

Optimization of the transfer process to the Municipalities and the Federal District - DF, of Law 13,240, of December 30, 2015

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Abstract

The need for continuous improvement in the transfer process to municipalities and the Federal District in compliance with the legislation in art. 27 of Law No. 13,240, of December 30, 2015, included the wording of art. 6-B in Decree-Law No. 2,398, of December 21, 1987, establishing the obligation for the Union, through the Secretariat for Coordination and Governance of the Union's Heritage - SPU, to transfer the corresponding to the Municipalities and the Federal District - DF to 20% (twenty percent) of the annual collections of the previous year referring to Forum, Occupancy Fee and Laudemium, charged for the use of those properties located in the municipalities and in the DF and art. 17 of Law No. 13,240, of 2015, and 16-G of Law No. 13,465, of July 11, 2017, likewise determined the transfer of 20% of equity income arising from the sale of Federal properties that are registered in occupation and, also, the remission of jurisdiction of the real estate under a lease, respectively, always observing the location of the real estate. The primary interest is to examine the transfer process in the last 5 (five) years and optimize, analyze the failures of the transfer process, as well as quantify the amounts not transferred to the states.

Keywords: Optimization, Transfer Process, Municipalities, Federal District, Law 13.240 of December 30, 2015.

1. Introduction

The public sector is urged to innovate to improve public service performance while continuously optimizing current operations to increase efficiency. In recent decades, the effort of public service organizations to improve the quality, efficiency and effectiveness of public services has been heavily influenced by the New Public Management principles of economic rationalization and business thinking. Public services imported many concepts, practices and instruments similar to those of private enterprise

businesses, such as performance and strategic management, quality management, more managerial autonomy, a more entrepreneurial and innovative culture, and improved 'customer' orientation. Indeed, there is evidence that management reforms and performance management practices - on average - contribute to public service performance, although criticisms of these reforms and practices remain potent. However, an unrelenting focus on efficiency and performance measurement can also result in efforts to optimize processes to efficiently achieve short-term performance goals, but introduce barriers to innovation, with an inherent risk to the organization's long-term results. (AGUIAR, 2018).

Innovation and optimization are essential for improving performance. Innovation is generally defined as the implementation of a new concept - technical, organizational, political, service or otherwise - that changes and improves the functioning and results of the public sector. This concept is perceived as new by an individual or other adoption unit. Innovation is associated with exploratory activities, discontinuous renewal of processes, techniques and services, breaking with current mindsets, generating new knowledge and learning new skills, flexibility and experimentation, risk taking and the possibility of failure (SILVA, 2014).

Optimization can be defined as a gradual improvement of current public policies, processes, techniques and services, in continuity with the past. Optimization is associated with exploration activities, incremental improvement, refinement of current practices, exploration of existing knowledge and skills, within current mindsets.

Organizations may have a preference for innovating or optimizing, which - following the model of Miles and Snow (1978) - can also be labeled as a more 'prospecting' (ie, innovation) or more 'defensive' strategy (that is, optimization), or not to develop a coherent strategy and mainly to assume a 'reactive' posture. However, Miles and Snow's typology includes another strategic approach, that of 'analyzers' that balance foresight and defensive elements and create structures and processes that enable both innovation and optimization. These analyzers, who are equally adept at continuously optimizing current processes, products and services and developing and implementing new ones, are also often called ambidextrous organizations (BALDAN et al, 2009).

Public services imported a range of performance management techniques and instruments to increase the efficiency and quality of processes and services and the transparency of results, including rational planning, target setting and budget control, lean management and performance measurement. The short-term benefits of optimization strategies, emphasizing short-term results and efficiency of work processes, can lead to over-optimization and prioritize efficiency over the effectiveness of public services, undermining long-term performance (CARVALHO FILHO, 2016; MOREIRA; COSTA, 2017).

Law No. 13,240/15, which deals with the administration, disposal, transfer of real estate management from the Union and its use for the constitution of funds. This norm was a watershed in the collection of fees for the Heritage of the Union, changing significant points in relation to the rates of occupancy and laudemium rates practiced until then (BRASIL, 2015).

The legislation establishes a charge for the use of the Union's real estate, as a way of returning to society part of the privilege of the Union's real estate users to enjoy a property that belongs to everyone. These resources, which are collected by the SPU, are known as "patrimonial income", which do not qualify as taxes, but as consideration for the exclusive use of these properties.

Most public sector organizations are facing increasing scrutiny amid calls for greater accountability, monitoring and control. Thus, according to Carvalho Filho (2016), many areas of the public sector are working to achieve a higher level of transparency.

Scholars argue that public service organizations therefore face a trade-off between achieving short-term performance goals, such as efficiency and effectiveness, and longer-term or strategic goals centered more on social outcomes.

The justification is given by the increased understanding about the improvement of the performance of the public service, especially what is advocated in art. 27 of Law No. 13,240, of December 30, 2015, including art. 6-B in Decree-Law No. 2,398, of December 21, 1987, which established the obligation for the Union, through the Secretariat for Coordination and Governance of the Union's Heritage - SPU, to transfer to the Municipalities and the Federal District - DF o corresponding to 20% (twenty percent) of the annual collections of the previous year referring to Forum, Occupancy Fee and Laudemium, charged for the use of those properties located in the municipalities and in the DF. We will introduce the term 'optimization' for continuous incremental improvement to avoid confusion related to the term 'improvement' and its fusion with innovation. Furthermore, it is also important to emphasize that optimization in our work should not be confused with an exclusive focus on efficiency, that is, the constant reproduction of what exists against lower costs or in less time, - instead, optimization implies a continuous focus on improving existing services, policies, processes and techniques.

The ability to seek innovation while optimizing existing processes, products or services is referred to as ambidextrous capability. Organizational ambidexterity is important because while innovation and optimization compete for short-term resources, both are necessary (and mutually reinforcing) to enable long-term success.

However, ambidexterity is hard to achieve. Organizations that are good at innovation or optimization are at risk of innovating or optimizing too much, which can hurt their performance. If they get too rushed into innovation at the expense of optimization, they can incur the costs of experimentation and take too much risk without reaping much benefit. This can trap an organization in an endless cycle of failure and unrewarding change, the so-called failure trap or innovation trap. Over-optimized organizations have long stuck to an optimization strategy where innovation is needed, because of its short-term success and limited risk. The risk of this so-called success trap or optimization trap is that organizations can be content to stay on a lower path and ignore a more promising path. Thus, while optimization activities may initially improve performance, continuous and consistent optimization may, in the long run, decrease performance.

This work will contribute to the research not only on issues related to process engineering, but will outline parameters for public management by examining the potentially non-linear relationships between optimization, innovation and the revenue arising from the payment of occupancy rates and of laudemium of those who occupy real estate of the Union, art. 17 of Law No. 13,240, of 2015, and 16-G of Law No. 13,465, of July 11, 2017, in the same way, which determined the transfer of 20% of the equity income arising from the sale of Federal properties that are registered in occupation and, also, the remission of jurisdiction of the real estate under a lease, respectively, always observing the location of the real estate. We must note that these transfers dealt with in the preceding items must be made by February 1st of each year.

