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Instruments for Measuring the Risk of Statute of Limitations for Administrative and Criminal Liability Arising from Audits.

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ABSTRACT: The aim of this study is to determine which of the following alternatives represent the best possible social solution: (i) that the various follow-ups to audit observations be maintained and the suspension of the start of the calculation of the statute of limitations for administrative and criminal liability be regulated, or (ii) that on the contrary, there be a single follow-up and if the body subject to the audit fails to resolve in a short period (which should also be established by law) the observations of the Secretariat of Public Function, and that if the observations indicated in the audit result are not resolved, the Secretariat of Public Function immediately recommends the implementation of corrective measures such as the initiation of procedures leading to the establishment of administrative and/or criminal liability.

I. INTRODUCTION

1. Historical Framework

A. The Water Commissions of the Federated States of Mexico are generally decentralized public bodies with their own legal personality, existing in each state and pursuing the objectives of local water laws.

B. The National Water Commission (CONAGUA) is a decentralized administrative body of the Ministry of Environment and Natural Resources, with the powers conferred on it regarding water resources by the National Water Law, its Regulations, and the Internal Regulations of the National Water Commission.

C. The Ministry of Environment and Natural Resources, through the National Water Commission, has been developing the **National Water Program** in compliance with the provisions of the Planning Law, which mandates ensuring consistency between this special program and the Sectoral Program for Environment and Natural Resources, as well as the General Axes provided for in the **National Development Plan**. Thus, the National Development Plan 2007-2012 establishes the need to intensify actions aimed at increasing efficiency in water distribution, as significant losses due to leaks in the networks persist, ranging between 30% and 50%. More recently, on December 31, 2020, the decree approving the 2020-2024 National Water Program was published in the Official Gazette of the Federation. This program seeks to advance Mexico toward a water resource that is a pillar of well-being through sustainable and coordinated management involving citizens, institutions, and levels of government. (DOF 2020)

It has **5 priority objectives**, three focused on people or water users and two surrendered on the enabling environment: (i) progressively guarantee the human rights to water and sanitation, especially for the most vulnerable population; (ii) efficiently use water to contribute to the sustainable development of productive sectors; (iii) reduce the vulnerability of the population to floods and droughts, with emphasis on indigenous and Afro-Mexican peoples; (iv) preserve the integrity of the water cycle to guarantee the hydrological services provided by basins and aquifers, and (v) improve conditions for water governance, to strengthen decision-making and combat corruption. To protect water availability in basins and aquifers, as a first step towards the implementation of the human right to water, work will be done to recover flows, concessions and allocations for domestic and urban public uses. (CONAGUA 2020)

D. The Drinking Water, Sewerage, and Sanitation Program in Urban Areas (APAZU) is one of the various subsidy types operated by the National Water Commission. Its objective is to promote and support states and municipalities in the development of drinking water, sewerage, and sanitation systems in population centers with more than 2,500 inhabitants, through service improvement actions to provide water for various uses, primarily for human consumption.

E. Subsidies are the allocation of federal resources provided for in the Federal Expenditure Budget that, through agencies and entities, are granted to different sectors of society, to states, or to municipalities to promote the development of priority social or economic activities of general interest.

F. The Ministry of Public Service has issued **Audit Guidelines for the Review of Federalized Funds and Programs**, which include those for the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), which are based on Article 37, Section I, of the Organic Law of the Federal Public Administration, in relation to the second transitory article of the Decree amending, adding to, and repealing various provisions of the Organic Law of the Federal Public Administration, published in the Official Gazette of the Federation on January 2, 2013; in Articles 33, Sections I and II, and 48, Section I, of the Internal Regulations of the Ministry of Public Service; in Point 1, second paragraph, of the Agreement establishing the General Provisions for the Conduct of Audits, Reviews and Inspection Visits, published in the Official Gazette of the Federation on July 12, 2010 and amended by the agreement published in the Official Gazette of the Federation on June 16, 2011; in the Coordination Agreement signed by the Secretariat of Public Service and the Executive Branch of each of the States, the purpose of which is to implement a special coordination program called **Strengthening the State System for Oversight and Evaluation of Public Management**, **and Collaboration on Transparency and Combating Corruption**; in the General Organization Manual of the Secretariat of Public Service, and in the Specific Organization Manual of the Regional Operations and Social Oversight Unit.

More recently, on December 8, 2022, the Pronouncement amending the **Agreement establishing the General Provisions for the Conduct of the Oversight Process** was published in the Official Gazette of the Federation. The most relevant aspects of said agreement, at least for the subject matter addressed in this investigation, are found in Articles 37, 37 Bis, 39, and 41, which establish the guidelines describing the necessary measures to avoid the statute of limitations for both administrative and criminal liabilities. They also stipulate that the State Oversight Bodies will be responsible for filing complaints of facts with the Attorney General's Office based on the **Report of Detected Irregularities**. Below is a transcript of these provisions, highlighting their most significant aspects in bold:

> **Article 37.** When alleged administrative misconduct by public servants is identified in audits or in the follow-up of initiated actions, or when audits reveal probable violations committed by bidders, contractors, suppliers, or service providers of regulations governing public works and related services, or public sector procurement, leasing, and services, the auditing units must collect sufficient, pertinent, competent, and relevant documentation that proves the potential violations of the applicable legal provisions and will proceed to prepare the **Report of Detected Irregularities**, which they will forward to the competent authorities along with their complaint, so that they can proceed in accordance with the LGRA and other applicable regulations.
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> **Article 37 Bis.** For the issuance of the Report of Detected Irregularities, **the dates on which said acts or omissions were committed must be considered, to avoid the expiration of the authority's powers** to impose the sanctions established in the law on the matter.
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> **Article 39.** Once the Report of Detected Irregularities has been prepared, where appropriate, **the complaint must be filed with the competent authority** in accordance with the applicable legal provisions, along with the original records or certified copies supporting the prevailing observations. **The dates on which said acts or omissions were committed must be always kept in mind, to avoid the statute of limitations for the competent authority's powers to impose the sanctions** established in the relevant laws.
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> **Article 41** …
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> State Oversight Bodies, in coordination with the Secretariat, shall file complaints of facts with the Attorney General's Office regarding the oversight activities in which they participate jointly with the Secretariat.

G. The National Council for the Evaluation of Social Development Policy (CONEVAL), in its **Specific Performance Evaluation Report** 2014-2015, **Assessment of the Performance Information submitted by the Drinking Water, Sewerage and Sanitation Program in Urban Areas (APAZU)** under modality S074, describes it by stating that it promotes actions to improve and increase the provision of drinking water, sewerage and sanitation services for residents of localities with more than 2,500 inhabitants in the fiscal year. It does so through financial and technical support to states, municipalities and operating agencies in four areas: the preparation of studies and projects, expansion of service coverage, improvement of physical and commercial efficiency, and implementation of construction and rehabilitation actions for hydraulic infrastructure (ROP 2014). Federal participation varies depending on population and needs, focusing more on priority localities for the campaign against hunger and localities with populations of 2,500 to 14,999 (ROP 2014, EXT 2012). Federal resources cannot be used for the operation and maintenance of infrastructure. It also describes the corresponding **Matrix of Indicators for Results (MIR)**, specifying that its purpose is to contribute to strengthening comprehensive and sustainable water management, guaranteeing access to the population and ecosystems, with formal drinking water and sewage services in urban areas. In conclusion, in the section inherent to the General Observations on the Program's end indicator (drinking water coverage), it is very useful and seems appropriate to establish another end indicator for sewage coverage in the MIR 2015.

