

Concurrent control model as the driving core of a preventive, prompt and timely approach to government control in Peru

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CONCURRENT CONTROL MODEL AS THE DRIVING CORE OF A PREVENTIVE, PROMPT AND TIMELY APPROACH TO GOVERNMENT CONTROL IN PERU

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Summary

This document provides information about the recent experience of the Office of the Comptroller General of the Republic of Peru in the application of the new concurrent control model; which has been constituted, since the end of 2017, in one of the driving cores - along with the substantial increase in the effective coverage of national control - in the reform and modernization strategy for the government control in the country, based on a preventive approach to fight against corruption and functional misconduct, within the framework of results-oriented administration, which seeks to contribute to greater efficiency and quality of government administration, as well as to the population's access to better public services. This model - whose application could be crucial in the processes of reform and modernization of the State, since there is no doubt that it is not possible to modernize the different components of the administration (i.e. budget, investments, human resources, etc.), if control is not modernized-, seeks to compensate for those conditions that limit the effect of a strategy based, essentially, on subsequent external control, such as the weak implementation of the internal control system of public entities, the reduced effective operation of a meritocratic and flexible civil service, inefficiency in the application of administrative systems, problems related to the administration and delivery of justice, among others. In general, the implementation of concurrent control is starting to evidence positive results and comparative advantages associated with the use of a multidisciplinary team that applies specialized methods (scientific and technological) related to the characteristics of a particular public work; increasing the possibility of breaking collusion and bribery circles through systematic supervision during the highest risk milestones of the execution process of a public work; the alteration of the incentive structure of officials, servers and contractors about the commission of offending behaviors; and the promotion of social control and significant improvements in the transparency of control and accountability, through the promotion of full publicity of control reports.

Key words:

Government control, concurrent control, simultaneous control, public procurement, control milestone, functional misconduct, corruption, modernization of management.

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1. INTRODUCTION

Corruption is a problem in many parts of the world, and its costs are evidenced in frustrated development opportunities. Although there is literature addressing this issue; empirical evidence demonstrates mixed experiences (i.e. of relative success and failure) on how to fight against it. This document seeks to contribute to this discussion; especially in developing countries, such as Peru, where the operation of the anti-corruption value chain (i.e. prevention-detection-investigation-sanction) is limited by a weak inter-institutional cooperation and other conditions that affect, directly and indirectly, the effective generation of results in the reduction of corruption and functional misconduct, as well as a positive impact on citizen satisfaction.

This document presents the recent experience of the Comptroller General of the Republic of Peru (CGR) in the application of a concurrent (and not subsequent) control model, whose result is the identification of adverse situations of a public investment process in progress. It is a model developed by the National Control System (SNC) implemented since the last quarter of 2017 - along with the significant expansion of control

coverage at the national level - all this within the core issue of the reform and modernization strategy of government control in the country, based on a preventive approach to fight corruption and functional misconduct within the framework of a results-oriented administration, which seeks to contribute to the improvement of the efficiency and quality of public administration and the population's access to better public services.

Concurrent control emerges as an alternative approach to the traditional reactive supervision methodology with a greater focus on post audit services (ex post); proposing an increase in the use of preventive mechanisms: this transition process is reflected in the greater number of simultaneous control services registered from 2017 to the current period. Concurrent control - whose application could be determinant in the processes of reform and modernization of the State, since there is no doubt that it is not possible to modernize the different components of public administration (i.e. budget, investments, human resources, etc.), if the control does not modernize - seeks to compensate for those contextual limitations associated with the modalities of post

audit, which prevent the achievement of effective results, such as the weak implementation of the internal control system of public entities, the reduced effective operation of a meritocratic and flexible civil service, the inefficiency in the application of administrative systems, problems related to the administration and delivery of justice, among others.

In line with these ideas, the objective of the concurrent control is to make more transparent the contracting and execution of public works processes in the highest risk milestones, where the probability of functional misconduct and corruption is higher, through the implementation of a systematic and multidisciplinary accompaniment process using qualified personnel of the Comptroller General's Office and specialized methods (scientific and technological) related to the characteristics of a specific public work. The idea is to allow timely warning about the materialization of risks in adverse situations, both to the holders of the competent authorities, as well as to citizens through the publication of control reports on the internet within forty-eight hours after the notification of the report to the competent authority. This makes

it possible to adopt corrective and preventive measures, and strengthen social control which, in our opinion, is the main ally in government control.

To examine the rationality and initial evidence of the comparative advantages of this model with the traditional government audit, this document is organized as follows: Section 2 describes the problem to be addressed through the descriptive comparison of the cyclical development of corruption and the evolution of government control in Peru, and the punitive approach of the control strategy in contradiction with the reality of the anti-corruption value chain; Section 3 describes the rationality of concurrent control as the main focus of the new approach to the control strategy in the country and its characteristics; Section 4 presents a descriptive analysis of the first results of the implementation of this change in strategic control approach; and, finally, Section 5 presents the conclusions.

2. PROBLEM TO ADDRESS

Efforts to moralize public administration have their historical roots in the colonial period. The evolution of the first functions in government control has been ascending throughout the different stages of our history. In particular, since its creation, the role of the Comptroller General of the Republic and the National Control System in the control of the good use of public funds has been strengthened thanks to the recognition of its functional administrative autonomy and the granting of its sanctioning power. However, in parallel to these achievements of government control, corruption has become widespread throughout the institutions of the State, infiltrating - like a virus - inside the structure of the public system.

Contrary to the expectation of a negative correlation between these two currents, government control and corruption have evolved similarly. This reality, together with the delay of substantial transformations at the institutional level and the lukewarm application of structural reforms, forces us to rethink the control strategy. In the next section, we present, through a descriptive analysis, the development of both events.

2.1 THE HISTORY OF CORRUPTION AND GOVERNMENT CONTROL: THE FOUNDATIONS OF A COMPLEX STRUCTURE

a) The cyclical phenomenon of corruption

Cases such as “Lava Jato”, unlike what is commonly believed, is not a new phenomenon in Peru or Latin America. Corruption and functional misconduct are a resilient phenomenon, which has demonstrated its ability to renew, adapt and structure in a systemic way in the Peruvian State (Hurtado Pozo, 1995), where it has been exposed to the inappropriate use of public funds, abuse of power for personal benefit or third parties, fraud and other forms of transgression to the development and dignity of people.

The historian Alfonso W. Quiroz (2013), who performs an exhaustive examination of the finances and administration of the Peruvian economy since the end of the colonial period, through the colonial mining period, the civil law period, and our current republican life, manages to accurately connect cycles of corruption and frustrated development opportunities in Peru. The author tells, sequentially, how, since the colony administration in the 17th century, collusion and

bribery were the usual practices of the colonial patronage circles, which operate through a self-interested distribution of public offices and positions, administrative inefficiency linked to informal negotiations and income not collected (pp. 81-86); a common practice until years before the independence of the country. After which, the colony patronage was replaced by the personalization of leadership (*caudillismo*); and, at the end of the 19th century and the beginning of the 20th century, the patronage became clientelism, where the state coffers were used for the purchase of votes and electoral control. To these bribery and corruption practices, new opportunities for corruption were added over the years.

With the changes in the foundations of the national economy and politics and the overwhelming external debt that followed independence, corruption took on a new facet characterized by irregular concessions and contracts with commercial houses and a proliferation of bribe networks (pp. 103- 152). Between 1840 and 1880, *Guano* contracts with the Quiros consortium, Allier & Co., the firm Antony Gibbs & Sons and Dreyfus Frères et Cie. were surrounded by accusations of illegality, undue

charges, bribes paid to congressmen, diplomats, ministers and authorities of the highest levels of the political sphere during the governments of Ramón Castilla, Pedro Diez Canseco and Mariano Ignacio Prado; the same happened with the nitrate companies (*salitreras*) through the manipulation of taxes and expropriation; and the railroad companies, materialized in the Meiggs and Grace contracts, during the governments of José Balta, Nicolás de Piérola, among other presidents - who, like now - also became involved.