As recommended in art. 11-B, §§ 4 and 5, of Law No. 9,636, of May 15, 1998, in order to be entitled to the transfer, federative entities must send the SPU information on the market value of land located under their jurisdiction, with the in order to support the updating of the database of the referred Secretariat.

In the last 5 years, it was verified that only around 40% of the effective amount was transferred to the municipalities, as they do not comply with the provisions of art. 11-B, §§ 4 and 5, of Law No. 9,636, of May 15, 1998.

Therefore, we are interested in 'total' or 'general' innovation and optimization - including policies, services, processes and techniques - and its impact, including on social programs, defined by the city halls that attended the transfer process to the Municipalities and the Federal District - DF, of Law No. 13.240, of December 30, 2015.

2. Literature Revision

2.1 Process Organization

There is no doubt that organizations today operate in highly competitive and globalized contexts and markets; Any organization that aspires to success must achieve good results and manage its activities in order to achieve its goals productively. In the public sphere, something similar happens, as we increasingly seek a more efficient and effective service to citizens (Wimmer, Janssen, and Hans, 2013). Digital transformation and the creation of information networks have led to a fundamental shift in citizens' information needs, which is why administrative processes in the context of government have become particularly important.

Organizations must seek a management system that allows them to establish work methodologies, identify responsibilities, execute them and measure the results to achieve the pre-established goals. The process-based approach is a management principle for achieving results with the objective of satisfying the customer and other interested parties. Thus, when an organization is interested in improving the way it provides its services or produces its products, the first step it must take is to analyze the different activities that the organization performs, always taking into account the focus on customer satisfaction. Every customer has needs, whether it's a problem to solve or even an opportunity to explore; customer satisfaction is precisely to provide the best response to these needs. From this approach, the organization is no longer seen as a set of watertight silos, grouped according to the tasks each one performs, that is, by functions, but as a chain of activities that add value until the product is reached. or result that the customer expects.

Process management refers to the mapping of all processes and activities performed by an organization. Its result is a useful tool for planning and verifying processes and activities and their effective management to ensure a high level of efficiency in the organization. Process management is applicable not only to companies, but also to public sector institutions, as it helps to optimize their performance, focus on the quality of their services and adapt to new needs and changes (SILVA, 2018).

Public administration is often affected by poor quality management and inefficiencies in the operation of individual institutions, which contrast with the objective of achieving an efficient and useful public administration in accordance with the principle of "smart administration". With regard to the modernization

of public administration, effective management of public sector institutions, introducing or optimizing process management is a key issue.

2.2 Management of the Union's Assets

In line with the Brazilian reality, Leal (2013) points out that innovations in urban management and governance practices, introduced in municipal experiences, express two main directions: one of a democratizing, participatory trend, reflected in various practices of decentralization and popular participation; and another, present in the strategic plans, derived from the need to establish new forms of governance for cities, making them protagonists of the so-called municipal entrepreneurship. It appears, then, that, in the Brazilian context, the trend of action on the urban identified with entrepreneurship shares space with another, consolidated at the national level from the achievements of the National Movement for Urban Reform - MNRU, whose struggle for greater democratization of cities, with a view to reducing inequalities arising from the Brazilian urbanization process itself, generated relevant advances in the construction of an institutional apparatus to protect the right to fairer cities.

As a historical landmark for the inclusion of this theme in the Brazilian State policy, articles 182 and 183 in the Federal Constitution of 1988 have been included, to deal with urban policy at the federal level, as a result of the actions of the MNRU, which sent it to the Constituent Congress in 1988 the Popular Amendment on Urban Reform (ROLNIK, 2012).

Thirteen years later, after more than a decade of Bill 5.788/1990 being processed, these chapters were regulated by Federal Law 10,257/2001, called the City Statute, in which the principles and guidelines of urban policy are established, and are indicated the instruments that can be used for the implementation of this policy by the municipalities. In the same direction, and of significant importance for the construction of a new paradigm of urban management that has been consolidated in Brazil, in 2003 there was the creation of the Ministry of Cities and the National Council of Cities, providing sociopolitical support to the movement of legal reform started in the 1980s (FERNANDES, 2017).

The Ministry of Cities was created with the task of "exercising the coordination of national urban policy which, at the level of State policy, demonstrated the priority given to dealing with the urban issue." (SOUZA; DEMALDI; ROSA, 2008, p. 138). And from its creation, "the construction of the National Policy for Urban Development - PNDU began, bringing together in its definition the other federative entities (states and municipalities), the other powers of the State (Legislative and Judiciary) and civil society organized" (Ibid. p. 138). In this perspective, the holding of the 1st National Conference of Cities, in October 2003, came to consolidate the participative insertion of society in the formulation of a national urban policy, establishing the National Council of Cities as a forum for participation and social control.

It is salutary to highlight that the Brazilian Constitution, when speaking of the social function of urban property, submits the matter to municipal management, which shall regulate it through the Master Plan, as expressed in §2 of article 182: "The urban property fulfills its social function when it meets the fundamental requirements of the city's ordering expressed in the master plan". Since the master plan is the main planning instrument for urban development policy, the execution of which is the responsibility of the Municipal

Public Administration, it is understood that the fulfillment of the social function of urban property is directly linked to municipal urban planning. According to Chalhub (2010, p. 33), the realization of the social function of property implies restrictions on the exercise of the owner's powers, in terms of the purposes defined by the order: [...] in terms of urban policy, the Constitution (art 182) attributes to the master plan the characteristic of a requirement for the fulfillment of the social function of the property, insofar as it is through it that the administration is legitimized to establish conditions to the exercise of property, in view of the collective interest.

The City Statute, by regulating the subject, expands the concept of social function, referring not only to urban property, but to the city as a whole. Thus, urban property is considered not only as an end in itself, but as an integral part of the larger context in which it is included: the city. The discussion about the applicability of the principle of social function also to public property is not without controversy.

According to Abe (2010), the constitutional requirement of compliance with the social function of property would not apply to public property, among other reasons, due to the impossibility of imposing the sanctions provided for the public entity in case of non-compliance. Among these, those provided for in §4 of article 182 of the Constitution stand out, applicable to unbuilt, underutilized or unused properties, namely: "I - compulsory subdivision or building; II - tax on property and urban land progressively over time; III - expropriation with payment through public debt bonds [...]". The same author explains, however, that this "[...] does not mean that the Government does not have legal duties in relation to its public assets, as far as the provision of normatively established collective interests is concerned." (ABE, 2010, p. 13). And it reinforces that "[...] this duty derives from the Public Law regime itself, inherent to the exercise of the administrative function, and not from the norms that protect the social function." (Ibid., p. 14).

2.2.1 Federal Heritage

The set of real estate that belongs to the Union, and whose management (including identification, demarcation, registration, registration, destination, inspection and regularization) is the responsibility of the Federal Heritage Department is called "Union Heritage". as buildings owned by the Union and, therefore, public, characterized as: special use goods, which are those used in public service (departments, hospitals, schools, etc.); for common use by the people, which are those with free access to all (such as streets, beaches, rivers, etc.); or property or property that can be used for private purposes, with a view to collecting revenue for the General Budget of the Union or serving social interests. The management of the Union's Heritage is conducted by the Executive Branch, and guided by the National Policy for the Management of the Union's Heritage - PNGPU, which was reformulated in 2003, and the principles of shared management (with other entities of the federative pact and with the society) and effective, ethical and transparent management, which are combined with the guideline of participatory management, guaranteed through the creation and maintenance of instances of dialogue and participation in the collective decision-making process.