However, the change to the drinking water end indicator in the 2015 MIR does not seem entirely appropriate; first, because it will not allow for an analysis of its evolution compared to previous years, and second, because it will lead to confusion regarding the sectoral indicator, whose purpose does not fully correspond to the Program's objective, which is to increase water coverage for urban residents. It also mentions that the purpose indicators are relevant for measuring the Program's performance but have been declining. During the same period, the spent budget decreased (from 2011 to 2014 -11.79%), which could be contributing to this lower performance. On the other hand, the behavior of these indicators could also be explained using resources, which are not only allocated to providing new residents with access to one of these two services, but also to improving physical and commercial efficiency. It would be advisable to incorporate a purpose indicator to measure this component of the Program. The indicator measuring access to sewage services by new residents did not strengthen to the same extent as in 2012 (EED 2012), a year in which this service saw an encouraging recovery (in 2012, the target population served by sewage service had doubled the target population served by drinking water service). Regarding the component indicators, the targets achieved satisfactorily exceeded the stated goals; however, these have not changed in subsequent years and remain below 100%. This behavior in the component indicators suggests, on the other hand, that there is healthy flexibility in the Program's operation, as it grants extensions at year-end closings; however, this does not seem to justify the stated goal not being more ambitious than the one achieved during the Program's administration. (CONEVAL 2015)

2. *Ex-ante* situation

To grant the subsidy for the **Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU)**, the National Water Commission (CONAGUA) enters into **Framework Coordination Agreements** with the federal entities, the scope of which is outlined in the **Technical Annex**. These legal acts have been formalized between this decentralized administrative body of the Ministry of Environment and Natural Resources and the Government of the Federated States. Consequently, this research will be limited to this Program.

3. Background

In this context, the Ministry of Public Administration has been conducting a series of audits on public funds contributed by the Federation to the Water Commissions of the Federated States of Mexico under various programs, including the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU). This is in accordance with the Federal Budget and Fiscal Responsibility Law, the Internal Regulations of the Ministry of Public Administration, the Internal Regulations of the Federated States Comptroller's Office, and within the framework of the Special Coordination Agreement entitled "Strengthening the State System for the Control and Evaluation of Public Management and Collaboration on Transparency and the Fight against Corruption".

Audit reports are normally focused on observing: (i) **both improper payments** and (ii) **overpayments**. Therefore, a series of recommendations are made: (i) **preventive** (program or action plan or activities to avoid the recurrence of the observations), and (ii) **corrective** (**refund of amounts which must be updated with their respective interests and initiation of liability procedures for public servants and individuals or filing of criminal complaints**).

The Audit Report is accompanied by Certificates indicating the recommendations, which the audited entity must follow up on.

Unfortunately, follow-up proceedings are often carried out on various occasions and considering that they do not suspend the calculation of the statute of limitations for administrative liability proceedings and/or the exercise of criminal action, the statute of limitations is configured, thereby favoring the impunity of public servants and contractors.

Indeed, the excessive number of follow-up proceedings and the prolonged periods that their attention can entail until the Secretariat of Public Service definitively determines the adoption of corrective measures consisting of establishing administrative and/or criminal liability are circumstances that benefit public servants and contractors, since at the time of attempting to initiate the relevant proceedings, the applicable actions and sanctions have already expired, given that these are normally crimes committed immediately.

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With the publication in the Official Gazette of the Federation on December 8, 2022, of the Agreement amending the Agreement establishing the General Provisions for the Conduct of the Audit Process, the problem identified here, which consists of the uncertainty surrounding the various possible scenarios, is partially resolved.

The aim of this study is to determine which of the following alternatives represent the best possible social solution: (i) that the various follow-ups to audit observations be maintained and the suspension of the start of the calculation of the statute of limitations for administrative and criminal liability be regulated, or (ii) that on the contrary, there be a single follow-up and if the body subject to the audit fails to resolve in a short period (which should also be established by law) the observations of the Secretariat of Public Function, and that if the observations indicated in the audit result are not resolved, the Secretariat of Public Function **immediately recommends the implementation of corrective measures such as the initiation of procedures leading to the establishment of administrative and/or criminal liability.**

Based on the contextual analysis described above, it is possible to establish the existence of a problem of impunity due to statutes of limitations due to inaction. Therefore, the most appropriate and efficient solution would be to exhaust a single follow-up to address the observations made by the Secretariat of Public Administration in its auditing functions.

4. Legal Framework

For the development of this research, the provisions of three basic regulatory systems must be taken into consideration: (i) the Political Constitution of the United Mexican States, since its Articles 109 and 113 establish fundamental institutions such as the National Anti-Corruption System and the administrative liability structure for public servants and individuals; (ii) the General Law on Administrative Responsibilities, whose importance is reflected in its role in determining the conduct of public servants considered administrative offenses and their categorization as serious and non-serious, as well as their sanctions and statute of limitations, and (iii) the Federal Penal Code, which is particularly important because it typifies and punishes criminal conduct committed by public servants and individuals, specifically in connection with the execution of public works contracts and related services. The details of the scope of the constitutional and regulatory provisions are detailed below.

Articles 109 and 113 of the Political Constitution of the United Mexican States establish, among other situations, the foundations of the **National Anti-Corruption System**, according to the following specifications:

> **Article 109.** Public servants and private individuals who incur liability before the State shall be sanctioned as follows:
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> **I.** The sanctions indicated in Article 110 shall be imposed through impeachment proceedings on the public servants indicated in the same provision when, in the exercise of their functions, they engage in acts or omissions that are detrimental to fundamental public interests or the proper conduct of their duties.
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> Impeachment proceedings are not admissible for the mere expression of ideas.
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> **II.** The commission of crimes by any public servant or private individual who engages in acts of corruption shall be punished under applicable criminal law.
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> The laws shall determine the cases and circumstances in which public servants who, during their term of office, or for reasons thereof, either personally or through an intermediary, increase their assets, acquire property, or act as owners of such assets, whose legal origin they cannot justify, must be criminally punished for illicit enrichment. Criminal laws shall provide for confiscation and deprivation of ownership of such assets, in addition to any other applicable penalties.
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> **III.** Administrative sanctions shall be applied to public servants for acts or omissions that affect the legality, honesty, loyalty, impartiality, and efficiency they must observe in the performance of their jobs, positions, or commissions. These sanctions shall consist of reprimand, suspension, dismissal, and disqualification, as well as economic sanctions, and shall be established in accordance with the economic benefits, if any, obtained by the responsible party and the financial damages caused by the acts or omissions. The law shall establish the procedures for the investigation and sanction of such acts or omissions.
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> Serious administrative offenses shall be investigated and substantiated by the Supreme Audit Office of the Federation and the internal oversight bodies, or by their counterparts in the federal entities, as appropriate, and shall be resolved by the competent Administrative Court of Justice. Other administrative offenses and sanctions shall be heard and resolved by the internal oversight bodies.
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> For the investigation, substantiation, and sanctioning of the administrative responsibilities of members of the Federal Judicial Branch, the provisions of Article 94 of this Constitution shall be observed, without prejudice to the powers of the Federal Supreme Audit Office regarding oversight of the management, custody, and application of public funds. The law shall establish the conditions and procedures for challenging the classification of administrative offenses as non-serious by internal oversight bodies.

Federal public entities shall have internal oversight bodies with the powers determined by law to prevent, correct, and investigate acts or omissions that could constitute administrative responsibilities; to sanction those other than those within the jurisdiction of the Federal Court of Administrative Justice; to review the receipt, expenditure, management, custody, and application of federal public funds and federal participations; and to file complaints for acts or omissions that could constitute a crime before the Specialized Prosecutor's Office for Combating Corruption, as referred to in this Constitution.

State and municipal public entities, as well as those of the Federal District and its territorial divisions, shall have internal oversight bodies, which shall have, within their local jurisdiction, the powers referred to in the preceding paragraph, and

IV. Administrative courts shall impose on individuals involved in acts related to serious administrative offenses, regardless of other types of liability, economic sanctions; disqualification from participating in acquisitions, leases, services, or public works; as well as compensation for damages caused to the Public Treasury or to federal, local, or municipal public entities. Legal entities shall be sanctioned under the terms of this section when acts related to serious administrative offenses are committed by natural persons acting on behalf of or representing the legal entity and for its benefit.

