

A study on the accountability of entities that sign agreements with the Federal Public Administration

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Abstract

Public Administration (PA) has evolved significantly since its inception, moving from traditional public administration to more modern models of public governance. Accountability has emerged as a crucial concept in this context, promoting accountability and transparency in the management of public resources through contracts and agreements. These instruments are essential for collaboration between the PA and other entities, whether public or private, in order to meet social demands efficiently and effectively.

Keywords: Public Administration (PA), Accountability, Contracts and agreements.

INTRODUCTION

Public Administration (PA) as a management process in the operationalization of public interest actions emerged with the first formal rulers (McDonald III, 2022). Over time, from the perspective of the New Public Administration, which emerged in the 70s, it was driven by the process of transition from traditional public administration to a model of public governance (Osborne, 2010). In this transition, it has sought to adapt to the changes that are imposed by social demands and that require collaborative and networked action, especially with regard to social services and the management of public resources that surround this process (Osborne, 2010; Dwyer et al, 2020).

In a context of governance in public management and in its partnerships with other institutions and existing contractual relationships, the need for accountability and accountability arises. In this regard, accountability is an important concept and presents itself as a model for resource management in the New Public Administration (Bach, et al, 2017). From the perspective of democratic governance, accountability can be defined as the mutual relationship between two or more parties with synergistic interests and objectives (Overman & Schillemans, 2021; Pérez-Durán, 2023).

With regard to collaborative processes between PA and other institutions, whether public or private, and even with or without for-profit purposes, this process can be consolidated by contracts or agreements depending on the types of service. The contracting of public services takes place through the transfer of the execution and management of these, which are not exclusive to the State, to the private sector, with or without profit (Schüler & Cabral, 2021). In view of the above, the research implies the following question: How is the approach to contracts and agreements in the Public Administration in



Brazil, from the perspective of *accountability*, being discussed? From this research question, an investigation is carried out to arrive at the result.

OBJECTIVE

The main objective of this study is to present the *accountability* of organizations that receive resources under contracts and agreements entered into with the State. To this end, the specific objectives are: to present the context of changes in the Public Administration; characterize *accountability* as a process of accountability; describe contracts and agreements presenting their specificities.

The survey is structured in five parts. In the first, the introduction is presented. In the second, the theoretical basis that underlies the study is presented. The third is the methodology. Then, the discussions, followed by the conclusion and the references.

METHODOLOGY

This research is characterized as a systematic bibliographic study based on the identification and selection of studies according to judicious parameters, which guarantees the methodological rigor employed. At this stage of the research, documentary research was also considered, which aims to characterize the study in its context (Cooper; Schindler, 2011). The documents analyzed were Law 14,133 of 2021, which regulates bids and administrative contracts and Decree No. 11,531 of 2023, which deals with agreements and contracts for transfers of the Union.

DEVELOPMENT

It is hoped that this document can facilitate the preparation of the article by the authors, as well as the review of the reviewers.

PUBLIC ADMINISTRATION TODAY

Public Administration (PA) in most countries has undergone a process of reorganization or remodeling of its structure. More precisely, in recent decades, beginning in the 1970s, hierarchical organizations have given way, albeit partially, to results-oriented organizations, private companies, and non-profit organizations in a dynamic management process to better serve the interest of society (Lapuente & Walle, 2019). This process of adaptation still has a long way to go in the search for improvement. However, despite the advances and improvement in governance and management, the structures of the State need to be further strengthened to meet social demands (Nunes, 2014). In this context, PA manifests itself as a tool for managing society's interests and seeks effectiveness and



efficiency of its performance and the compatibility of administrative conduct, to achieve objectives and meet society's desires in a complex environment (Silva & Amorim, 2018).

According to Garrindo, Nogueira and Saraiva (2021), the modern State is characterized as a public institution, configured as a legal entity and aims to carry out activities that meet the interests and give relevance to all who participate in this process, configuring democracy, which has *accountability* as an example.

AGREEMENT AS A TOOL OF RECIPROCAL INTEREST

The bidding process is the pillar that governs the dynamics of the interaction between the PA and the different partnerships signed and is characterized by the adjustment between the Public Administration and the private sector for the acquisition of goods or services. Bidding is provided for in the Federal Constitution, in article 37 item XXI, in which it establishes its mandatory nature as a rule for contracting (Brasil, 1988). It is regulated in specific legislation, the most recent, Law 14,133 of 2021, which establishes the general rules for bids and contracts. In specific cases for which there is no legal provision, for example, agreements, similar instruments, the law will be applied in the form of an act issued by the Federal Executive Branch. In accordance with Article 187, other entities are allowed to use this regulation for the execution of the law (Brasil, 2021). These adjustments in which the Federal Government transfers a certain amount of money to other actors, whether public or private, are referred to by the Fiscal Responsibility Law, Complementary Law 101, in its article 25 as voluntary transfers (Brasil, 2001). These transfers are a genre that encompasses some species such as agreement, transfer contract, development term, collaboration term, decentralized execution term, etc.