In practice, the Republican era only meant the renewal of a new cycle of corruption, where commercial houses were replaced by emerging national economic groups and foreign businessmen linked to cases of bribery, judicial favors, tax evasion and money laundering. In Quiroz's calculations, corruption has cost the country, in its last two centuries, an estimated annual average between 30% and 40% of its budget expenditure, and between 3% and 4% of its Gross Domestic Product (GDP).

Although there is no consensus yet between political analysts and historians, the "Lava Jato" mega corruption scandal could be the end of a cycle or, at least, an opportunity

to reform the mechanisms of transparency of public spending and accountability of public contracts, and - perhaps - from there to seriously operate as a catalyst for the unfinished process of reform and modernization of the State in its main areas (e.g. political, judicial, administrative, government control, among others), whose urgency is quite clear.

b) The evolution of government control

There is a broad national and international regulatory framework that registers the fight against corruption as a priority on the public agenda of States to achieve sustainable development. In particular, the main role of government control and its services against corruption is widely recognized in the United Nations Convention Against Corruption, the Sustainable Development Goals (SDGs), the 2030 Agenda, the Inter-American Democratic Charter, the Resolution 1/17 on Human Rights and the Fight against Impunity and Corruption, the Report of the VIII Summit of the Americas and the

2018 National Plan for Integrity and Fight against Corruption.

Thus, despite the cyclical behavior of corruption or, perhaps due to this, government control goes back to the first case records in Peru. The first control body, the Court of the Auditor General, emerged in the 17th century; entity with the task of monitoring the management of tax funds at the time (e.g. *quintos*, sales tax, etc.)². Subsequently, with the Constitution of 1823, the General Accounting Office is created, in order to have an entity outside the public accounting system to examine the accounts of all products and investments nationwide.

Only three years later, the General Accounting Office becomes the General Accounting of Securities, Collection and Distribution of the Treasury, with the new legal assignment to administratively audit the accountability of the finance administrators. However, recognizing the weakness of this entity to effectively judge officers who incurred in conduct outside the interests of the Republic, in 1840, the Court of Auditors was reinstated, but it also failed to meet the expectations

² En ese entonces, las principales fuentes de ingreso de la Hacienda Pública Colonial eran “los quintos, que provenían de la recaudación de los tesoros del Imperio; el diezmo, recaudado a favor de la Iglesia; el almojarifazgo, un impuesto aduanero; la venta de empleos y títulos; el impuesto de avería -a las mercaderías- para cubrir gastos de defensa de los piratas; y la alcabala, para cubrir los gastos de la Armada del Sur” (Márquez Farfán, 2006).

of effectively controlling the government apparatus.

In the Republican period, since its creation in 1930, the Office of the Comptroller General of the Republic has strengthened its supervisory role through the progressive accumulation of new duties, the recognition of its functional administrative autonomy and its sanctioning duties, assuming new challenges in the irreplaceable frontal fight against acts of corruption and functional misconduct, and as responsible for promoting external government control within a framework of weakness in the internal control system of public institutions.

However, this accumulation of new duties and powers, since the beginning of the 20th century, has not been free from corruption events where the cyclical effect of “patterns in power” has been repeated in periods characterized by a weak governmental structure and supply of favors in exchange for political and military support. On the other hand, mainly due to the great challenges experienced by the administration of justice in the country, the judicial processes initiated from the audits carried out by the National Control System,

have not materialized in effective sanctions for corruption of officials or improvements in the management as a result of the implementation of the recommendations made in the audits.

For all the above, and in line with the recent strengthening of the functional capacities and responsibilities of the Comptroller

General of the Republic of Peru, it is believed of the utmost importance the continuous (i.e. concurrent) follow-up to the execution of public expenditure in charge of the bodies of the National Control System, in order to contribute in the fulfillment of the objectives for which resources were made available.

2.2 AGGRAVATION OF CORRUPTION? THE PUNITIVE APPROACH TO GOVERNMENT CONTROL AND THE CONDITIONS IN WHICH IT OPERATES

The lesson that history has left us, is that corruption is not a new phenomenon, nor circumstantial. Considering, in parallel, the cyclical evolution of corruption, together with the progress of the functions acquired by the Comptroller General and the National Control System, as described in the previous sections, we

can observe that, apparently, there is no positive correlation between the evolution of government control and corruption indicators in the country.

This could be due, largely, to the fact that, in the value chain of the fight against corruption, the processes are disjointed; each with its own challenges and requiring important structural reforms. This situation forces the institutions to reflect on the conditions in which they operate, accurately determining the limits of the impact of their products, and the obligation to introduce mechanisms that prioritize the effectiveness of a coordinated and synergistic work at the State level, as a whole.

a) Perception of corruption

The results of the Tenth National Survey on Corruption in 2017, conducted by Ipsos Peru commissioned by Proética, evidenced corruption as the second most important problem in the country, with 52% - increasing six percentage points compared to 2015 -, and is placed as the main problem of the State, with 62%. Likewise, regardless of the position it occupies in the ranking of the main problems of Peru, the majority perceives that this problem is only increasing. According to the 2018 *Latinobarometro* Report,

72% of Peruvians perceive that corruption has increased, compared to the previous year. In a country where legal proceedings have been initiated against its last four former presidents for corruption cases and where several other political figures (regional governors and provincial and district mayors) are involved in legal proceedings for corruption and money laundering, it seems difficult to perceive a reduction of corruption, on the contrary, it seems to remain in an upward trend.

One reason to understand these results could be related to the characteristics of mega corruption cases that, by affecting the leaders of political power, directly involving Heads of State, generates a perception of widespread corruption throughout the political and administrative system, thus perpetuating a feeling that corruption is - at least - one of the country's main problems.

Another reason could be related, to some extent, to the uncertainty about the outcome of judicial proceedings, and the lack of confidence in state institutions to ensure justice. That is, although corruption cases manage to be included in a tax investigation, the population looks with suspicion that the accusation concludes in a favorable ruling for the State, particularly if there

is a large number of these corruption cases without major significance in the media, but directly affect citizens.

b) Perception of impunity

By analyzing the judicial proceedings initiated as a result of a control report of the Peruvian National Control System, it is fair to say that the suspicion argument could be valid. According to information recorded by the Public Prosecutor of the Comptroller General of the Republic, between 2009 and April 2019, the Office of the Comptroller General of the Republic has initiated legal actions before Tax and Jurisdictional Bodies for a total of 2,538 judicial proceedings (1,077 civil and 1,461

criminal) comprising a total of 15,574 public officials, which involve an amount of US\$ 1,267 million, including both, economic damage valued and amount involved in civil lawsuits.

Of the total legal proceedings initiated in the period between 2009 and April 2019, to date many are still in process and only 12% (315) have judgments; of which, in turn, only 266 have convictions³.

About the number of public officials, only 456 have been sanctioned in criminal proceedings in the aforementioned period (see table No. 01). However, of this last figure, only 78 have an effective sentence, the rest (378) is suspended.

³Data from the Public Prosecutor's Office of the Comptroller General of the Republic, updated as of April 30, 2019.