The suspension of activities, dissolution, or intervention of the respective company may also be ordered in the case of serious administrative offenses that cause harm to the Public Treasury or to federal, local, or municipal public entities, provided that the company obtains an economic benefit and the participation of its administrative, supervisory, or shareholder bodies is proven, or in cases where it is observed that the company is systematically used to link to serious administrative offenses. In these cases, the sanction will be enforced until the resolution is final. The laws will establish the procedures for the investigation and imposition of applicable sanctions for such acts or omissions.

The procedures for applying the sanctions mentioned in the preceding sections will be developed independently. Sanctions of the same nature may not be imposed twice for a single act.

Article 7 of the **Federal Penal Code** provides the concept of **crime** and distinguishes between its various forms, classified based on its commission: (i) **instantaneous**; (ii) **permanent or continuous**, and (iii) **ongoing**. The following is a literal transcription for a better understanding:

Article 7. A **crime** is an act or omission punishable by criminal law.

In crimes with a material result, the typical result produced will also be attributable to the person who fails to prevent it, if they had a legal duty to prevent it. In these cases, the result will be considered the consequence of omission when it is determined that the person who failed to prevent it had a duty to do so, derived from a law, a contract, or their own prior actions.

A **crime** is:

I. Instantaneous, when the consummation is exhausted while all the elements of the criminal description have been fulfilled.

II. Permanent or continuous, when the consummation is prolonged over time.

III. Continuous, when with a unified criminal purpose, multiple conducts, and a unified passive subject, the same legal precept is violated.

Prescription implies the extinction of criminal action and its sanctions, so it is necessary to specify what it consists of, how it is calculated and other particularities of this legal concept:

Article 100. Criminal action and penalties are extinguished by statute of limitations, in accordance with the following articles.

Article 101. Statutes of limitation are personal, and the mere passage of time established by law shall suffice.

The statute of limitations shall be doubled for those who are outside the national territory if, due to this circumstance, it is not possible to investigate, conclude a proceeding, or execute a penalty.

Statute of limitations shall take effect even if the accused, defendant, or sentenced party does not invoke it as an exception. The judicial body shall make up for it ex officio in all cases, as soon as it becomes aware of it, regardless of the status of the proceedings.

Article 102. Statutes of limitation for criminal action shall be **continuous**; they shall be considered the crime and its modalities, and shall be counted:

I. From the moment the crime was committed, if it is instantaneous.

II. From the day on which the last act of execution was carried out or the due conduct was omitted, if the crime is attempted.

III. From the day on which the last act was carried out, in the case of a continuing crime.

IV. From the cessation of consummation in the case of a continuing crime.

V. From the moment the crime.

Article 103. The statute of limitations for sanctions shall also be continuous and shall run from the day following the date on which the convicted person escapes from the courts, if the sanctions involve deprivation or restriction of liberty, and if they do not, from the date of the final judgment.

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Article 105. The statute of limitations for criminal proceedings shall be equal to the arithmetic mean of the prison sentence established by law for the crime in question, but in no case shall it be less than three years.

The **Federal Penal Code** also establishes the cases in which the crime of **fraud** is configured and punished (article 386) and crimes for acts of **corruption** (Title Ten, Crimes Due to Acts of Corruption, articles 212 to 224), among which are: (i) unlawful exercise of public service; (ii) abuse of authority; (iii) collusion of public servants; (iv) illicit use of powers and faculties; (v) improper payment and receipt of remuneration of public servants; (vi) extortion; (vii) intimidation; (viii) abusive exercise of functions; (ix) influence peddling; (x) bribery; (xi) bribery of foreign public servants; (xii) embezzlement, and (xiii) illicit enrichment.

Below is the transcript of the article that establishes the crime of fraud:

Article 386. Anyone who, by deceiving someone or taking advantage of someone's error, illegally acquires something or obtains undue profit, commits the crime of **fraud**.

The crime of fraud shall be **punishable** by the following penalties:

I. Imprisonment of 3 days to 6 months or a fine of 30 to 180 days, when the value of the defrauded item does not exceed ten times the salary.

II. Imprisonment of 6 months to 3 years and a fine of 10 to 100 times the salary, when the value of the defrauded item exceeds 10, but not 500, times the salary.

III. Imprisonment of three to twelve years and a fine of up to one hundred and twenty times the salary, if the value of the defrauded item exceeds five hundred times the salary.

Pursuant to Article 1 of the **General Law on Administrative Responsibilities**, this law is of public order and of general observance throughout the Republic. Its purpose is to distribute powers among the levels of government to **establish the administrative responsibilities** of Public Servants, their **obligations**, the **sanctions** applicable to their acts or omissions, and those applicable to individuals linked to serious administrative offenses, as well as the **procedures** for their application.

This purpose is complemented by Article 2, which is transcribed below:

Article 2. The purposes of this Law are:

I. To establish the principles and obligations that govern the actions of Public Servants.

II. To establish the serious and non-serious administrative offenses of Public Servants, the sanctions applicable to them, as well as the procedures for their application and the powers of the competent authorities for this purpose.

III. Establish sanctions for the commission of offenses by private individuals, as well as the procedures for their application and the powers of the competent authorities for this purpose.

IV. Determine the mechanisms for the prevention, correction, and investigation of administrative responsibilities.

V. Create the foundation for all public entities to establish effective policies of public ethics and responsibility in public service.

Regarding statutes of limitations, the General Law on Administrative Responsibilities distinguishes between **non-serious administrative offenses**, **serious administrative offenses**, and **offenses committed by individuals**. The statute of limitations for each of the cases is set forth below:

Article 74. In the case of **non-serious administrative offenses**, the powers of the Secretariats or Internal Oversight Bodies to impose sanctions shall expire after three years, counted from the day after the violations were committed, or from the moment they ceased.

In the case of **serious administrative offenses** or **offenses committed by individuals**, the statute of limitations shall be seven years, calculated in accordance with the terms of the previous paragraph.

The statute of limitations shall be interrupted with the classification referred to in the first paragraph of Article 100 of this Law.

If action is not taken in administrative liability proceedings arising from the admission of the report, and as a result, the application expires, the statute of limitations will resume from the day the Report of Alleged Administrative Liability was admitted.

Under no circumstances may action be taken in administrative liability proceedings for more than six months without just cause; if such inactivity persists, the application will be declared void at the request of the alleged offender.

The time periods referred to in this article shall be calculated in calendar days.

5. Sizing

To resolve the problem at hand, one must be aware of its potential implications, as it may have legal, political, economic, social, and even cultural implications.

A. Legal Dimension. To avoid the statute of limitations on the administrative liability of public servants and private contractors, as well as criminal liability, the best legally admissible alternative must be analyzed. One would be to consider the regulatory provision for the suspension of the computation periods for a reasonably sufficient period of time to conduct all necessary follow-up to address, both preventively and correctively, the observations made in the audit reports of the Ministry of Public Service (with the consequent implications of undefinition, uncertainty, and even deterioration of the institutional image). The other would imply that the Ministry of Public Service would only provide one opportunity for the public entity under audit to provide the necessary elements to refute or satisfy the preventive and corrective observations.

B. Political Dimension. The lack of public policies aimed at inhibiting conduct considered serious or non-serious misconduct, as well as criminal offenses committed by both public servants and private individuals, generates a state of impunity. Therefore, the implementation of actions aimed at preventing it, and where appropriate, effective sanctions, is required.

C. Economic Dimension. The lack of timely definition regarding the attribution of administrative or criminal responsibilities leads to delays in the recovery of expenditures observed in audits by the Secretariat of Public Administration as improper or overpaid, which in turn generates an imbalance in public finances.

