

Opinion

Public Efficiency



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Inefficiency in the public sector is one of the main causes of poor provision of services and waste of resources. The challenge of meeting the increasing demands of society with a limited volume of financial resources involves, necessarily, improving on the quality of public spending.

Despite its importance, the constitutional principle of efficiency was only incorporated in an explicit way to the Federal Constitution of 1988 (CF/1988) with the enactment of Constitutional Amendment n° 19, of June 4, 1998 (EC 19/1998). The original wording of article 37 of CF/1988 listed the following principles for the Public Administration: legality, impersonality, morality and publicity.

According to the Interministerial Explanatory Memorandum n° 49, of August 18, 1995, the EC 19/1998 aimed to search for answers to the economic stagnation, fiscal crisis, crisis of the state's mode of intervention in the economy, crisis of the state apparatus itself and deterioration of the capacity for administrative action of the state.

In accordance with the said Explanatory Memorandum, the EC 19/1998 sought "the reinvigoration of the capacity for management, formulation and implementation of policies in the state apparatus [...] for the resumption of economic development and meeting of the citizenship demands for a better quality public service".

With regard to the principle of efficiency, the Explanatory Memorandum supported that:

The increase of efficiency in the state apparatus is essential to overcome definitively the fiscal crisis [...].

As outcomes expected from the administrative reform, it is worth mentioning the following:

– Incorporate the efficiency dimension into Public Administration: the state apparatus should prove able to generate more benefit, in the form of providing services to society, with the available resources, respecting the taxpayer.

The subject becomes even more relevant with the advent of the recent Constitutional Amendment n° 95, of December 15, 2016 (EC 95/1016), which instituted the New Fiscal System, establishing limits to State expenditure for the next twenty years.

Considering this background, contributing to the improvement of efficiency and quality of public services is one of the main strategic guidelines of TCU in the current biennium (2017/2018). By means of the Order dated January 13, 2017, which relates to the “execution of control actions focusing on evaluation of efficiency and the improvement of government performance outcomes”, the distinguished Minister-President Raimundo Carreiro determined to the General Secretariat of External Control of the TCU, among other measures:

1) prioritize the performance of control actions:

a) that foster the increase of efficiency and the improvement of results from policies and public organizations, especially in actions of greater impact on the public welfare;

b) intended to curb waste in public investments, with special focus on rebuking and reducing the incidence of diversion of the State expenditures and ensure TCU’s timely and effective performance.

In accordance with this strategic guideline, two administrative innovations were implemented in 2017. They were the creation of the Office of the Coordinator General of External Control of Public Efficiency

and Transparency (Cogef), part of the Strategic Center of External Control of TCU’s General Secretariat of External Control; and the creation of the Thematic Group of Efficiency and Quality of Public Services, within the scope of TCU’s Center of Advanced Studies in Control and Management (GT Eficiência/Cecap).

With the creation of Cogef, TCU aims to identify and systematize proceedings, good practices and methodologies, as well as gather control actions that contribute to the improvement of efficiency and quality of the public services, in order to enable the development of a systemic view of the Court’s performance on this subject.

The GT Eficiência/Cecap, in turn, aims at strengthening cooperation between TCU and civil society, through representatives of the scientific community, the productive sector and the third sector, searching for enhancement of control mechanisms that contribute to the improvement of the Public Administration efficiency.

To improve the control actions related to the subject, it is necessary to narrow down the concept of efficiency. We adopt as a general con-

cept the one of technical efficiency. TCU’s Vocabulary of External Control defines efficiency as:

Relation between products (goods and services) generated by an activity and the costs of the inputs used to produce them, in a certain period, maintaining the quality standards. (TCU’s Vocabulary of External Control, 2016).

From this definition, we can conclude that, considering a range of inputs and respective products, technical efficiency relies on the following factors not mutually exclusive: (a) Minimization of costs to produce goods and services (economy); (b) maximization of goods and services produced with appropriate quality and in a timely fashion (time), for a given quantity of inputs; (c) improvement of organizational capacity for optimization of allocation of risks, inputs and production assets.

Besides this concept, it is relevant to highlight that of allocative efficiency, related to the degree to which a certain action leads to the production of more positive than negative outcomes from the point



of view of society. As examples of allocative inefficiency we can list (a) the construction of a wind power plant without building the respective transmission lines, causing idleness and, consequently, waste of resources; (b) building hospital facilities without procuring the corresponding equipment, thus delaying its inauguration and assistance to the population; and (c) the construction of soccer arenas for a given event in regions that aren't able of use it after this event, causing idleness and burden for the Administration with maintenance costs.