2.3 Secretariat for Coordination and Governance of the Union's Heritage (SPU)

The changes in the management of the SPU, from 2003, began first, with a government of a president who

carries in his history the awareness of social justice and who knew that it was necessary to change the course of the country so that it would primarily serve the poorer population and forgotten by the governments that preceded it. To carry out this social vision in the Management of the Union's Heritage, Mrs. Alexandra Reshcke, architect and urban planner, with extensive experience in social housing in the State of São Paulo, has been in charge of the Urban Reform Forum. and also a combatant in the struggle for the Federal Constitution to contemplate the social function of property and the right to housing as a basic right of all Brazilians (ALVES, 2017).

According to the aforementioned author, this vision and experience brought to the scope of the administration of the Union's real estate assets the constitutional precept that property must fulfill a social function. This means that the use of real estate, public or private, must be in line with the public interest, in order to seek better conditions for the development of cities.

In accordance with these values, in 2003 the SPU adopted a new management philosophy that is to "know, watch over and ensure that each property in the Union fulfills its social and environmental function, in harmony with the collection function and in support of the strategic programs of the Nation". And it is on top of this mission and the great challenge of the paradigm shift that management advances. The period from 2003 to 2010 stands out as the most significant in the events in the management of the SPU, which considered it a priority to address issues such as sustainable development, the reduction of inequalities, social inclusion, democratic dialogue, participation in decision-making and the need to create and reformulate legal frameworks in order to meet the intended changes. This is not to say that from 2011 to 2014 these values have been forgotten, but we believe that with the end of President Luiz Inácio Lula da Silva's term "the tropical winds blew milder."

The Union's Real Estate Heritage plays an essential role in the country's development strategy as it provides the fundamental input – physical space – for the settlement of actions and projects of public interest.

The powers of the SPU include, among others, the incorporation and regularization of the domain of assets; its proper destination; in addition to the control and inspection of properties. They are described in art. 31 of Decree No. 9,035, of 2017.

In order to fulfill its institutional mission, the Secretary of the Heritage of the Union (SPU) has:

- A Central Unit located in Brasília, formed by the Secretary, Deputy Secretary, Program Director, three Directorates and Cabinet.

- 27 decentralized units located in the capitals and the Federal District, in addition to two regional offices, one in Santos (SP) and one in Parnaíba (PI).

The Federal Heritage Secretariat – SPU is a federal agency linked to the Ministry of Planning, Budget and Management, responsible for identifying, regularizing, maintaining and administering all real estate assets belonging to the Union. Its structure is decentralized through superintendencies in all States of Brazil whose function is to manage the properties circumscribed in this territoriality, maintaining a lower hierarchical link with the Central Organ (SPU/OC), located in Brasília, on the Esplanada dos Ministérios, within the Ministry of Planning, Budget and Management.

2.3.1 SPU Instruments

2.3.1.1 Tenure

Provided for in Decree-Law No. 9,760/1946, No. 2,398/1987 and No. 3,438/1941 and in Law No. 9,636/1998, it is the contract through which the Federal Government assigns to third parties the useful domain of Federal properties, a type of right real on the property. This instrument is used in situations where the convenience of allocating the property and, at the same time, maintaining the bond of public property coexist (§ 2 of art. 64 of Decree Law 9760/1946).

Costa (2012, p.09) points out that: The emphyteusis, also called tenure or emprament, is the legal transaction by which the owner (landlord) transfers to the acquirer (landlord), in perpetuity, the useful domain, the direct possession, the use, enjoyment and the right to dispose of immovable property, upon payment of an annual rent (forum).

The tenure can be free or onerous (paid). In the first case, there will be a free transfer of the useful domain of 83% of the land (Marine Land or marginal land). The onerous tenancy, with payment referring to 83% of the land value, will be carried out in cases where it is intended for profitable activities, actions to support local development, commerce and industry (BRASIL, 2021).

The foreiros must annually pay the court to the Union, referring to 0.6% of the property's value, excluding improvements. When dealing with low-income families, exemption will be granted upon request of the beneficiary (BRASIL, 2021).

Regarding its legal nature, it constitutes a real right – alienable and transferable to heirs – on immovable property. Costa clarifies that the Brazilian legal system includes civil and administrative emphyteusis. Civil emphyteusis is constituted on private and public assets (municipal domain) and administrative is on public property, but commonly on federal property, such as marine land (COSTA, 2012).

2.3.1.2 Disposal

Art. 134 of Decree-Law 9,760/1946 was revoked in 1987, thus changing the rules for the alienation of federal properties, now described by art. 23 of Law 9,636 of May 15, 1998: Art. 23. The alienation of real estate of the Union will depend on authorization, through an act of the President of the Republic, and will always be preceded by an opinion of the SPU as to its opportunity and convenience. § 1 The alienation will occur when there is no public, economic or social interest in keeping the property in the domain of the Union, nor inconvenience regarding environmental preservation and national defense, in the event of the disappearance of the property bond. § 2 The competence to authorize the alienation may be delegated to the Minister of State for Finance, sub-delegation being permitted (BRASIL, 1998).

As previously mentioned, Law 9,636/98 regulates the forms of disposal of the Union's assets. Niebuhr (2014) describes the three forms of disposal: the sale, in which the right price is paid for the Union's property and is carried out by bidding or auction; the exchange, in which one asset is exchanged for another and may or may not be carried out by bidding, as per the requirements described by law; finally, the donation, in which assets, assets or advantages are transferred to another person.

2.3.1.3 Authorization of Use

The authorization for Use is made especially by the SPU in floodplain areas of federal rivers in favor of riverside populations and traditional communities, with a view to enabling the rational and sustainable use of natural resources available in view of traditional use, aimed at the subsistence of this population (Article 1, of Ordinance No. 100, of June 3, 2009, and Article 1, of Ordinance No. 89, of April 15, 2010).

Meirelles (2016, p. 653) teaches that “Authorization of use is a unilateral, discretionary and precarious act by which “the Administration consents to the practice of a certain individual activity, incident on a public good”.

Provisional Measure (MP) 2,220/01 also allows the public authorities (Union, States, Federal District and Municipalities) to grant authorization for free use for commercial purposes to those who, until June 30, 2001, have as theirs, by five years, uninterruptedly and without opposition, an area of up to 250 m² public property located in an urban area, intended for commercial purposes.

2.3.1.4 Free Use Assignment

There is no general national law that typifies the concession of use. Since the Union is competent to issue general rules on administrative contracts (art. 22, XXVII, CF), it is understood that a national law with common rules would be possible. However, the absence of a general law on the institute of concession of use does not mean that there are no national/federal laws that provide for it.