D. Social Dimension. Society's perception of the exercise of public office (and particularly public procurement) is one of a climate of dishonesty, both in regard to public bidding procedures (due to the abuse of direct awards) and in the supervision of project progress (given the validation of improper payments or approval of overpayments by the corresponding supervisor, since curiously, despite the prior existence of a project, there will always be extraordinary prices to be paid). This leads to a perception of public service with an image of impunity, which is why citizens make no effort to contribute to its elimination; on the contrary, they seek ways to benefit from the situation.

E. Cultural Dimension. The culture of ethics, transparency, and accountability is a challenge that remains to be overcome by public servants and individuals participating in public bidding procedures. Despite the existence of codes of conduct and a whole legal framework of sanctions, risk prevention will always be more effective through a cultural approach that raises awareness of the seriousness of the conduct and the advantages of behaving correctly.

6. Scope of the Investigation

This is a fundamentally exploratory investigation that seeks to develop a situational diagnosis that will lead to the detection of the best possible social solution to the problem at hand. It has been seen, a priori, that it could result from one of the following two options: (i) **to justify the suspension of the period for the start of the calculation of the statute of limitations for administrative and criminal liability** due to the need to grant the benefit of various follow-ups to audit observations, or (ii) that, on the contrary, there is a single follow-up and if the body under audit fails to resolve the observations of the Secretariat of Public Service within a short period (which should also be established by law), and if the observations indicated in the audit result are not resolved, the Secretariat of Public Service **immediately recommends the implementation of corrective measures** such as the initiation of procedures leading to the establishment of administrative and/or criminal liability (this would avoid impunity for public servants and individuals who commit administrative offenses) and/or commit crimes in the face of an inevitable and even predictive prescription of responsibility and the consequent modification of social perception).

7. Research Questions

Some of the research questions, whose relevance will be assessed and, where appropriate, addressed in this study, will address the following aspects:

A. What are the background and guidelines of the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU)?

B. What are the most significant terms and conditions of the agreements entered for the distribution of the subsidy inherent to the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), including its technical annex?

C. How effective are the Audit Guidelines for the Review of Federalized Funds and Programs?

D. What is the effectiveness of the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), based on the results contained in the most recent Specific Performance Evaluation Report issued by the National Council for the Evaluation of Social Development Policy (CONEVAL)?

E. What is the regulatory framework applicable to the sanctioning of conduct considered administrative offenses (serious and non-serious) of public servants and individuals involved in public procurement, as well as those classified as crimes (which includes the study of constitutional, legislative, regulatory provisions, general agreements, guidelines, circulars, administrative and jurisdictional resolutions, jurisprudential criteria and recommendations of state, national and inter-American human rights commissions, and in general of any text that contributes to the understanding of the problem, its prevention or resolution?

F. Based on the Audit Reports issued by the Ministry of Public Administration—both the initial audit and those resulting from the various follow-up audits—regarding the signing of agreements between the National Water Commission and the Water

Commissions of the Federated States of Mexico, and related to the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), is it possible to determine whether a single follow-up audit would be sufficient to conclude the audit, or, on the contrary, whether several audits are essential to the point of legitimizing a reform to the legislation on administrative and criminal liability, thereby justifying the suspension of the statute of limitations, starting from the last follow-up audit?

G. What conclusions have been reached after the development of this investigation?

H. What **proposals** can be provided as the best possible social solution (basically aimed at: (i) justifying the **suspension** of the period for the start of the calculation of the statute of limitations for administrative and criminal liability due to the need to grant the benefit of various follow-ups to audit observations, or (ii) that there be a single follow-up and if the body subject to the audit fails to resolve in a short period (which should also be established by law) the observations of the Secretariat of Public Function, and that if the observations indicated in the result of the audit are not resolved, the Secretariat of Public Function **immediately** recommends the **practice of corrective measures** such as the **initiation of procedures that lead to the establishment of administrative and/or criminal liability** (this would avoid the impunity of public servants and individuals who incur in administrative offenses and/or commit crimes in the face of an inevitable and even predictive statute of limitations for liability and the consequent modification of social perception).

8. Research Scenario or Hypothesis

Feasibility of proving that the statute of limitations on administrative and criminal liability for public servants and individuals can be avoided by adopting legislative measures and/or strategic management actions in response to audit results from the Ministry of Public Service that impose preventive and corrective measures subject to endless and discretionary follow-ups. This leads to disregard for the statute of limitations and creates an environment of impunity, as these are conduct or crimes that run out instantly, and such follow-ups do not suspend the statute of limitations.

9. Research Techniques

First, some concepts are offered regarding what should be understood by technique, followed by an emphasis on the characteristic features of the technique focused on data collection, as necessary for the development of the current project. This is concluded with the acceptable classification of data collection techniques.

Regarding the meaning of the word “technique”, it can be considered: (i) the set of instruments and means through which the method is carried out, or (ii) the mechanism that proposes the rules for organizing the stages of the research process.

Concerning the characteristic features of data collection techniques, we can affirm that: (i) it provides instruments for data collection, classification, measurement, correlation, and analysis; (ii) it provides science with all the means to apply the method, and (iii) it is considered the structure of the method, since theory is the foundation of science.

There are various ways to classify information gathering techniques, one of which is as follows: (i) observation; (ii) survey; (iii) questionnaire; (iv) interview, and (v) attitude and opinion scales.

Another way to classify information gathering techniques is based on the following aspects: (i) the location where the research will be conducted (documentary, field, laboratory, and monumental); (ii) the researcher’s participation (participant or non-participant); (iii) the direction of the information search (directed or regulated, and undirected or free); (iv) the number of observers (individual or team), and (v) the type of phenomenon (exact sciences, social sciences, heuristics, hypothesis testing or rejection only).

The development of this research was essentially based on the documentary technique of data collection, since, by virtue of the nature of the subject raised, the search carried out is eminently heuristic by virtue of being limited to the study of certain data conditioning the exercise of public resources, particularly inherent to the Drinking Water, Sewerage and Sanitation Program in Urban Areas (APAZU), so that, from its examination and criticism, a series of questions have been raised and the hypothesis on which this project focuses has been formulated.

Based on the above, the documentary search for data carried out in this project presents the following particular characteristics: (i) primary sources were used; (ii) classics of the field, both ancient and contemporary, were used; (iii) the best available literature was selected to further the study; (iv) not only was information collected and accumulated, but it was also assessed, analyzed, and personal contributions were made; (v) the quality of the research was not measured by its quantity but by its content and suitability, and (vi) the information was relevant to the identified problem and was systematically selected, analyzed, and assessed.

Surveys, evaluations, quotations, regulations, and any other supporting documents for the project should be considered.

II. PRE-VISUALIZATION OF THE GENERAL OBJECTIVE TO BE ACHIEVED THROUGH THE RESEARCH

The general objective of this research is to carry out a set of interdependent activities aimed at finding the best possible social solution and, consequently, avoiding: (i) the endless and lengthy follow-up of audits conducted by the Secretariat of Public Administration; (ii) the expiration of administrative liability procedures and/or the exercise of criminal prosecution, and (iii) the resulting climate of impunity for public servants and contractors.

III. SPECIFIC OBJECTIVES

1. Verify the background and guidelines of the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), as well as the terms and conditions of the agreements entered for the distribution of the subsidy, including their technical annex.

2. Analyze the Audit Guidelines for the Review of Federalized Funds and Programs, as well as the program's effectiveness based on the results contained in the most recent Specific Performance Evaluation Report issued by the National Council for the Evaluation of Social Development Policy (CONEVAL).

3. Examine the regulatory framework applicable to the sanctioning of conduct considered administrative offenses (serious and non-serious) of public servants and individuals involved in public procurement, as well as those classified as crimes (which includes the study of constitutional, legislative, regulatory provisions, general agreements, guidelines, circulars, administrative and jurisdictional resolutions, jurisprudential criteria and recommendations of state, national and inter-American human rights commissions, and in general of any text that contributes to the understanding of the problem, its prevention or resolution).