Chart N° 01:
Sentenced public officials

People involved per year				People sentenced – criminal per year		
YEAR	PROCESS		TOTAL	SENTENCE		TOTAL
	CRIMINAL	CIVIL		Effective	Suspended	
April 2019	183	68	251	0	0	0
2018	1,034	408	1,442	0	0	0
2017	2,112	422	2,534	0	0	0
2016	1,292	865	2,157	0	2	2
2015	1,289	1,621	2,910	0	20	20
2014	887	1,067	1,954	6	44	50
2013	522	583	1,105	25	56	81
2012	256	334	590	4	39	43
2011	121	221	342	8	20	28
2010	605	179	784	25	59	84
2009	1,249	256	1,505	10	138	148
Total	9,550	6,024	15,574	78	378	456
				0.8%	4.0%	4.8%

Source: Data from the Public Prosecutor's Office of the Comptroller General of the Republic, updated as of April 30, 2019.

Another element that contributes to the perception of impunity, by the ordinary citizen, has been the limited effective territorial coverage of government control at the national level. Although, in the last decade (2009-2018), local governments at the district level - which today total 1,678 - executed resources for more than US\$ 47,611 billion, 72% - that is, 1,206 of 1,678 -, were never subject to an audit process, which allowed for the delimitation of responsibilities and sanctions for officials involved in administrative or judicial proceedings.⁴

To sum up, the scarce presence of government control in subnational governments, as well as the unlikely success of a judicial process for crimes against the civil service timely culminating in an effective sentence, contribute to perpetuating a sense of impunity and distrust in justice institutions by the citizens and, at the same time, generating in dishonest officials the perception that they will hardly be detected and, even less, sanctioned as a result of an audit process.

c) Control Strategy: Punitive Approach

As mentioned at the beginning, the research carried out by the National Control System will only have a real impact on the generation of public value for the citizen, if they conclude in the effective sanction of corruption offenses of public officials or a concrete improvement in the administration. If the execution of control processes with prosecutor's and jurisdictional processes does not work, the expectation of impact on the reduction of corruption and on the satisfaction of the citizenship is greatly reduced. Although, from the judicial processes initiated by the Comptroller's General Office in the last decade, this disarticulation is evident, the government control strategy has been divorced from this reality.

The audit exercised by the Comptroller General in Peru, according to the time in which it is carried out, is classified as pre, simultaneous and post⁵, but until 2017, the emphasis has been clearly

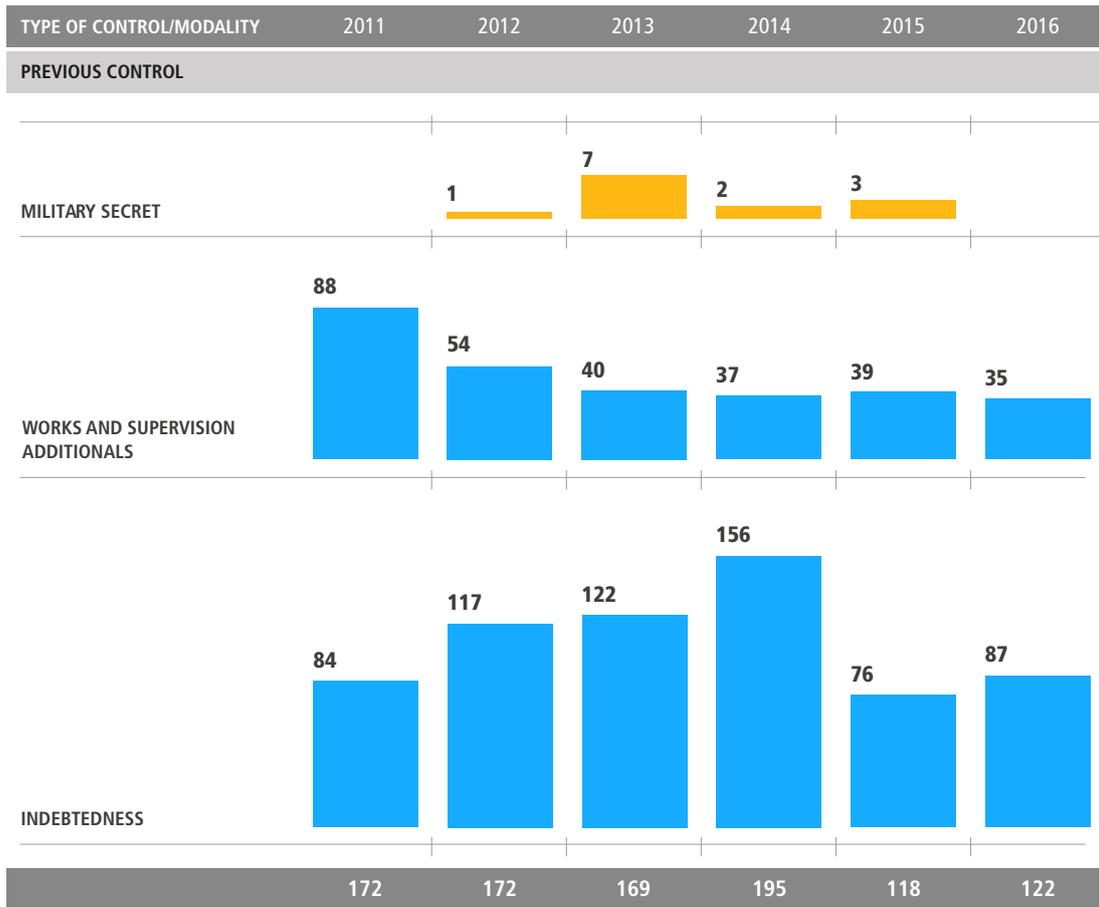
⁴ Information from the Design and Evaluation of Strategic Management of the National Control System of the Comptroller General of the Republic, updated as of April 30, 2019.

⁵ Preventive and subsequent audit are carried out according to international standards. In particular, ISSAI 1 refers that the purpose of the post audit is "claiming the responsibility of the guilty body, may lead to compensation for the damage caused and is appropriate to prevent, in the future, the repetition of infractions". (INTOSAI, 1977). In contrast, pre-audit is limited to "the legal situation, circumstances and needs of each country". The advantage of preventing damage to public resources from being recognized is highlighted, but it entails the disadvantage of "carrying excessive work and that the responsibility based on public law is not clearly defined". Simultaneous audit is developed at the same time as the operations or activities of public entities, allowing to warn and avoid errors in management, thus maintaining a preventive nature. Although simultaneous audit is not the same as preventive audit, it shares its advantage of preventing damage in the use of public resources, but it also has the disadvantage of a close involvement of the SAI in the management of entities. See Appendix No. 01.

placed on this last type of control service, mainly in the compliance audit modality, whose products are oriented, on the one hand, to identify deviations of regulatory compliance and those allegedly responsible for misconduct and crimes committed within the framework of the exercise of the public function conferred on them (i.e. administrative, civil or criminal responsibilities) and, on the other hand, to generate recommendations aimed at improving the management of the Entity subject to the audit.