Law 8.666/1993, in art. 2, requires prior bidding for concessions contracted by the Public Administration with third parties. Since the law defines the concession in a generic way, without specifying whether it is just public service concessions or public goods concessions, it is possible to interpret this provision in a broad way. Therefore, it is mandatory to bid for all types of concession contracted by the Public Administration.

2.3.1.5 Onerous Assignment of Use

It is applied when the property is intended for profitable activities or actions to support local development, such as commerce, industry and tourism. If there are competitive conditions, a bidding process must be carried out, pursuant to Law No. 8666, of 1993. (Legal provision: art. 18, caput, § 5 of Law No. 9,636, of 1998).

It is the administrative contract used to allocate property owned by the Union, with onus, in order to meet for-profit activities, such as actions to support local development, including commerce, industry, tourism, infrastructure, etc. and, provided that the bidding procedures are respected (BRASIL, 2020).

2.3.1.6 Assignment of Special Conditions

Administrative contract used to allocate property owned by the Federal Government, when it is necessary to establish specific contractual charges or the mixed use of the property, in free and onerous regimes, simultaneously. The provision of services, renovation, improvements, implementation of improvements, are some examples of charges used in this authorization, as a contractual condition. In this case, the services

to be provided must be quantified in the contract, allowing for control and inspection, as long as the bidding procedures are respected, in accordance with the provisions of Law 8666, of 1993 (BRASIL, 2020).

It can be applied when it is necessary to establish specific contractual charges, such as, for example, holding a public hearing and drawing up an intervention plan (as a management tool); the provision of services, such as renovation and maintenance of the property; the implementation of improvements, improvements and recovery. In these cases, the services to be provided must be quantified in the contract, allowing for control and inspection by the Public Administration.

For land tenure regularization purposes, there may be businesses adjacent to housing. In the case of businesses, the assignment will be onerous, that is, paid. In the case of housing, the assignment will generally be free. In cases where the assignment is onerous, the conditions of competitiveness must be respected and the Bidding Law - Law No. 8666, of 1993, must be respected. (Legal provision: art. 18 of Law No. 9,636, of 1998, combined with §3º of article 79 of Decree-Law No. 9,760, of 1946).

The concession of special use for housing purposes was a modality included by law 11,481/2007 for possessors or occupants who meet certain requirements, according to Provisional Measure No. 2220 of September 4, 2001, such as family income, maximum area fraction of each occupant, and the assignment may even be transmitted inter vivos or causa mortis. And the sale of the useful domain, in the case of a social project for housing purposes, will comply with criteria for analyzing family income, terms and forms of payment (BRASIL, 2007).

2.3.1.7 Provisional Assignment

As illustrated in art. 11, §3º, of Decree-Law nº 3.725, of 2001, is an instrument of destination that can be used when there is document inconsistency and urgency in the assignment, due to the need to protect or maintain the property. Provisional assignment can be made to direct or indirect public administration bodies of the Union, States, Federal District or Municipalities. These same entities may receive, by provisional assignment, non-operating properties of the extinct Federal Railroad Network (RFFSA), when the assignment is urgent. (Legal provision: art. 21 of Law No. 11.483, of 2007).

2.3.1.8 Permission to Use

About permissions, lato sensu, Di Pietro (2015, p. 221, conceptualizes the institute:

Permission, in a broad sense, designates the unilateral, discretionary and precarious administrative act, free of charge or onerous, by which the Public Administration allows the private person to perform a public service or privately use a public good. Its object is the private use of public property by a private individual.

In the same field, Meirelles (2015, p. 191) points out:

Permission is an administrative, discretionary and precarious administrative act, by which the Government allows the individual to perform services of collective interest, or the special use of public assets, free of charge or for remuneration, under the conditions established by the Administration.

It is verified, therefore, that the permission to use public property as an institute of administrative law,

without a contractual nature (since it is a unilateral act), which grants, on an exclusive basis, free of charge or onerous, the use of any immovable public property to private property, so that it can be exploited by developing some work, or providing some service, provided that it is covered by a justified public interest. Not being a contract, it has the nature of an Administrative Act.

Thus, Moreira Neto (2013, p. 264) points out that: The permit regime, less rigid, has been characterized in the traditional doctrine as a bond produced by a simple manifestation of the Administration's unilateral will, through an administrative, discretionary and precarious act, which it would therefore be revocable at any time.

Although discretionary and precarious, it must, however, be conditioned to compliance with certain requirements. This is because it is necessary to have, as a premise, that public goods must be intended, as a priority, to subsidize the administrative activities of their holders, as instruments of public management. In addition, for private use, it is essential that the Administration express its consent through a formal legal title (MESQUITA, 2014).

2.3.1.9 Occupation Registration

One of the Federal Government's property allocation instruments is a precarious administrative act that presupposes the effective use of the land by the occupant. The registration of occupation does not generate a real right to the property, being only for the recognition of a factual situation, but may, however, generate compensation in cases where there are improvements built in good faith, but without authorization from the Federal Heritage Secretariat (SPU).

Regularly registered occupants must annually pay the Federal Government an occupancy rate corresponding to 2% of the property's value, excluding improvements. In the case of low-income families, exemption will be granted upon request of the beneficiary.

“The registration, except in the cases of preference to tenure, will always have a precarious character, not generating, for the occupant, any rights to the land or indemnity for improvements made” (BRASIL, 1977).

Even the registration of occupation in the Secretariat of Heritage of the Union (SPU) and the payment of the annual fee, the property right or even tenure on the part of the occupant does not matter, and the Union may retake the property at any time, as provided for in Decree Law 9760/1946:

Art. 132. The Union may, at any time it needs the land, take possession of it, summarily promoting its eviction, subject to the deadlines established in § 3, of art. 89.

§1 - The existing improvements on the land will only be indemnified, for the amount arbitrated by the S.P.U., if the occupation is judged in good faith by the latter. (BRASIL, 1946)

Art. 127 of Decree Law 9,760/1946 determines that occupants of federal properties must pay an occupancy tax. Law 13,139 of June 26, 2015 revoked and included some articles in this chapter on occupation, with the main changes dealing with the registration of properties not yet registered and the payment of compensation by the Union for any improvements in the event that it promotes the vacancy of the immobile.

Art. 131 determines that the payment of occupancy rates does not guarantee the occupant the right to

property or tenure over this property (BRASIL, 2015).

In fact, since it has a precarious nature, there is no contract between the parties, but only the authorization of the SPU, through the Registration Certificate that contains the description of the property, the occupant's data and a certain number of the Property Registry (RIP)), with the determination of annual payment of the occupancy tax (RODRIGUES, 2016).

The authorization is issued by the SPU, through an administrative process. The occupant of a property located on marine land must be a squatter of the land with or without a fair title, or even have a title registered with the Real Estate Registry Service, being convinced of having real rights over the property. Enrollment can also be granted upon transfer of occupation by act inter vivos or by cause of death (RODRIGUES, 2016).

3. Materials and Methods

The first stage of the research consisted of a literature review. As a starting point, we sought to read, study and analyze books, periodicals and articles to build a significant and necessary theoretical basis for a broader view on optimizing the process of transferring the collection to the Municipalities and the Federal District - DF and so many other issues related to the proposed theme.