4. To study whether, based on the results contained in the Audit Reports issued by the Ministry of Public Administration - both initial and those derived from the various follow-ups - in connection with the signing of agreements between the National Water Commission and the Water Commissions of the Federated States of Mexico, and inherent to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), it is possible to determine whether a single follow-up would be sufficient to conclude the audit or on the contrary, whether several of them are essential to such an extent that they legitimize a reform to the legislation on administrative and criminal responsibilities, by virtue of which the suspension of the calculation of the statute of limitations is justified, starting it from the last follow-up.

5. Arrive at **conclusions** that lead to the contribution of proposals for the best possible social solution aimed at: (i) justifying the **suspension of the period for the start of the calculation of the statute of limitations for administrative and criminal liability** due to the need to grant the benefit of various follow-ups to audit observations, **or** (ii) that on the contrary, there is only one follow-up and if the body subject to the audit fails to resolve in a short period (which should also be established by law) the observations of the Secretariat of Public Function, and that if the observations indicated in the result of the audit are not resolved, the Secretariat of Public Function immediately recommends the **implementation of corrective measures such as the initiation of procedures that lead to the establishment of administrative and/or criminal liability** (thereby avoiding the impunity of public servants and individuals who incur in administrative offenses and/or commit crimes in the face of an inevitable and even predictive statute of limitations for liability and the consequent modification of social perception).

IV. JUSTIFICATION OF THE RESEARCH

1. Utility. With the development of this research, it will be feasible to provide the best possible social solution, among those that could be detected a priori (subject, of course, to the final results): (i) justify the **suspension of the period for the start of the calculation of the statute of limitations for administrative and criminal liability** due to the need to grant the benefit of various follow-ups to audit observations, **or** (ii) that, on the contrary, there is a single follow-up and if the body subject to the audit fails to resolve the observations of the Secretariat of Public Service in a short period of time (which should also be established by regulations), and that if the observations indicated in the audit result are not resolved, the Secretariat of Public Service **immediately recommends the implementation of corrective measures such as the initiation of procedures that lead to the establishment of administrative and/or criminal liability** (thereby avoiding the impunity of public servants and individuals who incur in administrative offenses and/or commit crimes in the face of an inevitable and even predictive prescription of responsibility and the consequent modification of social perception).

Either of the two solutions outlined here will represent an improvement or benefit to good public management and organizational development for public entities such as the Ministry of Public Administration, the Office of the Comptrollers Generals of the Federated States, the National Water Commission (CONAGUA), and the Water Commissions of the Federated States of Mexico, as it would justify the delay in calculating the statute of limitations or avoid any margin of impunity.

2. Causes and Consequences of the Result. Below is a summary of the causes and consequences of the results to be obtained.

Instruments for Measuring the Risk of Statute of Limitations for Administrative and Criminal Liability Arising from Audits.

A. The cause of the result lies in the habit of the Secretariat of Public Function to grant countless opportunities for public entities, such as the Water Commissions of the Federated States of Mexico, to resolve the observations contained in the audit reports inherent to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), and despite this, both preventive and corrective measures are not fully satisfied, and in many cases there is not even a considerable variation between the first and last follow-up, which leads to: (i) **administrative or criminal liability is never established for having neglected the statute of limitations**, and (ii) that the Water Commissions of the Federated States of Mexico must **return to the Federal Treasury the amounts paid in excess or that were considered as improper payments, where the only beneficiary will end up being the contractor who cannot exercise any right of repetition tending to obtain reimbursement of what was returned to the Federation**.

B. For its part, the consequences would be: (i) if it is concluded that the best possible social solution is the regulatory adaptation to suspend the start of the calculation of the prescription of the administrative and criminal liability of public servants and private individuals linked to them, the consequence would be the legal determination through the relevant reforms regarding the number of admissible follow-ups with respect to the observations of the Secretariat of Public Function, and (ii) if it is concluded that the best possible social solution would be that the calculation period for the start of the estoppel period should begin from the observations issued regarding the first and only follow-up, in a considerable number of hypotheses the prescription of administrative and criminal liability will have been configured, which would imply the impunity of public servants and private individuals linked to administrative faults and crimes, maintaining and increasing the citizen perception of the climate of impunity.

3. Advantages and Disadvantages of the Result. The advantage of the result would consist in defining once and for all if: (i) given the particular circumstances in which the procedure entails the follow-up of the observations expressed in the reports of the audits carried out by the Secretariat of Public Function regarding the application of resources from the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), in favor of the Water Commissions of the Federated States of Mexico, merits the tempering of the rigor in the way in which the beginning of the computation of the prescription of the administrative responsibility of the public servants and private individuals linked to it is computed, as well as criminal action, or (ii) on the contrary, there should not be a margin of tolerance such that it allows abuses or excesses, so that the follow-ups of the observations of the audits can be extended beyond a single occasion given the recurrence in which subsequent follow-ups only reiterate what was expressed in the first of them.

The most representative disadvantages would be that: (i) if it were decided to modify or suspend by regulation the period for the start of the calculation of the prescription of the administrative responsibility of public servants and private individuals (General Law of Administrative Responsibilities) and criminal responsibility (Federal Penal Code and the Penal Codes of the different federative entities), it would not be a simple or expeditious task given the time involved in preparing the initiative, opinion, deliberation, and where appropriate approval and publication, or (ii) if it is confirmed that the situation must be maintained as it is, there would be a risk of passively tolerating the impunity of conduct considered as administrative faults and crimes committed by public servants and private individuals linked to them.

4. Include other analyzed alternative solutions. From a primary perspective (and with the understanding that this is expressed at the beginning of this investigation and could therefore be subject to change at the end of its execution), there are only two alternative solutions:

A. Justify the suspension of the period for the start of the calculation of the statute of limitations for administrative and criminal liability due to the need to grant the benefit of various follow-ups to audit observations, or

B. That, on the contrary, there is only one follow-up and if the body under audit fails to resolve the observations of the Secretariat of Public Service within a short period (which should also be established by law), and if the observations indicated in the audit result are not resolved, the Secretariat of Public Service immediately recommends the implementation of corrective measures such as the initiation of procedures leading to the establishment of administrative and/or criminal liability (thereby avoiding impunity for public servants and individuals who commit administrative offenses) and/or commit crimes in the face of an inevitable and even predictive prescription of responsibility and the consequent modification of social perception).

5. Justification for why the solution proposed in this research is more viable.

Considering in this research the two legally feasible solutions for audits already conducted and considering that either seeks to address the causes of the problem at hand, it is estimated that both are viable and represent the best social solution.

However, for future audits, the best possible social solution would be for the calculation period for the start of the statute of limitations to begin with the observations made regarding the first and only follow-up.

V. RESEARCH DEVELOPMENT

To properly identify problems, measure the risk of expiration of administrative and criminal liability for public servants and individuals arising from audits conducted by the Secretariat of Public Service, particularly with respect to the Drinking Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), and be in a position to adopt the most appropriate solution proposal, it is necessary to rely on the instruments described below:

1. Stages of Administrative Improvement (Coordination Guidelines, Service Indicators, Dissemination of Services, Incorporation of the Voice of the Customer).

A. Coordination guidelines. Create a communication flow structure between all project stakeholders to determine how they will coordinate. The communication flow with project participants would be: (i) with the Ministry of Public Administration through the Government Audit Unit of the Undersecretariat for Oversight and Combating Corruption; (ii) with the Ministry of Environment and Natural Resources (SEMARNAT) through the National Water Commission (CONAGUA); (iii) with the Attorney General's Office through the Federated States of Mexico, and (iv) with the States Comptroller's Office; and with the Water Commissions of the Federated States of Mexico through the Internal Oversight Body's. Regarding the Congress of the Union, initiatives to reform the General Law of Administrative Responsibilities and the Federal Penal Code would be presented through the Ministry of Environment and Natural Resources (SEMARNAT). Regarding the adaptation of the General Guidelines for the Evaluation of Federal Programs of the Federal Public Administration, this would be done through the National Council for the Evaluation of Social Policy (CONEVAL).