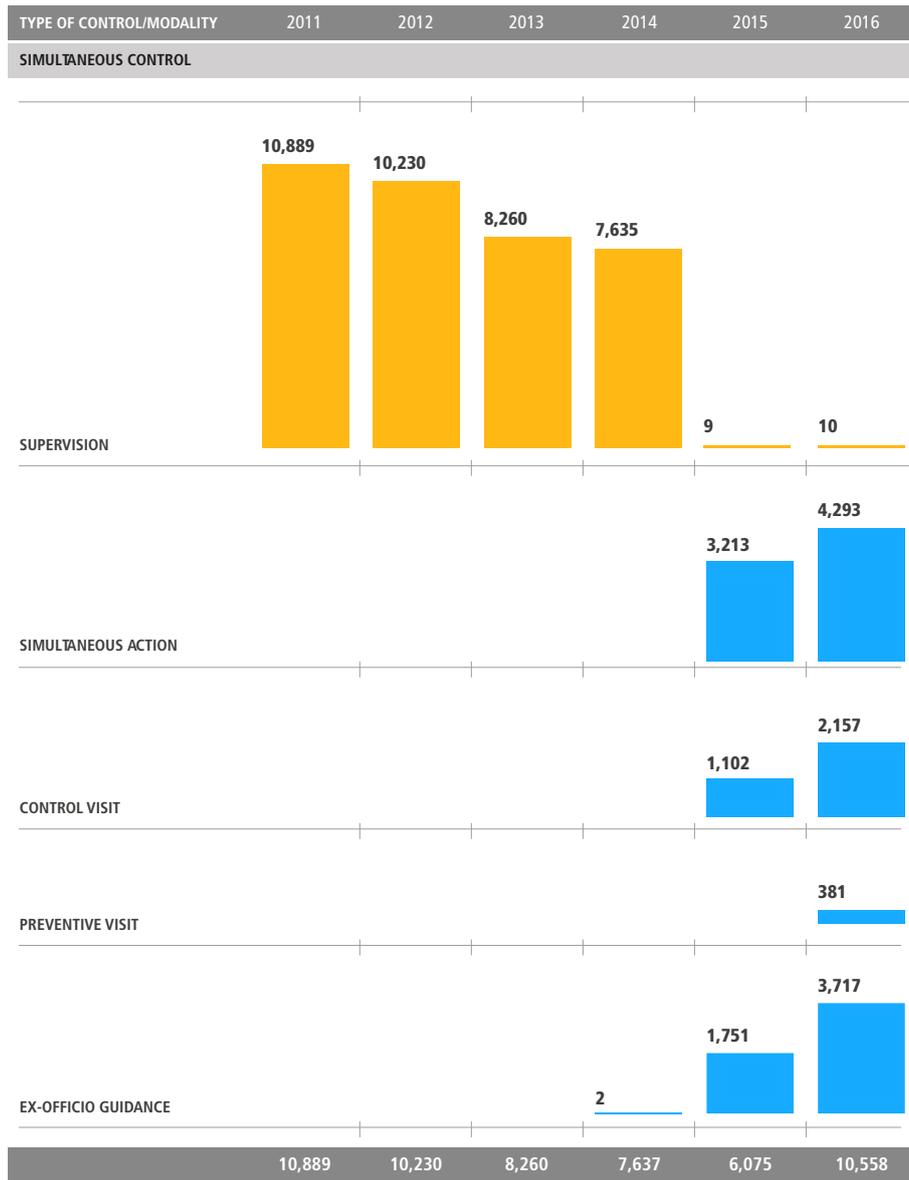
In Table No. 04, it can be observed that between 2011 and 2016, the execution of post audit services has remained relatively stable. In fact, until before 2007, there are no records of other audit modalities, such as preventive or proactive services. Although as of 2007, simultaneous audit services begin to be registered, these were mainly in the oversight modality, while the emblematic cases were left for post-audit, in the form of special examinations (predecessor of the compliance audit) and financial audits.

Chart N° 02:
Preventive control services 2011 - 2016



Source: Data from the Design and Evaluation Management of the National Control System, updated as of May 30, 2019.

Chart N° 03:
Simultaneous control services 2011 - 2016⁶



Source: Data from the Design and Evaluation Management of the National Control System, updated as of May 30, 2019

⁶ The growth of the number of simultaneous audit services corresponding to the year 2015 onwards, in other modalities besides oversight, is due to the execution of education and health operations in said period. In this regard, about 1.02 control services per visited instance were registered in the Education Operation, while in the case of the Health Operation a control service was registered for 1.92 visited instances.

Chart N° 04:
Post audit services 2011 - 2016



Source: Data from the Design and Evaluation Management of the National Control System, updated as of May 30, 2019.

Despite the fact that the emphasis of the traditional control strategy, placed on post audit audits, is in line with what has been discussed in the international literature produced on the subject and practices of many higher audit institutions in the region and worldwide, its effectiveness requires several assumptions. Specifically, that other conditions remain constant and operate properly, otherwise, the impact would not only be limited, but sometimes adverse and/or counterproductive. Let's see this in detail.

The general expected result of an audit, in the subsequent investigation stage, is to increase in the public official the probability of being detected, conditional on an audit, increasing the estimated cost of committing an act of functional misconduct or corruption.

There is wide empirical evidence that supports this assumption for tax audit cases (Fisman, R. and Miguel, E., 2007; Besley and Persson, 2014; Dwenger, N., Kleven, H., Rasul, I. and Rincke, J. 2015). However, having said the above, and returning to the value chain of the fight against corruption, the perception of being detected is closely related with another calculation: the perception

of being punished, as result of the identification of responsibilities; unfortunately, as we described in the previous section, this generally does not happen.

Regarding the adoption of corrective measures as result of the recommendations made to improve the administration are not encouraging either. As of June 2017, the National Control System had issued a total of 49,945 recommendations for management improvement due to compliance audits and special examinations (26% of the recommendations of this period are under this classification), of which about 50% (23,065) were pending implementation by the audited entity. Taking into account the weak implementation of the internal control system by public entities and the entity's own limitations to successfully conduct its implementation, management improvement recommendations have precariously achieved their objective of contributing to the improvement of the exercise of public functions.

3. RATIONALE BEHIND CONCURRENT CONTROL

Considering the conditions described in the preceding sections, the impact of a control strategy based on post audit is limited- at least while the foundations of the institutional reform of the State is not settled- to only solve structural problems related to Internal control system in public entities, civil service, administrative systems, the justice system and the Peruvian political system, among others.

In this scenario, the Comptroller General and the National Control System, in the last eighteen months, has been promoting a control strategy based on prevention; allocating all efforts and control tools to detect risk situations in a timely manner, with the aim of warning public entities and the entire society, preventing irregular situations from taking shape; the latter is possible thanks to the new self-imposed transparency standard by the Comptroller within the framework of Law No. 30742⁷, to the significant dose of accountability

and strengthening of the social control that this generates. This control strategy is visible, mainly, in the concurrent control model.

3.1 DESCRIPTION OF THE MODEL AND ITS CHARACTERISTICS: COMPENSATING THE CONDITIONS

The concurrent control modality is framed in the guidelines of the preventive control approach with priority in simultaneous control (CGR, 2018a); emphasis that is justified by the weakness of internal control in public institutions in Peru⁸, which cancels the ability of these entities to prevent, detect and timely correct improper actions, especially those related to acts of corruption and functional misconduct, given the widespread nature of this phenomenon, according to current regulations, Concurrent Control is “[...] *the Simultaneous Control modality that is carried out as a systematic, multidisciplinary accompaniment,*

⁷ Article 3 of Law No. 30742, Law on Strengthening the Comptroller General of the Republic and the National Control System, modifying several articles of Law 27785, Organic Law of the National Control System and the Comptroller General of the Republic, including subparagraph n) of article 9, stating that “[...] *The control service is completed and after the report has been notified, it acquires a public nature and must be published in its entirety on the website of the Comptroller General of the Republic.*”

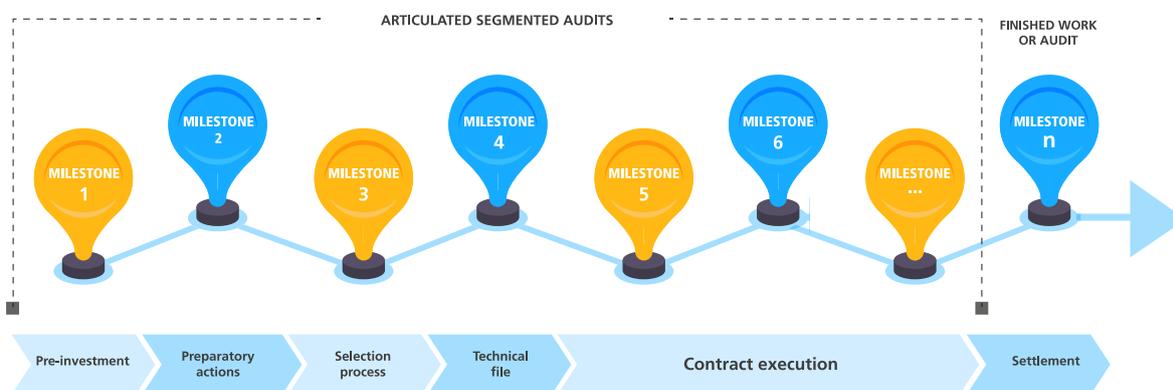
⁸ The average internal control maturity degree for 311 public entities during 2016 is intermediate level, with a score of 26.84 (CGR, 2018b, p. 7).