Content analysis was developed in three phases: first, a previous analysis was carried out; subsequently, the choice of documents and information obtained from the databases of the Secretariat of Heritage of the Union (SPU) was made and, finally, the material was explored with the proper interpretation of the data and discussion among the authors.

4. Results and Discussion

4.1 Development of Methodology for Forecasting Collection and Transfers to Municipalities

The collection of property revenues is one of the competences of the Secretariat of Property of the Union (SPU), whose scope is centered on the formulation of an administrative collection and property collection policy, carrying out, as permitted by law, the actions necessary to optimize its collection.

Among the actions currently adopted for the management and monitoring of the collection and collection process, the need to establish targets and develop a specific methodology to make forecasts for the annual collection was identified.

Said methodology would aim, among other aspects, to provide subsidies for the forecast of transfers to municipalities and the Federal District, referring to the percentage of resources collected through the collection of occupancy, forum and laudemium fees, pursuant to Article 6- B, of Decree Law 2398/87.

By definition, federal public properties that do not have a specific destination and that, for this reason, are made available for use by individuals are called public properties, being subject to charge for the assignment of use, whose considerations are due by private agents for the use of properties that belong to the Union.

Among the property revenues collected by the SPU, the following stand out: the forum, charged annually for the use of the property under a tenure regime; the occupancy tax, charged for regular occupancy of the property; and laudemium, charged when a transfer of the useful domain of the property is carried out.

The rates charged in these three regimes are regulated in articles 101 Decree-Law No. 9,760, of September 5, 1946 and in Articles 1 and 3 of Decree-Law No. 2,398, of December 21, 1987, transcribed below:

a) Decree-Law No. 9,760, of September 5, 1946.

Art. 101 The lands granted by the Union are subject to a 0.6% (six tenths percent) of the value of the respective full domain, which will be updated annually.

b) Decree-Law No. 2,398, of December 21, 1987.

Art 1 The occupation rate of land in the Union will be 2% (two percent) of the value of the full domain of the land, excluding improvements, annually updated by the Secretary of Patrimony of the Union.

...

Art. 3 The onerous transfer, inter vivos, of the useful domain and the registration of occupation of land of the Union or assignment of rights relating to them will depend on the previous payment of the laudemium, in an amount corresponding to 5% (five percent) of the updated value full domain of the land, excluding improvements.

Law 13240/2015 made changes to the rate used to calculate the occupancy rate, in addition to excluding the value of improvements made to the property from the base for calculating the laudemium. Before its enactment, the occupancy tax was charged at different rates - 2% for occupations already registered and for those whose registration was requested to the SPU until September 30, 1988 and 5% for cases of occupations whose registration was requested or promoted ex officio, as of October 1, 1988.

These rates were unified, establishing a percentage of 2% for calculating the occupancy rate.

4.1.1 Revenue Forecast for the 2016 Fiscal Year

Although the effects of the impact of the changes resulting from the entry into force of the aforementioned were only perceived as of January/2016, the expectation of a reduction in the laudemium, arising from the possibility of its enactment, interfered in the collection of the fee in the fiscal year 2015, due to the downturn in the transfer of properties from the Union between users throughout the year.

In the first two months of 2016, the effects of the changes arising from the enactment of Law 13,240/2015 were even more evident, with a drop of around 63% in the collection with forum, laudémium and occupancy rates, compared to the same period of the year above, as can be seen in Table 1.

Table 1. Decrease in collection with fees for forum, laudemium and occupancy.

| Period/Type | 2015 | | | 2016 | | | % Variation |
|---------------|-------------------|-------------------|-------------------|-------------------|------------------|-------------------|---------------|
| | Jan | Feb | Total | Jan | Feb | Total | |
| Foro | 1.162.717 | 1.141.527 | 2.304.244 | 1.176.753 | 865.911 | 2.042.664 | -11,35 |
| Laudêmio | 26.012.941 | 22.747.468 | 48.760.409 | 7.206.780 | 7.581.409 | 14.788.189 | -69,67 |
| Tx Occupation | 3.509.783 | 2.889.671 | 6.339.454 | 2.884.370 | 1.051.545 | 3.935.915 | -38,50 |
| Total | 30.685.441 | 26.778.666 | 57.464.107 | 11.267.903 | 9.498.865 | 20.776.768 | -63,86 |

Source: Authors, (2021).

It should also be noted that the entry into force of the new Law coincided with a scenario of economic slowdown and a retraction in the real estate market. Thus, it can be inferred that the reduction in tax collection observed was mainly impacted by the combination of these factors.

Property revenues have different characteristics as to their enforceability, and the payment of the court and occupancy rate must be made annually, while the laudemium is required only when the transfer of the useful domain of the property occurs. Ordinance SPU No. 64, of April 20, 2015, regulated the payment of forum and occupancy rate for the year 2015. According to articles 1 and 2 of this Ordinance:

Art. 1 It is hereby established that the payment of jurisdictions and rates of occupation of land in the Union may be made in a single installment, maturing on June 10, 2015.

Art. 2. At the discretion of the occupant or landlord, the payment referred to in art. 1st may be divided into up to seven shares, equivalent and successive, the first being due on the same date scheduled for payment of the single share, on June 10th, and the others on July 10th, August 10th, September 10th, October 13, November 10 and December 10, 2015, subject to the following conditions:

I- it only applies to debts equal to or greater than R\$ 100.00 (one hundred reais);

II- the value of each share cannot be less than R\$ 50.00 (fifty reais);

III - late payment will entail the collection of a late payment fine, as of maturity, as well as late payment interest equivalent to the reference rate of the Special System for Settlement and Custody - SELIC for federal securities, accrued monthly from the first day of the following month to maturity up to the month prior to the effective payment, plus 1% (one percent) related to the month of payment, according to Law No. 8981, of January 20, 1995.

Users of federal properties can make these payments in two ways: in a single installment, maturing in June, or in monthly installments, maturing in December. Collection with forum and occupancy rate has a strong seasonal behavior, arising from the payment option to be chosen by the user, incurring in fluctuations according to the time of year taken as reference.

Until the enactment of Law 13,240/15, there was no predictability of a legal order for the transfer of a portion of the patrimonial collection to the municipalities, and the referred regulation included this obligation in Decree-Law 2398/87, of December 21, 1987, owing the annual transfer of a percentage of the collection of the SPU to the municipalities, pursuant to the provisions of article 6-B and sole paragraph, transcribed below:

Article 6-B. The Union will transfer 20% (twenty percent) of the funds collected through the collection of occupancy rate, jurisdiction and award to the Municipalities and the Federal District where the properties that gave rise to the collection are located.

Single paragraph. The transfers referred to in the caput will be carried out until February 1st of the year following the receipt of the funds.

The total collection corresponds to the sum of the amounts collected with forum, laudémium and occupancy rate, alienations, permissions and assignments of use, indemnities for occupation or illicit possession, rents, leases, installments, fines and interest, occupancy rate of functional properties, SPU outstanding debt income and other income.

Figure 1 details the values observed during the period from January 2010 to February 2016, with peaks occurring in the months of June, as they coincide with the month of payment of the single share of the occupancy and forum fee and/or the first installment, if the user chooses this form of payment of the fee.