B. Recipients to whom the services derived from this project would be disseminated. Regarding the recipients, the interaction would be primarily with public servants of the Water Commissions of the Federated States of Mexico, primarily those who serve as construction supervisors and validators of estimates for works executed with federal program resources.

2. Strategic Planning. For the development of this project, the initial identification of the administrative tool(s) whose relevance will provide the best possible social solution to the problem at hand will be among the following available: (i) **Financial Profitability Analysis**; (ii) **Operational Risk Control Board**; (iii) **Matrix of Indicators for Results (MIR)**; (iv) **Problem Tree**; (v) **SWOT Analysis**; (vi) **Multicriteria Analysis**, and (vii) **Analytic Hierarchy Process (AHP)** through the **SAATY Scale**.

A. Financial Profitability Analysis. Thus, to obtain a solution to the problem posed, it has been decided to use the financial profitability analysis tool, since it will provide information on the profit-generating capacity, either through: (i) prevention of the risk of asset loss arising from potential improper expenditures, or (ii) the recovery of overpayments or improper payments to the contractors of the Water Commissions of the Federated States of Mexico.

The profitability analysis will provide financial information to the Water Commissions of the Federated States of Mexico on its profit-generating capacity or the avoidance of losses from resources provided by the Federation through the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU), relating the performance to the agency's assets, capital, or annual budget (considering not only its own resources but also those received from federal or state programs), resources obtained from the provision of paid public services, or investments, offering an evaluation of the decentralized public agency's economic results.

B. Operational Risk Dashboard. Likewise, the Operational Risk Dashboard tool will be used to monitor the control processes of: (i) the execution and therefore progress of works awarded to contractors of the Water Commissions of the Federated States of Mexico, which entails the authorization of extraordinary prices (regardless of whether the works are developed with own resources or obtained from mixed or concurrent programs such as the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), and (ii) accountability, particularly when it comes to following up on observations arising from audit reports carried out by the Ministry of Public Administration with a specific focus on the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), and in this way present and adopt timely decisions.

C). Matrix of Indicators for Results (MIR). This tool aims to design the project planning by synthetically identifying its objectives, integrating the expected results indicators and configuring the management by virtue of which it will be feasible to measure the fulfillment of such objectives, placing emphasis on the means to obtain and corroborate the information inherent to the indicators, and including the potential risks and contingencies that could affect the project's performance. It is worth remembering the existence of General Guidelines for the Evaluation of Federal Programs of the Federal Public Administration, mainly used by the National Council for the Evaluation of Social Policy (CONEVAL).

It is precisely through the Matrix of Indicators for Results (MIR) that it is possible to identify as the project objective the fulfillment of the collaboration agreement and technical annex signed between SEMARNAT (CONAGUA) and the Water Commissions of the Federated States of Mexico, as well as the regulatory provisions contained in (i) the Law on Acquisitions, Leases and Services of the Public Sector; (ii) Fiscal Coordination Law; (iii) Law on Public Works and Related Services; (iv) Federal Budget and Fiscal Responsibility Law; (v) Federal Law on Transparency and Access to Public Information; (vi) General Law on

Administrative Responsibilities; (vii) Federal Penal Code, and (viii) the Audit Guidelines for the Review of Federalized Funds and Programs.

Consequently, the purpose of the project with this tool is identified as avoiding the statute of limitations for the administrative and criminal liabilities of public servants and private contractors, arising from the considerable number of follow-ups to the observations of the audit report carried out by the Ministry of Public Function and inherent to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU) in accordance with the agreement and technical annex signed between the Ministry of Environment and Natural Resources (through the National Water Commission) and the Water Commissions of the Federated States of Mexico which leads to neglecting the start of the calculation of the prescriptive term and the consequent loss of assets due to the impossibility of recovering undue payments and overpaid payments.

This tool also establishes, as component number one, an update to the Audit Guidelines for the Review of Federalized Funds and Programs, as well as an amendment to the General Law on Administrative Responsibilities and the Federal Criminal Code to specify the start date for calculating the statute of limitations for administrative and criminal liability, specifying whether or not it is permissible to provide more than one follow-up to the observations established in the audit report conducted by the Ministry of Public Administration.

This mechanism also allows for establishing as an activity corresponding to the aforementioned component number 1 one, that of having an update of the Audit Guidelines for the Review of Federalized Funds and Programs, as well as reforming the General Law of Administrative Responsibilities and the Federal Penal Code in order to specify the start date of the calculation of the term of prescription of administrative and criminal responsibility, specifying whether or not it is admissible to foresee more than one follow-up to the observations established in the Audit Report carried out by the Secretariat of Public Function.

This tool also facilitates the determination of component number 22, which harmonizes the Audit Guidelines for the Review of Federalized Funds and Programs with respect to the regulatory provisions applicable to the area of administrative and criminal liability of public servants and private contractors, to provide consistency in determining the start of the calculation of the statute of limitations for liability.

In line with component number 22, this tool facilitates the delineation of activity number 11, consisting of the design and execution of a permanent follow-up plan for the audit procedures developed by the Ministry of Public Administration, with the aim of avoiding the statute of limitations for the administrative and criminal liabilities of public servants and private contractors, and the resulting financial losses for public entities.

Finally, the tool in question also facilitates the outlining of activity number 2 two corresponding to the aforementioned component number 2 two, which consists of establishing the grounds and reasons for which it would be necessary to decide between: (i) making adjustments to the audit guidelines as well as to the regulations on administrative and criminal responsibilities in order to justify the practice of more than one follow-up to the observations contained in the audit reports made by the Secretariat of Public Function and consequently legitimize the suspension of the period for the start of the calculation of the prescription of such responsibilities, which may only begin once the audit procedure is determined to be completely closed, or (ii) clearly establish, through the relevant regulatory adjustments, that the calculation of the start of the statute of limitations is from the date of the commission of the irregular and criminal conduct, since these are infractions and crimes of instant execution, which will make it necessary to avoid a considerable number of follow-ups to the observations contained in the audit reports, since it is precisely the excessive follow-ups that have allowed the prescription of the administrative and criminal liability of public servants and private contractors.

D. Problem Tree. Using the Problem Tree tool, the following are identified: (i) the central problem (represented by the tree trunk); (ii) the significant causes of the problem at hand (located at the tree's roots), and (iii) the effects produced directly and indirectly by the causes (located in the tree's foliage).

Thus, this tool identifies: (i) the central problem: the statute of limitations for administrative and criminal liability of public servants and contractors executing public works with funds from the APAZU program; (ii) the regulatory inaccuracy regarding the start date for calculating the statute of limitations for administrative and criminal liability of public servants and contractors, when audits allow for more than one follow-up to observations; (iii) as Cause 2 the Regulatory Inaccuracy that allows determining whether we are facing an infraction or crime of instantaneous or continuous exhaustion, since the start of the calculation of the administrative and criminal prescription period depends on it; (iv) as Effect 1 the Loss of credibility in public institutions; (v) as Effect 2 the Financial Loss of public entities, and (vi) as Effect 3 the Impunity of public servants and private offenders.

E. SWOT Analysis. Through the analysis of the Strengths, Weaknesses, Opportunities, and Threats (SWOT) factors, it will be possible to identify these items within the Project, which will facilitate its strategic planning, legitimization, relevance, correction, and continuous improvement to achieve optimal institutional performance.

Instruments for Measuring the Risk of Statute of Limitations for Administrative and Criminal Liability Arising from Audits.