and has techniques, of a set of control milestones belonging to an ongoing process, in an orderly, successive and interconnected manner, in accordance with current regulations, internal provisions, contractual stipulations or other similar that if applicable, the existence of adverse situations that affect or may affect the continuity, outcome or achievement of the process objectives, and communicate them in a timely manner to the entity or agency in charge of it, so that the corresponding preventive or corrective actions are taken”⁹

Specifically, as shown in the following graph, the integrated and strategic approach to concurrent control includes the selection of milestones¹⁰ or stages of the process of executing a specific public intervention and the implementation of an action to accompany the development of each selected milestone simultaneously, in order to identify risk situations that are affecting or could affect the correct development of public intervention.

⁹ Initially regulated by Directive N° 005-2017-CG / PROCAL “Concurrent Control for Reconstruction with Changes”, approved with Comptroller’s Resolution 405-2017-CG; the same was left without effect with the Comptroller’s Resolution No. 115-2019-CG, which approved Directive No. 002-2019-CG-NORM “Simultaneous Control Service”.

¹⁰ In accordance with section 6.2.4 of Directive N° 005-2017-CG / PROCAL “Concurrent Control for Reconstruction with Changes”, approved with Comptroller’s Resolution 405-2017-CG, a control milestone is the opportunity covered by a part of the activities of an ongoing process, which is selected based on its relevance.



Source: Comptroller General of the Republic of Peru, 2018

Once its implementation is determined, the concurrent control has the following phases: (i) Planning Stage, where the risks of the process and the milestones¹¹ in which the control will be executed are set; (ii) Execution Stage, which includes the development and documentation, in a systematic and repetitive manner, of the procedures reviewed and visited, in order to obtain the evidence that determines the existence or not of adverse situations (i.e. facts that affect or may affect the continuity, outcome or achievement of the objectives of the ongoing process); and (iii) Reporting stage, in which the control commission prepares

a report at the end of each control milestone, containing, if applicable, the clear and precise description of the identified adverse situation and its elements, the evidence that supports it, its conclusions and the general recommendation that may take place. Likewise, once the service is finished, the Institutional Control Body (OCI) of the entity that was subject to the control service continues with the monitoring and evaluation of the implementation of preventive and corrective actions.

The structuring of the teams in charge of the field work is based in a technical specialization according

¹¹ In accordance with the provisions of Directive No. 002-2019-CG-NORM "Simultaneous Control Service", the control milestone is defined as the opportunity that covers a part of the activities of an ongoing process, which is selected based on its relevance, for the realization of concurrent control or control visit, as appropriate. For example, some control milestones refer to preparatory actions, selection procedures, preparation of the technical file, contractual execution and / or liquidation.

to the work subject matter of the Concurrent Control; this quality allows Concurrent Control reports to use work teams with professional distinction and personalized preparation, allowing the execution of a precise supervision process and in line with the specific requirements of the control process.

In addition, this strengthening in operational capacity is reinforced through the application of modern verification techniques, such as geodetic measurements with GPS equipment, topographic tests with total stations, the use of state-of-the-art laboratory equipment and aerial photogrammetry services with the use of drones, the equipment with computing and processing units, among others.

In general, the purpose of this model is to transparent the contracting and executing processes in construction

works in the most risky milestones, and where the probability of functional misconduct and corruption is higher, making the control entity participate of this process, together with the executor and the contractor, while informing the the public - through adequate and timely publicity - the results of control reports, thus reducing the chances of bribery and collusion. Likewise, although the recommendations of the concurrent control services are not binding, in cases where adverse situations are not mitigated and are specified in compliance deviations that denote the non-observance of the regulations and other applicable provisions, the information identified will generate sufficient and appropriate evidence to initiate a prompt, specific, efficient and more likely post audit service with greater chances of success in detecting responsibilities and applying sanctions.

4. INITIAL RESULTS OF CONCURRENT CONTROL

In the first quarter of 2017, the Coastal El Niño Phenomenon.” - generated by an increase in sea water temperature-caused disasters in the departments of Tumbes, Piura, Lambayeque, La Libertad, Ancash, Lima, Ica, Cajamarca, Ayacucho, Arequipa, Huancavelica, Junín and Loreto, as detailed below:

[...] This event caused the warm winds from Ecuador to enter with greater intensity, which caused the unusual warming of the coastal strip of the sea. In turn, the high levels of humidity generated triggered heavy rains and the flooding of the main rivers of the Pacific slope, producing overflows and floods, mainly in the north of the country. This climatic anomaly differed from a usual El Niño phenomenon, since this was a local climatic event, focused on the coasts of Peru and Ecuador.

The impact area of the Coastal El Niño Phenomenon extended over more than half of the coast of Peru, covering the departments of Tumbes, Piura, Lambayeque,

La Libertad, Ancash, Lima and Ica, and also caused mass movements (*huaicos* and landslides) of great intensity in the departments of Cajamarca, Ayacucho, Arequipa, Huancavelica, Junín and Loreto. Since the rains in these last six regions are usual, they did not cause the extreme damages that were recorded in the coastal zone.¹²

This priority on the national agenda led to the approval of the Comprehensive Plan for Reconstruction with Changes (PIRCC) and, exogenously, generated a set of public works of similar characteristics at the level of financing and type of interventions.

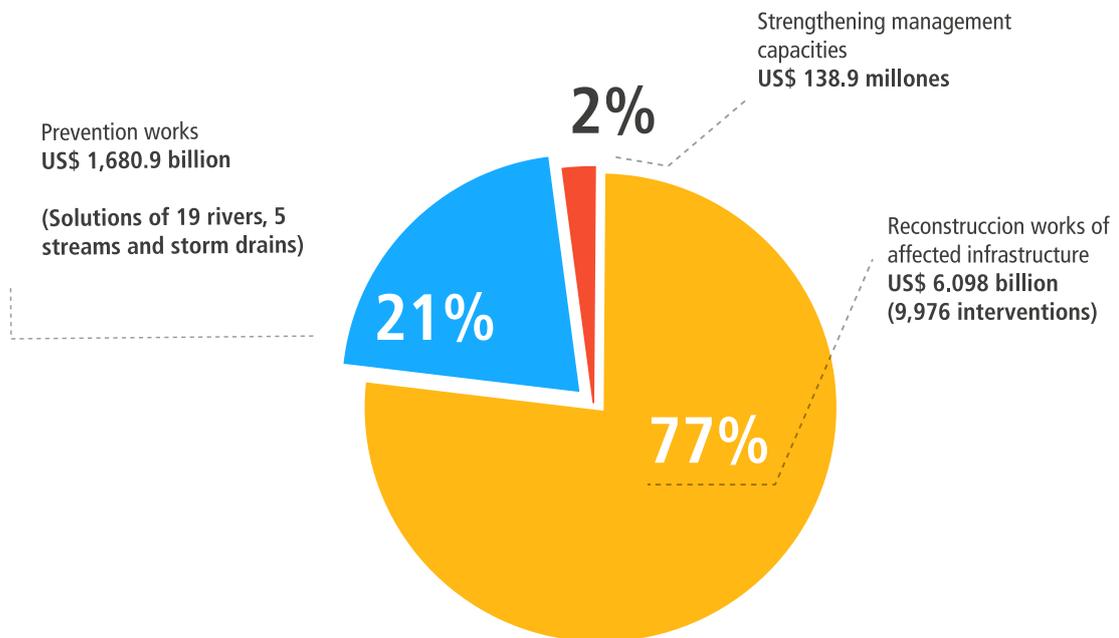
The PIRCC comprises about 12,000 interventions amounting to approximately US\$8 billion, which comprised reconstruction works on the affected infrastructure (77%), prevention and urban development works (21%), and strengthening of management capabilities of the main executing units of the PIRCC and other investments (2%).