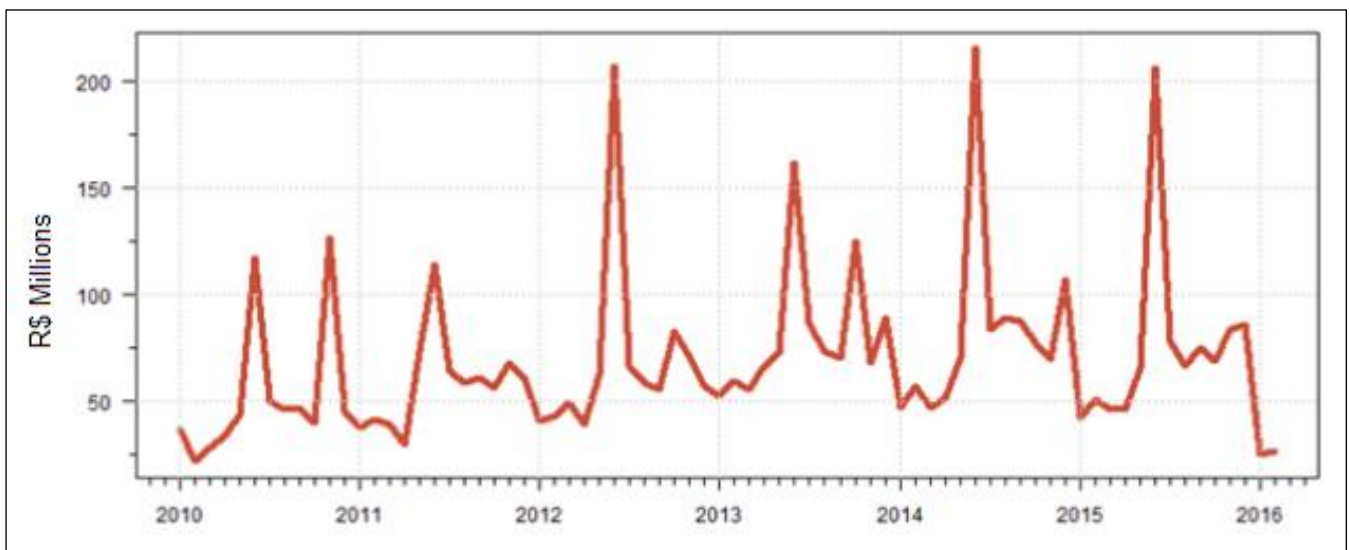


Figure. 1: Evolution of Total Monthly Collection (Jan. 2010- Feb. 2016).

Source: Authors, (2021).

On June 10, 2016, Provisional Measure No. 732 was published, which limits the readjustment of jurisdictions and occupancy rates for the 2016 fiscal year and extends to July 29 the deadline for discharge of the Federal Revenue Collection Document (DARF), which can be paid in cash or in up to six installments, from July to December. Evidently, the Provisional Measure will have effects on the behavior of the monthly collection.

With the extension of the due date of the first or only payment installment from June to July, there will likely not be a peak in collections in June, as has been observed in recent years. In addition, as there was a reduction in the number of quotas allowed, the distribution of payments between the months of July and December will have a new configuration. Faced with these changes, it is difficult to measure the degree of predictability of the adopted model.

Specifically with regard to forum and occupancy fees, as they are debts with annual collection, it is not

possible for the user to postpone the payment of said debts to the following year. This particularity justifies the maintenance of the 2015 collection levels, with no significant variations observed in the period. On the other hand, at the beginning of 2016, there was a slight decrease in the collection of forum and occupancy rate when compared to the collection of the same period in the previous year, mainly influenced by the effects of the economic slowdown, combined with the retraction of the real estate market.

Given that these two revenues can be paid by users of public properties in a single quota or in up to seven quotas, the collection suffers the effects of seasonality, with collection peaks (maximum points) being observed in the month of June, due to the possibility payment in a single installment that month. On the other hand, the annual collection vouchers (minimum points) always occur in the first five months of the year (months in which all payment quotas have already expired).

For the formatting of the methodology for calculating the 2016 revenue forecast, some factors impacted the development of the work, highlighting:

- the validity of Law 13,240/15, which changed, among other aspects, the percentage of incidence of the occupancy rate, and also adjusted the method of calculating the amount to be paid as laudemium;
- the forecast of an unfavorable macroeconomic scenario, which will certainly impact tax collection;
- the seasonal behavior of the forum collection and the occupancy rate, which makes it necessary not only an annual analysis, but also a monthly one;
- the difficulty of establishing a calculation methodology capable of covering all these factors.

In econometric analysis, when we can observe the same economic variable at different points in time, we have a time series. There are several examples of time series – the daily stock price, the quarterly GDP, the monthly unemployment rate. Among these examples, we can include the monthly collection of property income.

The objective of analyzing a time series is to develop a statistical model capable of adequately describing the behavior of an economic variable over time. After elaborating the model, it can be used to predict the future evolution of the series. Due to the impact of external factors, which are often difficult to measure, forecasts do not always provide a degree of assertiveness to the model. In addition to the existence of a random component in the time series, it is worth noting that the forecasts are based on past occurrences of the time series. Nothing prevents a time series from changing its behavior at a given moment in time. That said, in econometric analysis, it is usual to construct confidence intervals.

Using these assumptions for the proposed model, the total revenue expected for the year 2016 would be BRL 720.4 million, as shown in Table 2:

Table 2. Total collection planned for 2016 (January).

| Total collection | | | | | | |
|------------------|------|------------|-----------------|-----------------|-----------------|-----------------|
| Month | Year | Forecast | Lower Limit 80% | Upper limit 80% | Lower Limit 95% | Upper limit 95% |
| January | 2016 | 24.599.120 | | | | |

| | | | | | | |
|--------------|-------------|--------------------|--------------------|--------------------|--------------------|----------------------|
| February | 2016 | 26.216.293 | | | | |
| March | 2016 | 37.580.141 | 26.898.739 | 52.503.093 | 22.534.798 | 62.670.497 |
| April | 2016 | 37.408.558 | 26.695.488 | 52.420.853 | 22.328.930 | 62.672.069 |
| May | 2016 | 53.689.495 | 38.199.803 | 75.460.123 | 31.901.096 | 90.359.336 |
| June | 2016 | 168.280.789 | 119.377.509 | 237.217.413 | 99.537.648 | 284.499.629 |
| July | 2016 | 63.505.458 | 44.918.594 | 89.783.380 | 37.395.315 | 107.846.215 |
| August | 2016 | 53.866.953 | 37.990.527 | 76.378.214 | 31.578.987 | 91.885.423 |
| September | 2016 | 61.207.329 | 43.043.202 | 87.036.674 | 35.724.388 | 104.867.776 |
| October | 2016 | 56.097.458 | 39.337.134 | 79.998.833 | 32.599.106 | 96.534.085 |
| November | 2016 | 67.884.209 | 47.467.528 | 97.082.491 | 39.277.837 | 117.324.837 |
| December | 2016 | 70.105.097 | 48.882.730 | 100.541.126 | 40.388.667 | 121.685.737 |
| Total | 2016 | 720.440.900 | 523.626.666 | 999.237.614 | 444.082.185 | 1.191.161.017 |

Source: Authors, (2021).