Through this instrument, the following **strengths** of this project are identified: (i) there are results of audits conducted by the Ministry of Public Administration regarding resources from the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU) allocated during the fiscal years 2010 to 2019. These audits contain observations and follow-up reports regarding improper payments or overpayments that have not been settled to date. This situation justifies the need to implement the project in order to avoid the statute of limitations on administrative and criminal liabilities and the corresponding financial losses for public entities; (ii) there are resolutions from the Internal Control Bodies of the Water Commissions of the Federated States of Mexico determining the statute of limitations for the responsibilities of public servants and contractors executing the works authorized in accordance with the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), as well as determinations from the Federal Public Prosecutor's Office that conclude with the non-exercise of criminal action due to the expiration of the respective term, documents that support the urgent need for the implementation of this project, and (iii) the obvious and evident normative imprecision prevents determining whether we are dealing with an administrative infraction or a crime of instantaneous or continuous exhaustion, since the start of the calculation of the administrative and criminal prescription period depends on it, a situation that justifies the update of the Audit Guidelines for the Review of Federalized Funds and Programs, as well as the reform of the General Law of Administrative Responsibilities and the Federal Penal Code through this project in order to specify the start date of the calculation of the prescription term.

The following are established as **opportunities** for this project: (i) it would be possible to comply with the collaboration agreements and technical annexes signed annually between SEMARNAT (CONAGUA) and the Water Commissions of the Federated States of Mexico, as well as the regulatory provisions; (ii) it would be possible to clarify the relevant regulations regarding the start date of the computation of the beginning of the statute of limitations for the administrative and criminal liability of public servants and private contractors, and (iii) it would allow for a permanent follow-up plan for the audit procedures developed by the Ministry of Public Service in order to avoid the statute of limitations for the administrative and criminal liabilities of public servants and private contractors, and the consequent financial loss of public entities.

The **weaknesses** identified with respect to this project are: (i) the slowness of the Executive Branch's processes for issuing agreements to adapt the Audit Guidelines for the Review of Federalized Funds and Programs, as well as the delay in the legislative processes to be able to reform the Federal Penal Code; (ii) inaccuracy in obtaining quantitative data that may be subject to deviation in audit opinions due to the suspension of administrative responsibility procedures under the justification that it is subject to the results of investigations carried out by the Federal Public Prosecutor's Office, even though the procedures are not binding on each other, and (iii) the inaccuracy in predicting the certain date of the effective implementation of the project.

The **threats** that would affect the success of this project are: (i) that even if regulatory adjustments are achieved, these will not be sufficient to avoid the statute of limitations and the consequent loss of assets due to the loss of credibility in public institutions, if they adopt a complacent stance in the follow-up of audit observations; (ii) that the Ministry of Public Administration systematically and without delving into the background of the matter, adopts the criterion of not having public entities resolve the observations in the only follow-up that this project intends to establish as a possibility, and (iii) that the Ministry of Environment and Natural Resources (SEMARNAT) in the budget assigned to the National Water Commission (CONAGUA) reduces the amounts corresponding to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU) and even decides to terminate it.

By using **strengths**, the aim is to take actions that lead to the improvement of weaknesses. The main strengths lie in the obvious permissiveness of the supervisory bodies who, through their passivity, have directly or indirectly favored the prescription of the administrative responsibilities of public servants and contractors, thereby generating a climate of impunity, complemented by the determinations of the public ministry in the sense of not exercising criminal action given that at the date of its complaint it was already prescribed, so it is intended to take advantage of such irrefutable reality to legitimize the speed with which the Federal Executive Branch must give course to the urgent adaptation that the Audit Guidelines for the Review of Federalized Funds and Programs deserve, and for its part, the Legislative Branch must expeditiously attend to the processes required to reform the Federal Penal Code in order to determine once and for all whether the period of time involved in any audit follow-ups, whatever they may be, merits the suspension of the prescription calculation.

Likewise, taking advantage of opportunities will help address threats. Indeed, the opportunity to comply with the collaboration agreements and technical annexes signed annually between SEMARNAT (CONAGUA) and the Water Commissions of the Federated States of Mexico, and the possibility of providing decisive clarity to the regulations regarding the start date of the statute of limitations for the administrative and criminal liability of public servants and private contractors, would eliminate any threat of financial loss and prevent the loss of credibility of public institutions.

F. Multicriteria Analysis. From the point of view of Carlos ROMERO "These are analytical instruments that aim to serve as an aid (prescriptive approach) to decision-making center that have to address decision-making problems" (ROMERO 1996, 5)

Thus, decision-making involves the complicated exercise of identifying what is considered best among the potential decisions within a specific scenario:

> In its most basic dimension, a decision-making process can be conceived as the selection by a decision-making center (an individual or group of individuals) of "the best" among "the possible". Analytical problems arise when defining "the best" and "the possible" in each decision-making context. (ROMERO 1996, 14)

It is important to be aware that during the decision-making process, the potential limitation of available resources must be considered, which will undoubtedly influence the range of decision-making possibilities:

> The traditional approach to addressing these types of issues can be summarized as follows. The existence of limited resources—understanding the term "resource" in a broad sense—generates the problem's constraints. The value of the decision variables that satisfy these constraints constitutes what is known as the feasible or achievable set, which structures and formalizes what is understood as possible. This set can be continuous (i.e., there are infinitely many feasible solutions) or discrete (i.e., there are a finite number of feasible solutions). (ROMERO 1996, 14)

The range of preferences and aspirational desires of the decision-maker exerts an indisputable influence on identifying the best solution:

> Once the possible (feasible set) has been determined, the best solution is determined. To do this, a criterion function is defined that adequately reflects the preferences or desires of the decision-making center. This criterion function, usually called a utility function or value function, monotonically associates a real number with each feasible solution. (ROMERO 1996, 14)

Given the potential possibility that certain variables are not considered in the assessment carried out through cost-benefit or cost-efficiency analysis, multifactor analysis is often used, but these variables are usually grouped into two sets of fundamental variables: (i) **quantitative variables**, and (ii) **qualitative variables**.

Understanding multi-criteria decision analysis depends on a prior understanding of essential concepts such as: (i) **attribute**; (ii) **objective**; (iii) **aspiration level**; (iv) **goal**, and (v) **criterion**.

As for attributes, they are linked to the specific factors on which people will determine their position in a decision-making scenario:

> This concept refers to the values with which the decision-making center approaches a given decision-making problem. For these values to be conceptualized as attributes, they must be measurable independently of the decision-making center's desires and, in turn, capable of being expressed as a function of the corresponding decision variables. (ROMERO 1996, 19-20)

Closely related to the attribute, objectives outline the path to follow in the pursuit of improvement:

> Objectives represent directions for improving the attributes we are considering. Improvement can be interpreted as "more of the best attribute" or "less of the best attribute". The first case corresponds to a maximization process, and the second to a minimization process. (ROMERO 1996, 20)

The aspiration level means the minimum acceptable benchmark for achievement, that is, "An aspiration level represents an acceptable level of achievement for the corresponding attribute". (ROMERO 1996, 20)

It is precisely the harmonious combination of an attribute with a level of aspiration that produces the fulfillment of a goal.

Therefore, the conjunction of attributes, objectives, and goals constitutes the criteria from which a problem is analyzed, and the best possible solution is obtained:

> Thus, criteria are the attributes, objectives, or goals considered relevant to a particular decision-making problem. Therefore, multicriteria decision analysis constitutes a general framework or paradigm within which decision-making problems with different attributes, objectives, or goals are investigated. (ROMERO 1996, 21)

G. Analytic Hierarchy Process (AHP). Among the suggested methodologies for identifying and solving problems using multi-criteria frameworks is the Hierarchical Analysis Process (HAP).

For Thomas L. SAATY and Luis G. VARGAS, the pillars of the Hierarchical Analysis Process are: (i) **Ratio scales, proportionality, and normalized ratio scales**; (ii) **Reciprocal paired comparisons**; (iii) **Sensitivity of the principal right eigenvector**;

(iv) **Homogeneity and clustering**; (v) **Synthesis that can be extended to dependence and feedback**; (vi) **Rank preservation and reversal**, and (vii) **Group judgments**. (SAATY y VARGAS 2012, 1-3)

The Hierarchical Analysis Process is thus based on three guiding principles: (i) the formation of hierarchies; (ii) the determination of priorities, and (iii) logical consistency.

