

## **Largest Paraná-state OSCIPS Under Investigation**

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Curitiba – Uncovering information about non-profit organizations in Brazil is not an easy task. Legislation pertaining to Public-Interest Civil Society Organizations (Oscip) – a justice ministry (MJ) classification that provides for special partnership arrangements with the government – stipulates that their books must be open to the public. This same legislation, however, does not provide sanctions against organizations that fail to comply with the stipulation. Consequentially, very few institutions update their records at the ministry.

To obtain Oscip information in Paraná state alone, this newspaper collected MJ data, cross-referencing information on organizations listed in the special classification with data they submitted to the National Registry of Corporations (CNES). The objective, which required three months of research and data analysis, was to obtain data on the earnings, personnel, contracts, and funding sources for these institutions.

The analysis of MJ data pointed to additional important facts. Of the 541 registered Oscips in the State of Paraná, only 98 submitted financial information in 2009, with 21 of these declaring an annual income above one million reais. When comparing data from the organizations registry to that of the Federal and State Prosecutors' Offices, as well as that of the Federal Audit Court and the Federal Justice Department, this report made the surprising discovery that one third of the NGOs in question were either under investigation, subject to lawsuits, or had been convicted of fraud following federal judicial action.

Declarations submitted to the justice ministry indicate total 2009 receipts for the 98 Oscips at 158 million reais. Of this total, however, 94.52% went to the coffers of 21 institutions that declared income in excess of one million reais, a sum equivalent to 149.69 million reais. Much of the income that flowed into these organizations, approximately 63.27% of the total, came from public sources. Another 17.45% was received in the form of private individual and corporate contributions.

The eight institutions under investigation are suspected of numerous irregularities. The Brazilian Institute of Civic Integration and Development (Ibidec), for example, was convicted in a Paraná court on justice ministry charges of mismanagement, public embezzlement, and other violations of the governing edict. The government's suit was prompted by questions surrounding a Ibidec contract with the municipality of Santa Terezinha do Itaipu.

Another organization, the Organization for Social and Civic Development (Ordesc), is respondent in a justice ministry suit arising from a contract the organization maintains with the municipality of Ribeirão do Pinhal. Prosecutors accuse Orsdec and the city of hiring public employees that did not complete the required civil-service examination.

The organization's directors are also charged with embezzling 15% of payments received from the city.

Yet another organization is answering to federal financial-crimes charges through in camera legal proceedings. In all, eight of the 22 Paraná Oscips having declared sizable receipts in 2009 find themselves in legal trouble, with five being investigated by the federal audit court and another two under justice ministry scrutiny.

One final NGO – the Society of Friends of the Oscar Niemeyer Museum – was subject to a 2009 justice ministry probe upon press reports that the society's director, former state first lady Maristela Requião, was also a state government employee, an unlawful conflict of interest under prevailing Oscips rules. Ms. Requião resigned from her post as the organization's president at the justice ministry's urging, but questions remain surrounding the legality of state government payments to the NGO on the basis of Ms. Requião's ties to then-governor Roberto Requião, her husband. To date, no official investigation has been initiated.

The eight organizations together account for 68 million reais in NGO receipts. All but three of these institutions declared income from government sources.

## **Background**

The Oscips law that was promulgated in 1999 sought to regulate the activities of institutions not covered by previous NGO-sector legislation. The new legislation, spearheaded by then first-lady Ruth Cardoso, sought to promote the idea of voluntarism and less red tape in contracts between the government and non-profit organizations. Despite the advances for which it can take credit, the Oscips law sets forth no penalty for institutions that fail to provide an accounting of their financial operations. According to Renata Braz Silva of the justice ministry's Coordinating Body for Corporate Entities, "Organizations that enjoy the federal public-service classification can lose their privileges by going three years without accounting for their finances, but in the case of Oscips no such rule applies."

To encourage transparency within Oscips, the justice ministry issued a rules-observance certificate, valid for one year, to organizations that submitted annual reports to the government. "We are working towards a situation where government agencies will require this certificate of those bidding on contracts," says Silva, adding "We've had a lot of success with this...many organizations end up turning in reports to get the certificate.

The federal government recognizes that there is a "deficit of transparency" in their relations with NGOs throughout the country. "We're creating a Partnerships Portal which, together with the Transparency Portal, put the entire government-NGOs cycle of contracts on the net," explains Mario Vinicius Spinelli, national secretary of the Federal Inspector General's Anti-Corruption and Strategic Information Office (CGU). Both portals are already running, but Spinelli adds that the systems are being adjusted.