¹²Supreme Decree that approves the Reconstruction Plan referred to in Law No. 30556, Law that approves extraordinary provisions for National Government interventions in the event of disasters and that provides for the creation of the Authority for Reconstruction with Changes.

Gráfico N° 02:

Dimension of the Reconstruction with Changes Plan

INVESTMENT: US\$ 8,000 BILLION



Source: Comprehensive Plan of Reconstruction with Changes, 2018.

Regarding this set of projects and activities, Law No. 30556, Law that approves extraordinary provisions for national government interventions in the event of disasters and that provides for the creation of the Authority for Reconstruction with Changes¹³, indicated that the contracting of goods, services, works and consultancies that are executed within the framework of the same, will be subject to government control procedures, specifying, in addition, that said control will be carried out simultaneously and will be in charge of the Comptroller General of the Republic¹⁴

Under this legal order, through the Action Plan for Control of Reconstruction with Changes from 2017-2020¹⁵, the Comptroller General (CGR) and the National Control System based its general strategy on the deployment of the Concurrent Control model. Next, the experience of the CGR in the development of Concurrent Control will be presented in a descriptive way, which allowed to foreseen

adverse situations related not only to procedural non-observance, but also to quantitative measurement of the potential effects of the limited supervision in the correct execution of the contracted services, such as overestimations of the executed goals, cost overruns and overvaluations of the contracted services, inconsistencies between real physical progress and valued physical progress, etc.

4.1 PRODUCTION OF CONCURRENT CONTROL SERVICES

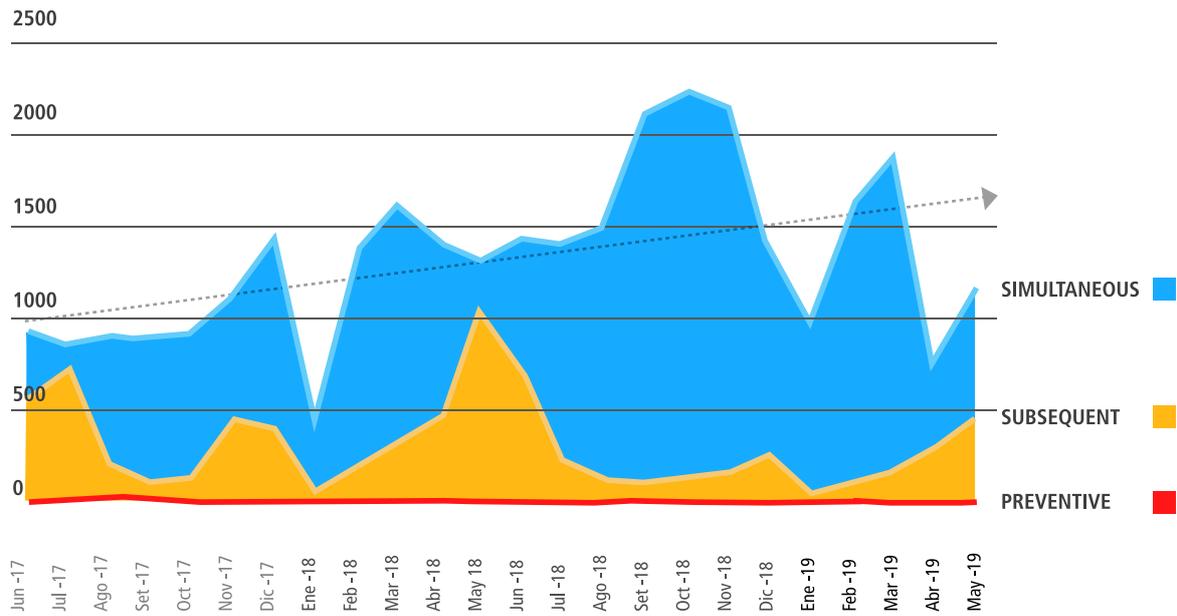
The evolution of Simultaneous Control services reflects the transition pattern with a preventive approach in contrast to the Post Control services since 2017 (see table No. 05). The structural distribution helps to observe the greater participation that the Reports of Simultaneous Control services have had of the total of services registered in that same period according to their execution completion date.

¹³ A través de la Ley 30556 del 29 de abril de 2017, se dispuso la creación de la Autoridad para la Reconstrucción con Cambios (ARCC) -entidad adscrita a la a la Presidencia del Consejo de Ministros del Gobierno Peruano- y está encargada de liderar e implementar el Plan Integral de Reconstrucción con Cambios (PIRCC) de toda la infraestructura física dañada y destruida por el Fenómeno de El Niño Costero en 13 regiones del país: Áncash, Arequipa, Ayacucho, Cajamarca, Huancavelica, Ica, Junín, La Libertad, Lambayeque, Lima, Loreto, Piura y Tumbes. Mayor información disponible en: <http://www.rcc.gob.pe/>.

¹⁴ Numeral 7.4 del artículo 7 de la Ley N.º 30556.

¹⁵ Aprobado por Resolución de Contraloría N.º 361-2017-CG y modificado por la N.º 329-2018-CG.

Cuadro N° 05:
Servicios de control agosto 2017 - mayo 2019



Source: Comprehensive Plan of Reconstruction with Changes, 2018.

Regarding the concurrent control services applied within the framework of the PIRCC, in the 18 months between September 2017 and May 2019, a total of 706 Control Milestone Reports have been issued and published, which have produced the warning of more than

1,600 adverse situations referred to: i) the process of selecting or bidding for a specific work or intervention (42%); and ii) the contractual execution after the award of the work or intervention (58%).

Concurrent Control Services September 2017 - May 2019

2017-2019



The Comptroller General identifies 1,623 facts jeopardizing services and prevention and reconstruction works in regions affected by the Coastal El Niño Phenomenon

1) Tumbes:

Risks identified in bidding processes: 32
Risks identified in the execution of the control: 50

2) Piura:

Risks identified in bidding processes: 150
Risks identified in the execution of the control: 186

3) Lambayeque:

Risks identified in bidding processes: 50
Risks identified in the execution of the control: 97

4) Cajamarca:

Risks identified in bidding processes: 15
Risks identified in the execution of the control: 45

5) La Libertad:

Risks identified in bidding processes: 132
Risks identified in the execution of the control: 185

6) Áncash

Risks identified in bidding processes: 112
Risks identified in the execution of the control: 151

7) Lima

Risks identified in bidding processes: 63
Risks identified in the execution of the control: 112

8) Huancavelica

Risks identified in bidding processes: 35
Risks identified in the execution of the control: 7

9) Ica

Risks identified in bidding processes: 27
Risks identified in the execution of the control: 77

10) Ayacucho

Risks identified in bidding processes: 17
Risks identified in the execution of the control: 21

11) Arequipa

Risks identified in bidding processes: 51
Risks identified in the execution of the control: 8

684 risks in bidding processes:



939 risks in the execution of the control



Data:

- **Number of reports published: 706**
Previously communicated to the corresponding executors

Source:
Comptroller's website as of May 23rd, 2019



4.2. TIMELY REMEDY OF ADVERSE SITUATIONS: APPLICATION OF PENALTIES, OVERESTIMATION OF REDUCTION QUANTITIES AND OTHERS

As of June 2018, the first 198 Concurrent Control reports were issued in 78 interventions (activities and projects) in seven of the thirteen regions of the Comprehensive Reconstruction with Changes Plan (PIRCC), with an investment of approximately US\$ 2.66 million¹⁶ and from the institutional budget of the CGR. In terms of staff members of the control commissions, the hiring of engineers of different specialties, expenses of transfer to location of interventions and hiring of topographic services, among others.

