

Summary Report

Brazil: Research on Subnational Budget Transparency (States, Federal District and Municipalities/Capital Cities)

1) Context of the Country: Subnational Structure

Brazil is a country that has been historically governed by a federal model that allows a political-institutional arrangement between the various levels of Government (federal, state and municipal), establishing cooperation and coordination between the Central Government (Union) and subnational governments.

The country is divided into five geographical regions: North, Northeast, Midwest, Southeast and South. The regions are groupings of units of the Federation and they do not have their own legal personality and have no political autonomy.

As defined in Article 1 of the Federal Constitution (FC), the Federative Republic of Brazil is formed by the indissoluble union of States, Municipalities and the Federal District and it is a democratic state. The States (States and the Federal District) are autonomous subnational entities for they are provided with Government, Constitution and with tax collection capacity. Brazil is divided into 27 federation units, with 26 States and 1 Federal District. The Executive Power is exercised by a Governor elected every 4 years. The Judiciary Power is exercised by state courts and each State has a Legislative Assembly (the Legislature) with State representatives who vote state laws and oversee the activities of the Executive Power. The State also has audit courts, which act as auxiliary offices of the legislative power to oversee and audit the state and municipal accounts.¹

The Federal District has features common to the member states and municipalities and can raise taxes if it were a state and as a municipality as well. In Brazil, the municipality is political and administrative entity of the third degree, in descending order of the Federation; it has executive and legislative branches, but it does not have the judiciary. The head of the Executive Branch is the Mayor elected every four years and the legislative branch is composed of Councilors who form the City Chamber. The municipality is governed by the organic law, limited by the Federal Constitution.

The Brazil has 5,570 municipalities throughout the country, some with a population greater than that of many countries of the world (São Paulo has 11 million inhabitants), others with less than thousand inhabitants; some with larger area than many countries in the world (Altamira, Pará, is nearly twice as large as Portugal), others with less than 4 km².²

Regarding the tax authority, the Federal Constitution of 1988 established (title VI, Chap. I) that the Tax on Income and Earnings of Any Kind – persons and corporations – (IR in Portuguese), the Tax on Industrialized Products (IPI in Portuguese), the Territorial Rural Property tax (ITR in Portuguese) and taxes on large fortunes, in addition to the social contributions to Social Security, are of federal competence. The Motor

¹ Only two municipalities (Rio de Janeiro and São Paulo) have separate Audit Courts that are related to their City Chambers and the creation of new city audit courts is forbidden

² See http://pt.wikipedia.org/wiki/Munic%C3%ADpios_do_Brasil

Vehicle Property Tax (IPVA in Portuguese), the Tax on Causa Mortis Transmission and Donation (ITCD in Portuguese) and the Tax on Circulation of Goods and Services (ICMS in Portuguese) are of State competence. Finally, the Tax on Urban Land and Property (IPTU in Portuguese) and the Tax on Inter Vivo Real Estate (ITBI in Portuguese) are the responsibility of the municipalities. The Federal District has the competence to establish State and municipal taxes.

A portion of the collection of federal taxes is transferred directly to the States and municipalities through the States Participation Fund (FPE in Portuguese) and the participation of municipalities (FPM in Portuguese), which were created in the tax reform of 1965/68. These funds have been valued with the Constitution of 1988, which increased the percentages of ownership of IR and the IPI that were 5% in 1968, and became 21.5% (FPE) and 22.5% (FPM).

The FC of 1988 confirmed, in the field of public finance, the procedures for institutional reorganization and unification of the budget, as well as expanding the strengthening of the Federation and the role of the National Congress, retrieving the prerogatives of the legislature in budget matters.

Regarding the issue of planning, this is the result of the creation of two budget pieces: the Pluriannual Plan (PPA in Portuguese) and the Law of Budgetary Guidelines (LDO in Portuguese). Hence, from the FC the budget cycle is composed of the PPA, the LDO and the Yearly Budgetary Law (LOA in Portuguese). The main objective of these laws is to integrate the activities of planning and budget in order to ensure the implementation of government policies in the municipalities, States, Federal District and nationwide.

2) Search Sample

INESC selected seven States, the Federal District and seven capital cities for the research, in order to ensure the greatest possible diversity of the Brazilian reality. For this purpose, the following criteria were adopted: a state and capital for each of the five geographic regions of Brazil; the capitals selected were those belonging to the selected states to maximize the available resources; the North and Northeast by concentrating increased levels of poverty and lower economic development indicators; the Southeast, South and Midwest had two units of the Federation and two capitals in the research; the selection of states and municipalities surveyed followed the criteria relating to the different political parties, populations of different sizes and different levels of extreme poverty; the Federal District (DF), which was also included in the study, has the function of state and municipality in the Federal Structure of Brazil, having as the only municipality the capital of Brazil, Brasília.

In Brazil, INESC selected as survey samples the Federal District (DF) and the States of Rio Grande do Sul (RS), São Paulo (SP), Mato Grosso (MT), Amapá (AP), Rio Grande do Norte (RN) and Pernambuco (PE); also, their respective capital cities of Porto Alegre (POA), São Paulo (SPA), Cuiabá (CGB), Belém (BEL), Macapá (MCP), Natal (NAT) and Recife (REC).

It is important to point out that on October 7 (1st round) and October 28 (2nd round), 2012, there were municipal elections in Brazil, which changed the data about political parties that rule the capital cities.

