *vi)* designation of the auctioneer and support staff; *vii)* legal advice; *viii)* tender and its annexes, if applicable; *ix)* the draft of the termination of employment or equivalent, as appropriate; *x)* original of the written proposals and supporting documents; *xi)* the minutes of the trading session, the registration of bidders approved, the submitted written and verbal proposals in order of ranking and the analysis supporting the decision, and *xii)* proof of publication of notice of the announcement of the outcome of the bidding, the extract of the contract and other actions relating to advertising of the event, as appropriate.

[12] See *www.convenios.gov.br/portal/publicarArquivos*.

[13] Municipal lotteries selects 60 municipalities with a population of up to 500 000 inhabitants, not including state capitals. These have been conducted every month since April 2003. To date, 29 rounds of random audits have been conducted and 1 581 municipalities (28% of all municipalities) have undergone random audits. In each municipality, auditors examine accounts and documents and make personal and physical inspection of works and services implementation. Particular emphasis is on interaction with the population, either directly or through community councils or other representative organisations engaged in social control activities. The results of the lottery selection and the final audit reports for municipalities and states, as well as capitals and major cities, are available online from the Office of the Comptroller General of the Union Internet pages: *www.cgu.gov.br/AreaAuditoriaFiscalizacao/ExecucaoProgramasGoverno/Sorteios/Estados/Sorteados/index*; access to state random audit reports: *www.cgu.gov.br/sorteios/index2*; list of municipalities by lottery: *www.cgu.gov.br/AreaAuditoriaFiscalizacao/ExecucaoProgramasGoverno/Sorteios/Municipios/Sorteados/index*; access to municipality state random audit reports: *www.cgu.gov.br/sorteios/index1*.

[14] See Federal Court of Accounts Normative Instruction no. 56/2007, as amended.

[15] The United Nations Convention Against Corruption draws reference to: *i)* the promotion of integrity, honesty and responsibility among its public officials; *ii)* the application of codes of conduct to articulate the standard of conduct of public officials for the correct, honourable and proper performance of public functions; *iii)* the establishment of measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities; *iv)* measures and systems requiring public officials to make declarations of their private interests that can give rise to a conflict of interest with respect to their functions as public officials; and *v)* disciplinary or other measures against public officials who violate the codes or standards (Article 8). This is in addition to maintaining and strengthening systems for the recruitment, hiring, retention, promotion and retirement of public officials (Article 7).

The Inter-American Convention Against Corruption notes, Article 3:

"[To promote and strengthen the development by each of the states parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate co-operation among the states parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance] the states parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen: …*i)* standards of conduct for the correct, honorable and proper fulfillment of public functions. These standards shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions. These standards shall also establish measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions. Such measures should help preserve the public's confidence in the integrity of public servants and government processes; *ii)* mechanisms to enforce these standards of conduct; *iii)* instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities; *iv)* systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public…*viii)* systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in

accordance with their constitutions and the basic principles of their domestic legal systems; *ix)* oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts".

[16] The obligations and duties, as well as sanctions, outlined in the Code of Conduct for the Federal Public Administration (Federal Law no. 8 027/1990) and Federal Law no. 8 112/1990 regarding the public administration are largely identical. The latter builds the former into the framework for human resource management within the public service. See Federal Law no. 8 027/1990, Article 2, and Federal Law no. 8 112/1990, Article 116. Two additional articles are included in Federal Law no. 8 112/1990, namely: *i)* the requirement "to inform the superior authority of the irregularities that have knowledge by virtue of office"; and *ii)* the requirement "to meet promptly…the requisition for the defence of the state".

[17] See Federal Decree no. 5 497/2005. Efforts are being made to increase the proportion of positions reserved for public officials and a draft bill to this effect is currently in the National Congress.

[18] Suspension may, however, be converted into a fine, on the basis of 50% of the remuneration of the public official for the period of the original suspension. The decision over whether a suspension can be converted into a fine is left to the discretion of the federal public administration.

[19] See Public Ethics Commission, *www.presidencia.gov.br/estrutura_presidencia/cepub/sugest*.

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