Decree 11,531 is a regulation that provides for agreements and transfer contracts related to the transfer of resources from the Union, and for partnerships without transfers of resources, through the execution of technical cooperation agreements or adhesion agreements. Article 3 expresses how the bodies and entities of the Federal Public Administration may enter into agreements or transfer contracts with other public or private institutions. Grantors are bodies or entities of the PA from which the transfers agreed upon in the agreement originate. Convenors are the entities that are the recipients of these amounts and can be bodies or entities of other autonomous entities, public consortium, autonomous social service, non-profit organizations as expressed in the Decree. The difference between an agreement and a transfer contract is that the latter is mediated by an official financial body, an agent responsible for the transfers (Brasil, 2023).

The call for interested parties to submit a work proposal is presented on the [Transferegov.br](https://transferegov.br) portal. The selected proponent must present a work plan to be followed during the term of the agreement. The resources are mandatorily committed and if they last for more than one year, they must be included in a



multi-year plan. All activities and receipts must be registered on that portal, a tool that gave more robustness to the old Management System for Agreements and Transfer Contracts (SICONV) instituted by Decree 6,170, revoked by Decree 11,531 (Brasil, 2023).

ACCOUNTABILITY AS ACCOUNTABILITY OF AGREEMENTS

The concept of *accountability* refers to the accountability of individuals and institutions for fulfilling their obligations and for holding their actions accountable. In the context of Brazilian public management, this concept faces significant challenges of effective implementation. However, to implement *accountability* in Brazil, it is often faced with complex bureaucratic structures, lack of transparency, and resistance to adequate accountability (Moura, 2022).

Accountability is essential to strengthen democracy and improve public management in Brazil, its full and effective implementation remains a challenge. A combination of institutional reforms, strengthening of control structures and greater citizen awareness is needed for this distant image to become a palpable reality in the country's praxis. Some suggestions are necessary to implement *accountability*, which are: i) transparency and disclosure of information; ii) to involve citizens in discussion and decision-making; iii) develop rigorous monitoring mechanisms; promote the culture of accountability. These measures can strengthen participatory democracy, increase citizens' trust in public institutions, and improve efficiency in the implementation of government policies (Duarte, et.al, 2016; Maurício, et.al, 2019).

In the event that the contracting party is a third sector organization, a private non-profit entity, the rendering of accounts must have the following elements specified in Table 1.

Table 1. Elements of accountability of third sector organizations

Elements	Characteristics
Work plan	It is a document that mentions activities planned in parallel with those already accomplished. In addition, it presents an examination of the modifications.
Activity report	The report is a detailed document that integrates data that confirms the practice, considering the purpose of the entity. A report is required for the period of management or financial year, even if the provision comprises more than one year.
Financial statements	The documentation indicated by ITG 2002 are the Balance Sheet, the Statement of Income for the Period, the Statement of Changes in Shareholders' Equity, the Statement of Cash Flows and the Explanatory Notes. It is pertinent that analytical and comparative financial statements be presented in order to be more detailed.
Banking information	These records can be requested at two levels: at the first level, a list of bank accounts is imperative; and at the second level, copies of bank statements or similar, which ratify the balances of the bank accounts.
Asset inventory	It is a list of movable and immovable assets, regardless of whether they are in the possession of the entity or third parties. It also includes third-party property in the possession of the organization.



Declaration of Economic and Fiscal Information of the Legal Entity (DIPJ)	It is indispensable for social interest entities. Failure to comply with it may result in cancellation of immunity or exemption, which may cause tax liabilities.
Annual Report of Social Information (Rais)	In the event that there is no employee, it is mandatory to submit the negative Rais.
Opinion of the Fiscal Council	The observance of this requirement is subject to the administrative structure of the legal entity. It is convenient that there are at least three internal bodies: a deliberative one, a directive and an inspection body.
Independent Audit Report	This requirement can be determined by the government, by investors or be constituted in the statute itself.
Copy of Agreement, Contract and Partnership Agreement	These copies must be attached with a statement from the inspection body. If there is an opinion from the transferor of funds on the rendering of accounts, it must also be attached.

Source: Brazilian Accounting Foundation (2015).

The elements in Table 1 make up the accountability in the field of third sector organizations. As the recipients of the agreements represent a more comprehensive list, the diligence of the *accountability* of each contracting party may have its particularities.

FINAL CONSIDERATIONS

The objective of this study was to investigate the *accountability* of institutions that act as convenors, receiving pecuniary values from the Public Administration to achieve success in a certain object. By analyzing the legal regulations on contracts and agreements, the law of bids and contracts provides for the general rules to supply the aspects between the State and private parties. The agreements, as they are a more specific adjustment, allow the Executive Branch to issue its own administrative act to scrutinize the procedure.

The *accountability* of each of the parties must be rigorously identified by the accountability with transparency and responsibility. This is necessary even if the possibility of the legal composition of the recipients of the transfers is comprehensive. The mechanisms of execution, documents and will have their peculiarities according to the spectrum of legal entities that can make up the passive pole of an agreement. This does not make it essential to have a deadline for its fulfillment, use of financial resources for a specific purpose, availability of documents, notes, vouchers in the Transferegov.br, carrying out activities within the limit of what was stipulated in the work plan.



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