The CGU would also like to establish rules requiring a background check of the organizations. "In future, only the institutions that have done a good job running their projects will be able to win government contracts," continues Spinelli, adding that "this

will surely separate those that do a good job from those that are no more than front operations.” The purpose of the initiative is to overcome a deficiency in Brazil’s current system of audits. To this end, organizations convicted of mismanaging government contracts will be automatically included in a list of fraudulent institutions and ineligible for new contracts.

In the case of NGOs, there simply are no provisions for such measures in Brazilian law. An organization loses the right to bid on new government contracts only when such prohibition is a stipulation in a conviction, and not all convictions will carry this penalty. As such, it will be possible for an NGO, though convicted of mismanaging public resources, to continue receiving public funds.

### **Fraud: Here and There**

#### **Brazil**

<b>Organization</b>	<b>Annual Receipts</b>	<b>Incident</b>	<b>Outcome</b>
Grupo Dignidade – One of the more established organizations promoting gay, lesbian, bisexual and transgender rights in Brazil	Not reported	Former organization director exposes an embezzlement scheme involving agreements with government agencies. Some of the funds were allegedly spent on furniture for the organization	A TCU (Federal Audit Court) audit uncovered duplicate-expense claims in accounting reports, in addition to a Special Rendering of Accounts in six of the organization’s government contracts. Audit court staff were unable to evidence of the use of funds for furniture purchases
Idonea/Iabras – founded in 2005 to support educational, health and other social policies but, through its contracts with the government, the institution sought to promote regional tourism	R\$ 2,324,499.50	Under tourism ministry contract to promote regional festivals, the organization illegally sub-contracted the task to another company	TCU found Special Rendering of Accounts in a tourism ministry contract in order to calculate the amount to be returned to the government
Ordesc – an organization serving the health, environment, and	R\$ 20,577,427.80	The office of the public prosecutor (MP) accuses the organization and Ribeirão do Pinhal	O MP proceeded against the organization in state court on grounds of

social-services sectors		city hall of hiring civil servants. Prosecutors also allege that the organization's directors appropriated 15% of funds paid by the city for services rendered	administrative improbity, requesting R\$ 5 million in restitution
Ciap – an educational organization that manages hospitals and social services on behalf of the government	R\$ 69,700,656.49	Organization leaders are accused of bilking R\$ 300 million from federal, state and municipal contracts	The organization's directors are subject to federal civil action suits for embezzlement, conspiracy and money-laundering

### United States

Organization	Annual Receipts	Incident	Outcome
United Way of the National Capital Area – an organization that raises funds for other institutions and projects	US\$ 33,560,497.00	Former UWNCA director confesses to having used the institution's funds to pay personal debts	Oral Suer, former director, is sentenced to 27 months in prison and ordered to repay embezzled funds
Baptist Foundation of Arizona – established to manage Arizona Baptist church resources but began providing investment services to members once William Crotts became foundation president	No longer in operation	Foundation leaders formed an investment scheme leading to the foundation's indebtedness and subsequent bankruptcy, along with financial losses for thousands of investors	Former foundation president William Crotts is sentenced to eight years in prison. Thomas Grabinski, another member of the leadership council, is sentenced to six years in prison. Both men were ordered to pay US\$ 159 million in restitution to the victims of the scheme
Federal Emergency Management	Not applicable	An investigation points to approximately US\$	A number of individuals are convicted,

<p>Agency (FEMA) – U.S. government agency charged with emergency disaster relief and recovery</p>		<p>2 billion in government disaster relief funding for hurricane Katrina that was channeled to fraudulent schemes</p>	<p>including a former FEMA employee, Lashonda Booker and her cousin Peggy Hilton for embezzling US\$ 721 thousand intended for hurricane victims</p>
<p>Washington DC Health Department/ HIV/AIDS Administration – a city agency responsible for managing AIDS treatment and prevention programs</p>	<p>Not applicable</p>	<p>A Washington Post investigation uncovers a payment of US\$ 25 million over a period of four years to nonprofit organizations having accounts-rendering problems and falling short in their services to AIDS victims</p>	<p>The case is currently under investigation led by District of Columbia federal prosecutors</p>