

Court of Appeal – Board of Auditors

Proc. No. 4/2013/AUDIT-S/CC

Audit Report No. 1/2014

**Audit of Non-Tax Revenue from National University of East Timor (UNTL) -
Years 2011 and 2012**

*Unofficial rough translation by La'o Hamutuk excerpted from the Court's complete report,
which is available in Portuguese at*

http://www.tribunais.tl/files/relatorios_auditoria/RELATORIO_1_2014_UNTL.pdf

3. MAJOR AUDIT FINDINGS

2.1.1 Legal Framework

The UNTL is a higher education institution with statutory, scientific, educational, administrative, financial, disciplinary and patrimonial autonomy, subject to the supervision and oversight of the Government ultimately responsible for higher education. The UNTL is subject to the laws of public finances of Timor-Leste.

2.1.2 Organization and Operation

The administrative, patrimonial and financial management of the University rests with the Management Board.

2.2 Assessment of the Internal Control System

The Internal Control System UNTL is weak, given the very broad set of identified weaknesses, such as the non-complete deposit of collected revenue, the existence of unnumbered receipts, as well as to incur expenses without supporting documents.

2.3 Non Official Bank Accounts

Despite the opening of an “official bank account” by the Ministry of Finance to deposit the proceeds of the UNTL, the University had in early 2011 six “unofficial” accounts. In 2012, two “unofficial” accounts remained in use.

The “unofficial” bank accounts were used to deposit revenue not transferred to the “official bank account” in violation of the established in the Budget and Financial Management Law and the Statute of the University.

The balances of these bank accounts were \$416,778.01 and € 34,862.59 in early 2011, and \$270,977.22 at the end of the same year. In late 2012, there was deposited in two bank accounts that were kept open, \$268,951.44.

The balance of “unofficial” bank accounts is not included in the General State Accounts as a balance carried forward.

2.4 Revenue Collected by UNTL - years 2011 and 2012

2.4.1 General characterization of UNTL Revenues

UNTL proceed to the recovery of fees for undergraduate, graduate and PhD, also charging a variety of fees and fines to its students, such as, “contributions to building” and” fines for late registration. “

Unlike the provisions of the Statute of UNTL, the amount of the fees was not fixed by order of the Government ultimately responsible for higher education.

2.4.2 Global Analysis of Collected Revenue

The total amount of revenue collected by UNTL verified by Audit was, respectively, \$1,016,570 and 1,497,130, for the years 2011 and 2012.

2.4.2.1 Revenue Deposited in Official Bank Account

Of the total revenue collected by the UNTL just been transferred to the “official bank account” values of \$649,248 and \$466,353 for the years 2011 and 2012.

The accounting of the departments and agencies of the State, the Ministry of Finance, based on the deposits and transfers made to their “official bank accounts”, so the UNTL receipts included in the 2011 and 2012 General State Accounts is underreported and does not reflect the total revenue of the University.

2.4.2.2 Revenue not Deposited in Official Bank Account

Revenue collected by the UNTL and not transferred to the “official bank account” were, respectively, \$643,350 and \$1,054,080 in 2011 and 2012, having been kept and spent in the margins of the Budget and the General State Account.

Been received in cash \$67,690 and \$147,158 in 2011 and 2012, which were not deposited in any bank account, but spent soon after being collected. The non-payment or transfer of public revenue collected by the UNTL for “official bank account” violates Articles 13.2 and 13.3 of the Budget and Financial Management Law and 9(c) and Art. 49.2 and 49.3 of the Statute of the UNTL.

2.4.2.3 Cash Balances

Because not all revenue generated was deposited in bank accounts, there were substantial sums in “cash”. The average balance of money in “cash” was \$20,480 in 2011 and \$34,790 in 2012. In late January 2012 the money in “cash” was \$92,595.

This situation contradicts the most basic principles of internal control and sound financial management and enhances the risk of diversion and loss of public money.

2.5 Expenditure in the margins of the Budget and the General State Accounts

2.5.1 Global Analysis of Expenditure

Through the use of revenue not transferred to the “official bank account” UNTL proceeded to incur expenses amounting to, respectively, \$700,197 and \$1,028,843, for the years 2011 and 2012.

These expenses were connected to payment of wages, overtime, “incentives”, local and foreign travel, meals and buying cars, among others.

2.5.2 Violation of Budget Principles

The realization of expenditures outside the budget and the General State Account, through the use of revenue not transferred to the “official bank account” violates the budgetary principles of unity, universality and non-compensation provided for in the Budget and Financial Management Law.

2.5.3 Regarding the Legality of Carried Expenditure

2.5.3.1 Payment of Overtime

With regard to compensation for overtime work it was found:

- The payment of overtime for extra hours for the period designated as lunch break between 12:00 and 14:00, as well as for the period from 17:00 to 18:00, times method corresponding to normal work hours;
- The payment of overtime in duplicate and triplicate, with managers and staff receiving two and three times by the same hour worked;
- Illegal and improper payment of overtime to management and leadership in total amount of \$8,097.38, in the years 2011 and 2012.