3) Main Results

Aspects Questionnaire	Brazil	States	Municipalities
Executive Budget Proposal (Q1-Q28)	67.1%	71.6%	61.9%
Enacted Budget (Q29-Q48)	60.0%	63.2%	56.3%
Procurement (Q49-Q52)	45.2%	52.1%	37.3%
Service Delivery (Q53-Q59)	35.2%	42.3%	27.2%
Year End Report (Q60-Q67)	46.9%	60.9%	31.0%
Audit (Q68-Q72)	39.9%	50.0%	28.3%

The summary of the survey reveals that the states have a less severe situation than the municipalities. All of the aspects under municipal transparency indexes reveal figures below the national average, while in the states the indexes of transparency overcome the national indicators.

The aspects that have shown greater weakness in transparency were the provision of services, followed by the audit.

The consolidated data of the 1,080 responses of the applied questionnaires briefly indicate:

- a) That in relation to the **availability of budgetary documents**, all state units provide the LOA on the internet, but there is difficulty of online access to PLOA in several cases. The external audit reports by the Federal Audit Court are not available to the public in most states. Furthermore, no federal unit provides the Procurement/Acquisition Plan.
- b) The **budget formulation process** is the aspect of the questionnaire presenting the best index of transparency, which was 67.1% at the national average, 71.6% in the state level and 61.9% in the municipal level. In this regard, we highlight the legal definition and the fulfilling of deadlines related to the release of the PLOA and its presentation to the legislature; the presentation of non-financial performance targets for the programs in multi-annual plans; the high level of transparency on different aspects of the budget. However, there is a predomination of a low level of consultation and participation of the population in the process of preparation of the budget, as well as a weakness in providing data related to intergovernmental transfers, financing sources, financial and non-financial assets, remaining payables and contingent liabilities.
- c) Regarding the **approved budget** and the **budgetary execution process**, it was observed as a positive aspect that in most states the Legislature received the PLOA from the Executive Branch with at least three months in advance of the beginning of the calendar year and in 100% of subnational levels, the LOA was approved before the start of the fiscal year. However, we identified as a negative aspect in the LOA the obscurity of information concerning estimates of the total stock of debt of subnational governments, remaining payables, the contingent liabilities and the deficit or surplus.
- d) In relation to the **procurement system**, it was noted that the majority of states do not have the annual procurement plan, as well as the diversity in the way of disclosing notices of public bids and the decisions of the independent body that reviews disputes on the procurement processes.

- e) The **monitoring of the provision of services** is the questionnaire item that presents the worst transparency index, whose average was at 39.9%. Most subnational levels offer information on services and provide a mechanism to record complaints or suggestions. However, it was noted a profound lack of transparency, since most of the sub-national units do not provide the detailed expenditure and budget resources for school and health units.
- f) Regarding the **end-of-year executive report**, it was observed that 80% of the subnational units disclose the end-of-year executive report in a period not exceeding six months after the end of the fiscal year. However, this report has reduced qualitative characteristic of information, which is harmed by the fact the Government publicly responds to requests for clarification in less than half of the subnational units.
- g) Finally, the **external audit** stage was one of the worst issues evaluated by the fact that 46.7% of political-administrative units do not perform audits of individual agencies, or not to publish the results of this audit or have less than 10% of coverage per year.

4) Conclusions

In Brazil, there are legal devices that indicate the clear intention of ensuring popular participation in the process of elaboration of the PPA, the LDO and LOA, in all three spheres of Government. Despite still not being devices that detail the nature, mechanisms, rules, subjects and the temporalities affected to this participation. The access to information in real time covers public revenue and expenditure and any citizen, political party, trade union or association may report to the respective Audit Court and the Public Ministry any breach of these devices relating to transparency and participation.

However, the results obtained in this research on the subnational budget transparency (states and municipalities) show that Brazil still has a lot of ground to cover in the availability of budgetary documents, in ensuring effective participation of the population in the budget cycle, and in publicizing the budget reports and the supervisory process in the Federal District, States and municipalities.

5) Recommendations

Based on the results from the survey on budget transparency in subnational units, we present some recommendations with a view to improving the transparency of subnational units:

- a) Ensure the accessibility to information relating to the formulation, implementation, monitoring and accountability of the budget (instruments of the budget cycle, instruments of accountability and audit), considering the following factors: availability of data in real time; details of information provided about the funding, budget and expense, as well as goals and course of action; unification of information sources, since the fragmentation of sources makes access to data; use of budget language understandable to any citizen; adoption of information systems to streamline access to information.
- b) Establish instruments for the dissemination and access to economic, budgetary and tax information to promote the development of citizenship (sites, fairs, community radio, and participatory budget).

- c) Establish mechanisms that enable the compatibility between the budget and the realization of Human Rights (civil and political), Economic, Social, Cultural and Environmental (ESCER) and observe gender inequalities and race.
- d) Create monitoring mechanisms for tax collection.
- e) Institutionalize democratic spaces for participation in the public budget.
- f) Invest in technological infrastructure, including Internet coverage, considering that many municipalities do not have such structure yet.
- g) Qualify the preparation of accountability reports, with detailed explanations about the differences between budget and financial implementation, intergovernmental transfers, indicators of the programs, among other things.
- h) Expand the coverage of external audit by the Federal Audit Court and provide real-time reports of audit reports with essential information, such as the summary of the main conclusions and a list of recommendations for corrective actions, among others.
- i) Hold open hearings about the external audit reports.