Based on these reports, a descriptive analysis of the 487 adverse situations identified was made, from which the amount involved in situations related to two extremes was calculated: a) possible penalties for application in the event of a breach of contract warning, and b) overestimations in the valuation of the provision of contracted services.

Regarding the first point, it was calculated that, from the total amount of subject matter observed (i.e. contracted services) through the aforementioned Concurrent Control services, the amount related to contractual breaches materialized in possible penalty applications was valued at US\$ 19,784,873.

On the other hand, in relation to the second calculation, the amount of overestimated footage in the dredging services contracted was valued, which amounts to US\$ 6,725,151 (CGR, 2018d). That is, by investing less than 2.7 million dollars, potential losses to the State were avoided for a little more than US\$ 26.5 million, making a cost benefit ratio close to ten times.

Just as an example, within the framework of the dredging project of the Piura river channel, where the Concurrent Control commission duly warned the Construction Supervisor that the height of the boarding of the dike built was less than the expected height indicated in the Approved technical sheet of the work in around

¹⁶Execution between the month of August 2017 and June 2018 in the administrative contracting of professional services for the monitoring of the Reconstruction with Changes by the Bid 019: Comptroller General. Source: Friendly consultation MEF-08-18-2019

50%, this inconsistency represented 113,000 m³ of volume of uncollected material valued in US\$ 417,236, that was not paid to the contractor for a service not provided. Moreover, if the culmination of the construction of the dike had not been corrected and arranged, the undermining and weakening of the dam could have been generated, as well as the clogging of the river from the saturation of the surplus material deposit located at the rear of the incomplete dike. (*Ibid.*).

Following this order of ideas, it is noted that, on one hand, the characteristics of the model related to the use of a systematic accompaniment and the multidisciplinary composition of the audit team, offer the honest official professional assistance in risk assessment, improving capacities of management control and capacity development in managers; and, on the other hand, it addresses per se and more directly the impact of the incentive structure of officials and contractors to commit actions that constitute irregular acts or that, as a result of them, the commission of criminal behaviors is derived, because it exposes officials with private interests to the decision to mitigate or not mitigate the risk warned by the audit entity.

4.3 STRENGTHENING OF DETECTION CAPACITIES: USE OF A MULTIDISCIPLINARY TEAM

Considering that the result of a Concurrent Control is the identification of adverse situations, a basic assumption for the operation of the process is that the accredited control commission to perform the service has the capacity to effectively identify the risk situations that affect or may affect the continuity, the result or the achievement of the objectives of the process subject matter of control

There are several reasons that could affect the likelihood that an audit commission will not correctly identify the adverse situations that arise within the framework of the development of a public work. One reason is associated with the composition of skills and knowledge among the members of an audit commission. In this regard, Olken (2007) found some advantages, during the development of his study on Corruption Monitoring in the case of transport route construction projects in Indonesia, in terms of detecting substantial evidence through audits with specialized teams, according to the work subject matter of the audit process (studies carried out by engineers), in contrast to audits of an essentially procedural nature.

Indeed, infrastructure projects require engineering knowledge in several areas of specialization, such as civil, mechanical, and sanitary, among others. For example, in the case of contracting construction materials, an audit commission without specialized engineering training, it is much easier to verify the unit price than to verify the quantity of materials used, so we could expect corruption to occur by inflating quantities instead of prices; while the participation of engineers or other related careers would allow to identify, with greater probabilities of success, risks in the report of materials used in a certain service or in the footage of material extracted as result of a dredging declared by the contractor or work supervisor.

The formation of a multidisciplinary audit team and the application of modern verification and engineering techniques (e.g. topographic tests, geodetic measurements, aerial photogrammetry with drones, etc.) that requires the deployment of a Concurrent Control service, are essential elements in their chances of success to reduce the costs of functional misconduct or corruption in the framework of a public work, because they compensate the shortcomings of public entities in matters of internal control, quality of supervision control and risk assessment of the work, capacity development of public managers, among others.

4.4 COORDINATION WITH OTHER MODALITIES OF GOVERNMENT CONTROL AND SOCIAL CONTROL

Although the valuation of the adverse situations identified and materialized in non-applied penalties and inconsistencies in the admission of the valuation of services provided is, as it has been seen, quite high (ratio of 10 to 1) compared to the cost in the execution of Concurrent Control services, the application of a concurrent control service requires a significant investment of resources in qualified personnel and specialized equipment to carry out the tests necessary for the control and therefore requires materiality and scale of the project to be controlled. It would not be cost-effective to apply it to small works. In this sense, considering the limitations of the Concurrent Control model to be expanded to any public work or intervention, its application was done hand in hand with the strengthening of other forms of control.

On the one hand, the execution of the Concurrent Control was articulated with the post audit, so that the audits are nourished by the information obtained through the identification of uncorrected or mitigated adverse situations, in order to verify the existence of facts with evidence of alleged irregularity and identify possible administrative, civil or criminal responsibilities.

This articulation also makes it possible for the post audit to be more timely, prompt, and cost-efficient, and for which a new post audit product has been created: Specific Control Report for events with alleged irregularity. (See Appendix 1, section 3.4).

On the other hand, for small interventions in terms of the budgetary value, a direct mechanism of citizen participation was established from the General Comptroller's Office, with the purpose of facilitating social control,

expanding its coverage and generating inputs for the application of other services.

Through the Citizen Control Program, the Office of the Comptroller General authorizes individuals who volunteer to exercise citizen oversight in PIRCC reconstruction works that are below US\$ 750,000. In this regard, around 20% of the amount of investment in reconstruction works is below this threshold.

5. CONCLUSION

This document explains how concurrent control can help to make the public procurement processes work in areas that represent a greater risk; which is desirable in a context of widespread corruption, of limited development of internal control in public entities and an unfinished process of modernization of the State and of political, judicial, administrative, and other important areas of the Peruvian State. The characteristics of the model related to the use of a proactive accompaniment and the multidisciplinary composition of the audit team, offer the honest officer a professional help in risk assessment, improving management control capabilities and developing skills in managers.

As some studies on public spending have evidenced, a source of the loss of public resources is caused by inefficiency, which derives from several factors, such as poorly trained public officials, or without incentives to improve spending efficiency (e.g. low pay, unsuitable working conditions, among others). While, in the case of dishonest officials concurrent control could directly affect its incentive structure to commit an offending behavior, because it increases the probability of detecting irregular acts (e.g. collusion, bribery, etc.) and exposes

it to the decision to mitigate or not mitigate the risk advised by the auditing entity with knowledge of the citizens and competent authorities, given the standard of transparency in the full publication of control reports.

This document does not imply that concurrent control replaces other control modalities. The results of the experience in the implementation of concurrent control in Peru suggest that investing in this modality of control contributes to the Comptroller General's expansion of the effectiveness of its control strategy within the framework of the institutional and social conditions in which it must operate.

However, without prejudice to the efforts that must be made to extend the execution of this control service modality, the implementation of this control mechanism with a preventive approach must be carried out together with the continuous monitoring of compliance with the mitigation of foreseen adverse situations and the execution of effective penalties that the audited entity can easily perceive; which requires that, along with the process of strengthening the powers to expand the scope of the concurrent control exercise, the necessary institutional arrangements are also implemented, in order to strengthen the operational capacity of the SNC.