Overtime pay to managers violates article 71.3 of the Civil Service Statute, Art. 2.1 of Decree Law no. 20/2010 of December 1 and art. 23 of DL no. 27/2008 of 11 August.

- The payment of overtime above the legal limit of 40 hours per month. Indeed there were situations of paying for 207 hours per month, in other words, 5 times the legal limit.
- This situation violates article. 4.3 of DL no. 20/2010 of 1 December.

2.5.3.2 Payment of Illegal Supplements called “Incentives”

In November 2011 and in November and December 2012, illegal and improper payments of remuneration to employees and managers as an “incentive” bonuses were made, totaling \$14,360.

The payment of “incentives” violated the provisions of arts. 65 and 67 of the Civil Service Statute.

2.5.3.3 Payment of Wages without Withholding Tax

Salaries to officials and national and international advisors were paid without withholding tax, which contradicts the provisions of the Tax Law.

2.5.4 Spending Cash without Documents Proving the expenditure was made

Total expenditure incurred by the UNTL the margins of the State Budget and the General State Accounts, about 18% of that carried out 2011 and 43% of that carried out in 2012, were not supported by documents such as invoices, receipts or other similar documents.

Thus, in those years were spent a total of \$554,091.98 that do not have documents.

Of this amount, \$285,663.32 have as support receipts from managers and staff on they received cash advances to cover an activity without having to provide an accounting by subsequent presentation of documents of expenditure incurred.

The remaining 268.428.66 USD does not have any supporting documents, so it is not possible to identify even who got the money, what it was for and how the money was spent within the scope of the goals and powers of UNTL.

This situation is serious, and shows a lack of control over public funds arising from the collection of revenue by the UNTL, jeopardizing the most fundamental principles of sound financial management of public funds, allowing (and facilitating) the occurrence of misuse of public money.

Considering the gravity of the situation detected, the UNTL shall immediately cease to incur expenses on the margins of the Budget and the General State Accounts, and all its income, regardless of its nature and origin, must be transferred to the “official bank account” open by the Treasury.

2.5.6 Other Situations

2.5.6.1 Purchase of Vehicles

In the years 2011 and 2012 UNTL bought two cars for the Department of Animal Health and the UNTL-ACIAR project, having paid \$67,965.48 in total.

One of the cars (Great Wall brand) that cost \$26,000 was found abandoned and in very poor use after about 2 years Surik-Mas, Dili, having been used for less than one year, despite having been bought new, in the situation that deserves serious reservations.

The other car (Toyota Prado 3.0) cost UNTL \$41,965.48, despite having been bought used for \$36,000, is being used by the former coordinator of the ACIAR project for their personal purposes and has not been returned the same UNTL when the duties on that project ceased. No justification was given for the \$5,965.48 difference between the two amounts.

2.5.6.2 Cost of meals

Meal expenses were incurred in the amount of \$126,477.25, of which \$37,693.30 were justified through invoices or equivalent documents.

These expenses include, inter alia, the payment of lunches for christmas parties in 2011 and 2012, the inauguration of the building of the General Administration of UNTL, or seminar commemorating the “Birthday” of UNTL for which were paid lunches, respectively, for 1,500 people, 750 people, 500 people and 1,000 people.

However, it was not possible to determine how many people were actually at these events.

These costs are grossly exaggerated and reveal the misuse of public money.

4. RECOMMENDATIONS

In view of the main conclusions and observations made in this report, it is recommended that the following measures be adopted:

1. Correction of the weaknesses of the Internal Control System identified in the audit;

2. Closure of all unofficial bank accounts in compliance with the Budget and Financial Management Law;
3. Submission for approval by the highest official of Government responsible for higher education, the amount of the fees charged by the UNTL to their students, as provided by statute;
4. Daily and complete deposit of all revenues collected into official banks account under the provisions of the Budget and Financial Management Law and the UNTL Statute;
5. Reduction of amounts kept in cash to the minimum necessary to meet urgent small expenses considering the provisions of art. 18 of Government Decree No 1/2014 of 12 February on Working Funds;
6. Budgeting of all revenue and expenditure of the UNTL, regardless of their origin, when preparing the State Budget, in compliance with the principles of budgetary unity and universality and non-compensation of public expenditures and revenues, in accordance with Budget and Financial Management Law;
7. Cessation of all payments made to outside the Budget, the Budget Execution Rules and the General State Accounts;
8. Cessation of overtime payments for work performed during normal office hours;
9. Cessation of overtime payments for management and department heads;
10. Cessation of overtime payments for overtime beyond the legal limit of 40 hours per month;
11. Cessation of payment of any supplements not provided by law to its directors, managers and / or employees;
12. Withholding of tax due on wages paid by UNTL as legally prescribed in the Tax Law and subsequent delivery of withheld tax to the Treasury;
13. Foundation and anticipated framework for all the expenses incurred in connection with the purposes pursued by the UNTL;
14. Limitation on incurring expenses to those strictly necessary to achieve its purposes.