The same methodology can be applied to the forecast of the transfers of the collection to the municipalities. As an example, we will use the collection with forum, occupancy rate and award of properties located in Rio de Janeiro. Applying the methodology, we can predict the annual collection in this municipality, as shown in Table 3.

Table 3. Total Collection in Rio de Janeiro.

| Total collection in Rio de Janeiro | | | | | | |
|------------------------------------|-------------|--------------------|-------------------|--------------------|-------------------|--------------------|
| Month | Year | Forecast | Lower Limit 80% | Upper limit 80% | Lower Limit 95% | Upper limit 95% |
| January | 2016 | 1.596.532 | | | | |
| February | 2016 | 885.752 | | | | |
| March | 2016 | 4.054.377 | 2.033.342 | 8.084.211 | 1.411.080 | 11.649.208 |
| April | 2016 | 9.662.375 | 4.845.854 | 19.266.262 | 3.362.882 | 27.762.350 |
| May | 2016 | 9.831.088 | 4.930.467 | 19.602.666 | 3.421.600 | 28.247.104 |
| June | 2016 | 33.893.346 | 16.998.120 | 67.581.526 | 11.796.200 | 97.383.812 |
| July | 2016 | 10.382.057 | 5.206.788 | 20.701.269 | 3.613.359 | 29.830.171 |
| August | 2016 | 9.462.652 | 4.745.689 | 18.868.024 | 3.293.370 | 27.188.496 |
| September | 2016 | 14.187.908 | 7.115.490 | 28.289.933 | 4.937.943 | 40.765.304 |
| October | 2016 | 8.777.078 | 4.401.862 | 17.501.025 | 3.054.764 | 25.218.675 |
| November | 2016 | 28.080.223 | 14.082.735 | 55.990.470 | 9.773.007 | 80.681.300 |
| December | 2016 | 12.644.460 | 6.341.423 | 25.212.379 | 4.400.763 | 36.330.603 |
| Total | 2016 | 143.457.847 | 73.184.053 | 283.580.049 | 51.547.251 | 407.539.307 |

Source: Authors, (2021).

According to the model, the estimated total collection would be R\$ 143.4 million. Applying the percentage of 20%, provided for in Decree-Law No. 2,398, of 1987, the expected transfer would be R\$ 28.7 million. It should be noted that the 95% confidence interval indicates that the observed value would be between R\$51.5 and R\$407.5 million with 95% probability.

The city of Rio de Janeiro represents one of the municipalities with the highest revenue, but it is worth emphasizing that the methodology proposed herein can be applied to any municipality, regardless of the amount collected.

It should be noted, however, that the municipal collection data used as a basis for calculation do not include the collection with forum, occupancy rate and the Federal Active Debt (DAU), which may underestimate our estimates in relation to the true amounts, which include DAU.

These values were not included in the calculations due to the impossibility of obtaining a level of detail that can be used by the model proposed herein.

Considering that the information on collection with DAU in each municipality is presented in global values, it is not possible to discriminate the amount of this amount collected via forum, laudemium and occupancy rate. Notwithstanding this inaccuracy in the numbers, these estimates presented can be used at least as a basis for forecasting transfers.

It should be noted that the monthly inclusion of new asset collection data will enable the model to increase its capacity to capture the behavior with greater precision, allowing for a comparison between the values predicted by the model with the amount actually observed, in order to identify any need for calibration of the methodology, which gives a degree of reliability and assertiveness to the methodology.

In view of the above, this methodology should be adopted in the form proposed as a monthly routine to be developed at the SPU, considering its suitability for the objectives it proposes. It is worth mentioning that, even considering that they are the same property income, the data obtained with the adoption of this methodology would not be applied to the definition of the GIAPU Institutional Indicators, in view of the particularities and specificities adopted for the establishment of these goals.

Among the 27 Brazilian capitals, only Campo Grande, Curitiba, Boa Vista and Porto Alegre had a revenue forecast for 2016 higher than the collection carried out in 2015 (it should be noted that the four have relatively small collection, less than R\$ 50,000.00 per year), which is in line with the trend of reduction in the total SPU collection in 2016 compared to 2015, widely analyzed in Technical Note 5304/2016-MP.

4.1.2 Revenue Forecast for the Year 2017

Using the model's assumptions, and considering the amounts already realized in the period from 2013 to date, the total revenue expected for the year 2017 would be R\$596.03 million, as shown in Table 4:

Table 4. Total Collection Planned for 2017.

| Period | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|------------|-------|-------|-------|-------|-------|--------|-------|-------|-------|-------|-------|-------|--------|
| Collection | 20,70 | 19,93 | 21,11 | 18,77 | 43,32 | 182,23 | 50,27 | 44,47 | 46,30 | 44,17 | 59,19 | 45,56 | 596,03 |

Source: Authors, (2021).

The expected collection for 2017 represents a drop of around 35% compared to the 2015 collection, which was R\$913.76.

As can be seen, applying the statistical methodology developed, it appears that the collection in 2017

continues the downward trend observed in 2016. This drop can be explained by the changes arising from Law 13240/15 and the economic downturn scenario.

4.1.3 Revenue Forecast for the Year 2018

The transfer routine to municipalities and the Federal District involved the following steps:

- a) extraction of data to determine the amounts to be transferred, in the various systems that determine the collection;
- b) registration in SIAFI of the list of accounts of the Municipal Participation Fund - FPM (provided by Banco do Brasil), for crediting the amounts;
- c) ordering of expenditure within the scope of the SPU; and
- d) issuance of a Banking Order - OBT for each creditor municipality, in order to make the credit viable.

On 01/30/2019, the SPU will transfer R\$ 98.9 million to 526 Municipalities and the Federal District, totaling 527 beneficiaries. Of the total transferred, 74.65% were destined to 105 municipalities belonging to the following states: RJ (28), SP(26), PE(16) and SC(35). In relation to the transfer for the 2017 fiscal year, BRL 89.9 million, the amount transferred referring to the collection for the 2018 fiscal year increased by 10.01%.

The transfer was the result of the collection of R\$494.6 million which includes, in addition to ordinary revenues, credits recovered by way of Aforamento, Occupancy Rate and Laudêmio registered in Active Debt of the Union - DAU.

Table 5 presents the summary of transfers made in the last three years:

Table 5. Summary of transfers made in 2016, 2017 and 2018.

| Exercise | Number of municipalities | Total collected | Total calculated for transfer | Transfer amount |
|----------|--------------------------|-----------------|-------------------------------|-----------------|
| 2016 | 492 | 620,1 | 462,8 | 95,5 |
| 2017 | 509 | 652,1 | 449,8 | 89,9 |
| 2018 | 527 | 795,2 | 494,6 | 98,9 |

Source: Authors, (2021).