In order to evaluate efficiency, countless audit methods and techniques can be applied, such as evaluation of cost and time it takes to provide a service or to deliver a good to society; analysis of fragmentation, overlap and duplication; use of DEA – statistic tool of data envelopment analysis;

cost-benefit and cost-effectiveness analysis. Some of these methods and techniques are better known and used on a daily basis by the courts of accounts, for example, in costs evaluation in bids, contracts and public works.

The sustained improvement of efficiency relies on improving organizational capacity of the Public Administration bodies. The inclusion of efficiency as a constitutional principle (EC 19/1998) is a strong evidence of the importance of the topic; however, improvements resulting from this principle are difficult to obtain.

Contrary to what common sense might indicate, the pursuit of public efficiency improvement is a challenge even for the most developed countries, such as the United States. In 1993, the North-American government issued a law named *Government Performance and Results Act* (GPRMA), aiming to

enhance the performance of government agencies in the country. The GPRMA underwent significant changes in 2010, with the publication of the *GPRMA Modernization Act of 2010* (GPRMA).

The main contributions of GPRMA and GPRMA to the improvement of organizational capacity of North-American government agencies derive from the emphasis in these laws on results related to goals and strategic objectives, and from identification of means and key-factors external to the agency that are necessary to achieve these results. Among its main requirements, we list the following:

a) Federal agencies must prepare a strategic plan, covering a period of no less than five years, focusing on the delivery of results, comprising the agency's mission, goals and objectives for its main actions and the annual performance plans for the respective subsequent fiscal years;

b) The Executive Power must prepare a Federal Government performance plan for the government as a whole for submission to the Legislative Power along with the budget proposal;

c) The government agencies must prepare an annual report about the achievement of performance goals for the accrued fiscal year;

d) Possibility of legislative flexibility for performance improvement;

e) The Executive Power, through the Office of Management and Budget, shall oversee fulfillment of obligations by the agencies;

f) Oversight of agencies by the North-American Congress, with the Government Accountability Office's support, and the possibility of integration of the respective strategic plans with the budget;





g) Training for the implementation of the measures resulting from GPRA and the GPRMA;

h) Implementation through negotiation; and

i) Implementation in a gradual and flexible way, preceded by pilots.

One of the characteristics of GPRA and of GPRMA that stands out is the possibility of legislative flexibilization, which enables dealing with controls in a more adequate way, by discharging managers of part of the controls formally instituted by law and enabling the adoption of more dynamics controls, linked to risk management.

The good practices and results related to GPRA can serve as inspiration for the Brazilian reality, as long as they present procedures and techniques to induce sustained improvement of public efficiency. In our country, there is an additional space for this improvement, particularly concerning debureaucratization and administrative continuity.

Decree n° 9.094, of July 17, 2017, which provides for simpli-

fication of delivery of public service to users, is an evidence of the importance of the subject to the federal government. The said decree aims to reduce bureaucracy and complexity of the relationship of the government with citizens, as well as to provide new tools for citizens to propose measures to improve and increase state efficiency.

By evaluating debureaucratization possibilities, the courts of accounts can contribute to the efficiency of the state in at least two relevant fronts: (a) improving public services available to citizens and (b) increasing the country's economic competitiveness. The contributions could take place within the scope of the audits in order to: (1) simplify controls of Public Administration entities by analyzing cost-benefit of controls; (2) reduce overlaps and duplicities through sharing of database between Public Administration entities; (3) share solutions and systems for similar needs – for example, electronic judicial procedures in federal and state bodies

of the Judiciary Power; and (4) reduce time and cost that bodies and entities take to answer demands by simplifying procedures.

Management continuity is another factor that can contribute to the consistent increase of organizational capacity and efficiency. By ensuring maintenance of the plans, strategic objectives and goals in several successive managements, the bodies, agencies and entities of the Federation can strengthen their capacity to produce more results with the increasingly efficient expenditure of resources.

The practices and initiatives addressed here are some of the possible ways for the courts of accounts to work towards the improvement of Public Administration to meet the difficult mission of achieving the constitutional principle of public efficiency, improving the capacity of Public Administration entities. This mission is especially important in the current scenario of fiscal crisis and of spending limits imposed by the EC 95/2016.