Another conclusion of this document is also the need to articulate the control services of the Comptroller General of the Republic with parties involved in the control ecosystem and that participate in the anti-corruption value chain.

In this regard, the application of concurrent control has gone hand in hand with the strengthening of social control, as the main ally of government control. Programs

such as Citizen Control, Provincial Public Hearings and the Comptroller General's Complaint System were designed to create direct mechanisms for citizen participation in the form of oversight of public interventions, with emphasis on the works that are being carried out within the framework of the Comprehensive Plan of Reconstruction with Changes (PIRCC).

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7. APPENDIXES

APPENDIX N° 1 - DESCRIPTION OF THE CONTROL SERVICES OF THE NATIONAL CONTROL SYSTEM

1. Preventive control

The preventive control services are those that are exclusively carried out by the CGR prior to the execution of an act or operation of an entity, in accordance with the provisions of the Law or express rule, in order to issue a result as appropriate to the subject of the requirement made by the entity requesting the service.

1.1 Preventive Control Service of Additional Work Performance

In accordance with the provisions of Directive N° 011-2016-CG, approved by Comptroller's Resolution N° 147-2016-CG, the Preventive Control service is the one through which the Comptroller's Office in the framework of its powers grants authorization prior to the execution and payment of additional construction benefits, the amount of which exceeds the percentage provided in the procurement regulations.

The prior authorization issued by the Comptroller is an administrative

act and does not imply the conformity of the Entity's management acts nor limits the exercise of the proactive or post audit applicable.

The process of the prior authorization request must be carried out within a maximum period of fifteen (15) business days, counted from the day following the receipt of the request for prior authorization, which is interrupted if the Comptroller's Office communicates to the Entity the need for complementary information.

1.2 Indebtedness

In accordance with the provisions of Directive N° 012-2016-CG-GPROD, approved by Comptroller's Resolution N° 148-2016-CG, the Comptroller General of the Republic issues a prior report in the case of operations that compromise credit or the financial capacity of the State. For this purpose, it should be understood as "operations that compromise credit or financial capacity, to those financial or non-financial operations that result in the increase of the stock

and service of the public debt, or generate firm or contingent liabilities or commitments for the State.

The Preventive Report issued by the Comptroller's Office is a technical document that contains the result of the process of review, analysis and consistency of the supporting documentation, including the draft contract, of the favorable opinions and of the adequacy of the information presented to the framework applicable to the operations subject of the report; and does not constitute in itself an authorization or approval of the operation.

1.3 Internal order acquisitions

In accordance with the provisions of Directive No. 007-2001-CG-GPROD, approved by Comptroller's Resolution No. 105-2001-CG, is the procedure by which the Armed Forces and National Police request the prior opinion of the Comptroller General of the Republic in the case of acquisitions and contracts with military secrecy exempted from Public Bidding,

Public Tender or Direct Award. The previous opinion empowers in the entity the acquisition and contracting of goods, services or works, in accordance with the terms of the pronouncement, issued within the legal term.

2. Simultaneous Control

Simultaneous control services are carried out to acts, events or activities of an ongoing process, in order to alert the existence of events that put at risk the result or achievement of the entity's objectives.

2.1 Concurrent control

In accordance with the provisions of Directive N ° 002-2019-CG-NORM, approved by Comptroller's Resolution N° 115-2019-CG, it is a modality that is carried out as a systematic, multidisciplinary accompaniment, and is intended to carry out the evaluation, through the application of different techniques, of a set of control milestones belonging to an ongoing process, in an orderly, successive and interconnected manner, at the time of its execution, with the purpose of verifying whether they are

carried out in accordance with current regulations, internal provisions, contractual or other similar provisions that are applicable to them, and identify if necessary, the existence of adverse situations that affect or may affect the continuity, the result or the achievement of the objectives of the process, and communicate them in a timely manner to the entity or agency to charge of the process, so that the corresponding preventive or corrective actions are adopted”.

This process has the following stages of: i) Planning; ii) Execution; iii) Report preparation.

2.2 Control visit

In accordance with the provisions of Directive N° 002-2019-CG-NORM, approved by Comptroller’s Resolution N° 115-2019-CG, is the modality through which the inspection or observation techniques of an activity are executed or control milestone that is part of an ongoing process, at the place and time of its execution, in order to verify whether it is carried out in accordance with applicable

regulations, internal provisions or contractual provisions or another similar that are applicable, to identify, if appropriate, any adverse situation that affects or may affect the continuity, the result or the achievement of the objectives of the process, so that it can be communicated to the entity to adopt the corresponding preventive or corrective actions

This control service has the following stages: i) Planning; ii) Execution; iii) Report preparation.

In accordance with the provisions of Directive N° 002-2019-CG-NORM, approved by Comptroller’s Resolution N° 115-2019-CG, it is a service consisting of the documentary review and analysis of the information related to one or more activities in progress with the purpose of verifying whether it is carried out in accordance with the applicable regulations, internal provisions or contractual provisions or other similar that are applicable, so that it can identify, if appropriate, any adverse situation that affects or may affect the continuity, the result or the achievement of the

objectives of the process, so that it can be communicated to the entity to adopt the corresponding preventive or corrective actions.

This control service does not strictly require planning actions or have a planning stage, nor is it subject to deadlines.

3. Post audit

The post audit services are those that are carried out in order to carry out the evaluation of the acts and results executed by the entities in the management of institutional assets, resources and operations.

3.1 Compliance audit

In accordance with the provisions of Directive No. 007-2014-CG-GSII, approved by Comptroller's Resolution No. 473-2014-CG, it is a type of Post Control service consisting of an objective and professional examination that aims at determining to what extent the entities subject to the scope of the System have complied with the applicable regulations, internal provisions and the contractual provisions established, in the exercise of the function or provision

of the public service and in the use and management of resources of the state.

The compliance audit includes the stages of: i) Planning; ii) Execution; iii) Preparation of the Report

3.2 Government Financial Audit

In accordance with the provisions of Directive No. 005-2014-CG-AFIN, approved by Comptroller Resolution No. 445-2014-CG, is the examination of the budgetary information and the financial statements of the entities, which is practiced to express a technical, professional and independent opinion on the reasonableness of these statements, in accordance with current legal regulations and the applicable financial information framework for the preparation and presentation of financial information, constitutes a tool for accountability and evaluation of the public sector for the performance of the General Account audit.

The financial audit includes the stages of: i) Planning; ii) Execution; iii) Preparation of the Report.

3.3 Performance Audit

In accordance with the provisions of Directive No. 008-2016-CG-GPROD, approved by Comptroller Resolution No. 122-2016-CG, the Performance Audit is an examination of the effectiveness, efficiency, economy and quality of production and delivery of goods or services performed by public entities, in order to achieve results for the benefit of the citizen, has a problem-oriented approach, which implies that the existence of specific problems is examined and verified and their causes analyzed, from the different dimensions of performance.

These causes constitute potential areas for improvement, which are identified jointly with the entities responsible for public intervention.

In this way, recommendations are made that give rise to specific actions to be implemented by the managers.

The performance audit includes the stages of: i) Planning; ii) Execution; iii) Preparation of the Report.

3.4 Specific Control Service

In accordance with the provisions of Directive N° 007-2019-CG/NORM, approved by Comptroller's Resolution N° 198-2019-CG, the Specific Control Service for Events with Alleged Irregularity is a modality of Post audit that intervenes in a timely, prompt and abbreviated manner, in order to verify the existence of facts with evidence of alleged irregularity and identify the possible civil, criminal or administrative responsibilities that apply. This control service allows us to know the results within a maximum period of 45 business days.

The Specific Control service includes the stages of: i) Planning; ii) Execution; iii) Report preparation.