This amount was credited to the accounts of the Participation Funds (FPM and/or FPE in the case of the DF), of each municipality where the Federal Government's properties are located, as shown in Table 6:

Table 6. Amounts credited to the accounts of the municipalities in each state and in the Federal District.

| UF | Number of municipalities | Total Credited (R\$) |
|----|--------------------------|----------------------|
| AC | 10 | 28.009,27 |
| AL | 24 | 1.568.921,83 |
| AM | 6 | 259.227,12 |
| AP | 5 | 24.623,42 |

| UF | Number of municipalities | Total Credited (R\$) |
|--------------------|--------------------------|----------------------|
| BA | 42 | 3.320.126,13 |
| CE | 21 | 2.310.253,59 |
| DF | 1 | 846.215,41 |
| ES | 13 | 5.866.369,60 |
| GO | 30 | 60.535,29 |
| MA | 23 | 728.095,91 |
| MG | 7 | 37.332,20 |
| MS | 17 | 76.310,14 |
| MT | 67 | 77.675,17 |
| PA | 32 | 383.193,17 |
| PB | 11 | 1.846.962,25 |
| PE | 16 | 12.059.297,68 |
| PI | 7 | 462.151,76 |
| PR | 22 | 1.906.777,86 |
| RJ | 28 | 26.786.956,66 |
| RN | 32 | 612.814,01 |
| RO | 2 | 89.680,55 |
| RR | 4 | 10.148,09 |
| RS | 20 | 2.030.586,12 |
| SC | 35 | 10.946.271,97 |
| SE | 16 | 2.528.962,67 |
| SP | 26 | 24.052.291,24 |
| TO | 10 | 7.245,80 |
| Grand Total | 527 | 98.927.034,91 |

Source: Authors, (2021).

The amounts credited to municipalities and the DF by the SPU do not have a specific destination, so they can be applied in any disbursement forecast, aimed at improving the conditions of service to the citizen. The resources transferred by the SPU are called “source 100” or “free movement”.

Finally, it is worth noting that the transfer process to the municipalities requires the extraction and processing of existing data in internal (SIAPA and SPUNet) and external (RFB, PGFN and Banco do Brasil) databases. Given the complexity of the procedures involved, immediate automation of the process is necessary, aiming at lower consumption of human resources and mitigation of operational risks.

The transfer routine to municipalities and the Federal District is a legal requirement for which special attention must be given by the areas involved in the scope of the SPU. In 2018, the amount of R\$ 98.9 million was transferred to 527 Federation Units.

The credit was made through a Banking Order – OBT, in the FPM account of the municipalities and FPE of the Federal District. The issuance of said order took place on 01/28/2019, therefore before the deadline

established by the legislation, February 1, 2019.

4.2 Analysis of Transfers

Art. 27 of Law No. 13,240, of December 30, 2015, including art. 6-B in Decree-Law No. 2,398, of December 21, 1987, established the obligation for the Union, through the Secretariat for Coordination and Governance of the Union's Heritage - SPU, to transfer the corresponding to the Municipalities and the Federal District - DF to 20% (twenty percent) of the annual collections of the previous year referring to Forum, Occupancy Fee and Laudemium, charged for the use of those properties located in the municipalities and in the DF.

In turn, with regard to the revenues arising from the sale and remission of property, art. 17 of Law No. 13,240, of 2015, and 16-G of Law No. 13,465, of July 11, 2017, likewise determined the transfer of 20% of equity income arising from the sale of Federal properties that are registered in occupation and, also, the remission of jurisdiction of the real estate under a lease, respectively, always observing the location of the real estate.

It is important to note that these transfers dealt with in the preceding items must be carried out by February 1st of each year.

By means of Dispatch SPU-DECIP-CGCAV (12484831), the General Coordination of Assessment and Accounting of Heritage - CGCAV forwarded to the General Coordination of Collection - CGARC the list containing the municipalities that complied with the above legislation and, therefore, are entitled to the transfer. It should be noted that the retro order contains 167 federative entities, including the Federal District, but 27 of them do not have collection for the year 2020.

From the list of municipalities eligible to receive the transfer, CGARC performed the transfer routine to the municipalities and the Federal District involving the following steps:

- a) extraction of data to determine the amounts to be transferred, in the various systems that determine the collection;
- b) registration in SIAFI of the list of accounts of the Municipal Participation Fund - FPM (provided by Banco do Brasil), for crediting the amounts;
- c) ordering of expenditure within the scope of the SPU; and
- d) issuance of a Bank Order for each creditor municipality, in order to make the credit viable.

In possession of the above information, CGARC determined the amount to be distributed to the 139 Municipalities and the Federal District, totaling 140 beneficiaries, resulting in a transfer of R\$ 39,389,715.13 (thirty-nine million, three hundred and eighty-nine thousand, seven hundred and fifteen reais and thirteen cents).

The amounts were credited to the current accounts used to transfer funds from the Municipal Participation Fund – FPM, at Banco do Brasil S.A., on 01/28/2021, therefore, within the period established in the

legislation mentioned in item 1 above. These credited amounts do not have a specific destination, that is, they can be applied in any disbursement forecast aimed at improving the conditions of service to the citizen. By way of illustration, we chose to show the transfers made to the city of Manaus, as shown in Table 7.

Table 7. Transfers made to the city of Manaus.

| Municipality - UF | Year | Total Transfer Amount |
|--------------------------|-------------|------------------------------|
| MANAUS-AM | 2021 | R\$176.924,13 |
| MANAUS-AM | 2020 | R\$207.617,26 |
| MANAUS-AM | 2019 | R\$247.128,35 |
| MANAUS-AM | 2018 | R\$299.309,97 |
| MANAUS-AM | 2017 | R\$232.479,67 |

Source: Authors, (2021).

It is possible to verify that, since the year 2019, the transfer has been decreasing significantly.

5. Conclusion

Financial crisis in municipalities, projects without adequate structures and little training of municipal managers are the main factors that hinder the transfer of federal funds to states and municipalities in Brazil. It is imperative that the Government increase federal transfers to the State and city halls, enabling more resources for important investments in the areas of education, health, infrastructure and employment.

The entity object of study of the work, so far, had not made available the complete data for the years 2019 and 2020, which ends up leaving the research incomplete, however, it does not limit the analysis and preliminary conclusions of the results. The comparative analysis of the collection data referring to the projections made in 2016, 2017 and 2018 shows that the projection tool developed by the Property Revenue Management Department - DEREPE is adequate to continue to be used to project the collection of the next Exercises. It should be noted that, in addition to introducing an important improvement in the process of monitoring heritage revenues, the tool allowed the estimation of the amounts to be transferred to the Municipalities as established in art. 27 of Law No. 13,240/2015, which amended Decree-Law No. 2,398 of 12/21/1987 with the inclusion of art. 6-B. The transfer projections presented aim to assist in the elaboration process of the Annual Budget Laws of the municipalities and DF. Some limitations were observed in relation to these forecasts, namely, the non-inclusion of refunds, REDARF and DAU; and the existence of a new exogenous factor, MP no. 732, which changes the configuration of municipal collection historical series. This notwithstanding, the data presented serve as a starting point for calculating transfers. The calculation of revenue and transfer projections is proposed as a monthly routine to be developed in the Property Revenue Management Department of the SPU.

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