It is precisely through the Hierarchical Analysis Process and the SAATY scale that the following are achieved: (i) the definition of the problem; (ii) the definition of the participants involved in the decision-making process; (iii) the structuring of the decision problem in a hierarchical model; (iv) the selection of feasible alternatives; (v) the construction of the hierarchical model; (vi) the entry of judgments; (vii) the synthesis of results, and (viii) the validation of the decision.

To prevent decisions from being made based on subjective criteria, capriciously, or solely based on the level maintained in the organizational hierarchy, the multi-criteria methodology known as the Hierarchical Analysis Process is suggested. According to Juan Carlos OSORIO, this methodology offers the following advantages:

> Among its main advantages are:
> • It allows for the analysis of the effect of changes at a higher level on those at a lower level.
> • It provides information about the system and allows a panoramic view of the actors, their objectives, and purposes.
> • It allows flexibility to address changes in individual elements without affecting the overall structure. (OSORIO 2008, 248)

The Hierarchical Analysis Process methodology could be applied to this project as follows:

a. Regarding the definition of the problem, the objective is to prevent and, where appropriate, resolve the difficulty involved in determining the statute of limitations for administrative and criminal liability actions against public servants and contractors, resulting from the delay incurred by the permissibility of conducting a considerable series of follow-ups on the observations of the Ministry of Public Administration as a result of audits on the use of resources allocated by the Ministry of Environment and Natural Resources (SEMARNAT) through the National Water Commission (CONAGUA) through the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU). This is since no regulation specifies that such follow-ups suspend the calculation of the statute of limitations and given that these are conducts that are instantly exhausted, the calculation should run from the date the patrimonial benefit is obtained.

b. Regarding the definition of the participants involved in the decision-making process, the following could be considered: the Ministry of Environment and Natural Resources (SEMARNAT) through the National Water Commission (CONAGUA), the Ministry of Public Administration, the Federal Treasury, the Comptroller's Office of the Water Commissions of the Federated States of Mexico, the Internal Control Bodies of the Water Commissions of the Federated States of Mexico, and at the regulatory level, the head of the Federal Executive Branch, the Congress of the Union and the Attorney General's Office.

c. With regard to structuring the decision-making problem in a hierarchical model, it could be asserted that the order of importance would begin with the definition of the type of infraction or crime based on its date of commission, defining whether, despite being of instantaneous exhaustion, the follow-up to the audit observations suspends any computation of prescription; consecutively and defined the above, it would be up to the Congress of the Union to adapt the General Law of Administrative Responsibilities and the Federal Penal Code to this effect, as well as the head of the Federal Executive Branch to adapt the Audit Guidelines for the Review of Federalized Funds and Programs, and finally, the application of said adjustments would be up to the Secretariat of Public Function, the Federal Treasury, the Attorney General's Office of the Republic, the Comptroller's Office of the Federated States of Mexico, and the Internal Control Bodies of the Water Commissions of the Federated States of Mexico.

d. Regarding the selection of feasible alternatives, the first one could consist of maintaining that the infractions and crimes derived from the observations of the audits carried out by the Secretariat of Public Function are of instant exhaustion, and that consequently the prescription calculation must be maintained as it is currently provided for by regulations and proceed immediately to the presentation of the corresponding complaints and the initiation or continuation of the administrative responsibility procedures, with the risk that said actions are already prescribed, which would mean maintaining the climate of impunity and the presence of patrimonial damage to the public treasury, and the second feasible alternative would consist of making the adjustments to consider the administrative and criminal conducts either as permanent or continuous or as continued, which would merit the normative adaptation of the General Law of Administrative Responsibilities and the Federal Penal Code.

Once this is done, the hierarchical model itself would be constructed; the relevant judgments would be entered; the results obtained would be synthesized; and finally, the decision to be adopted would be validated.

H. Leopold Matrix for Environmental Impact Assessment (LUNA B., et al. 1971).- This is a procedure for assessing the environmental impact of a development project and, therefore, for evaluating its ecological costs and benefits, and constitutes an

Environmental Impact Statement (EIS). It should be noted that this analysis does not generate a strictly quantitative result, but rather a series of value judgments intended to ensure that the impacts of the various actions planned for this project will be properly assessed and considered during the project planning stage.

However, it should be noted that the **Environmental Impact Assessment (EIA)** inevitably involves defining two ranges of actions of this project that could have a harmful impact on environmental stability:

a. The magnitude of its impact on specific areas of the environment to determine its impact index, which is measurable based on facts and based on numerical values or given its quantitative characteristics. This is where the full range of values is considered, obviously including economic and ecological ones.

b. The relevance of the actions proposed in this project with respect to the distinctive notes and particular environmental conditions, which is normally weighted from value judgments, so its relevance is eminently qualitative. Both parameters will help to reflect an estimate of the impacts of each action of this project. In this section, the environmental elements and components are detailed, highlighting those aspects that are individualizable or exceptional with the intention of promoting the objective evaluation of those environmental factors likely to be affected by the actions planned in this project, so each and every one of the integrating components of the ecosystem of the environment, zone or region are considered.

The Environmental Impact Statement for this project is comprised of the following fundamental sections: (i) an examination of the need to implement the proposed actions; (ii) a descriptive table of the context in which the actions will be executed; (iii) a discussion of the actions proposed to be carried out for this project, considering the diversity of design alternatives and the methods or approaches to achieve the project objective proposed herein, taking into account that all actions have an impact on the environment, and therefore their magnitude and relevance must be fully indicated; (iv) an evaluation of the environmental impact that the actions to be implemented will have on various components of the environment; (v) the presentation of a summary, and (vii) a series of recommendations, which include the benefits of the actions planned in this project; the reasoning that supports the relevance of the chosen actions, and the planning aimed at meeting the objectives set forth.

3. External and Internal Evaluation. Description of the measurement, feedback, and internal and external evaluation process

The differences between measurement and evaluation must be clarified a priori. For this purpose, we have referred to the opinion expressed on the matter by José CARDONA ANDÚJAR, who specifies the following five: (i) measurement is an absolute value judgment, while evaluation is a relative value judgment; (ii) measurement is a static, non-procedural moment, while evaluation is equivalent to a dynamic procedure; (iii) measurement is subsumed within evaluation, while evaluation subsumes measurement, extending beyond it; (iv) measurement does not imply evaluation, while evaluation implies, among other things, measurement; (v) measurement implies only a means of assessing, while evaluation is the assessment itself, and (vi) measurement is simply the collection of data, while evaluation compares data with expected results. (CARDONA ANDÚJAR 1994, 57)

Thus, given the preeminence of evaluation over measurement, it is appropriate to delve into the very concept of evaluation, and therefore the opinion expressed by Milagros CANO FLORES is deemed appropriate, who asserts that it is a process aimed at making the best decisions from a broad perspective by analyzing events from the point of view of the multiple interactions that characterize them, that is, from a universal vision, given that the purposes of evaluation are susceptible to classification into three categories: (i) diagnostic evaluation; (ii) formative evaluation, and (iii) summative evaluation:

> In accordance with the definitions presented, it is assumed that evaluation is a decision-oriented process as a distinctive attribute. A holistic view of evaluation is also an attribute of the evaluation process, allowing us to consider the universe of aspects to be evaluated and conceiving evaluation as a set of possible actions, which must be customized for each specific case, based on the situational context, evaluation priorities, and the object of study itself. Another significant attribute is its axiological dimension, as it is an act of contrasting categories referring to action and categories referring to values. (CANO FLORES 2001, 100-102)

Based on the author's assertions, it could be argued that the evaluation stage of the planning process is significant in that it demonstrates the social significance of the objectives set, their evolutionary levels, the effectiveness to be achieved, the effect it will generate, and the efficiency of the planned actions. Consequently, the results gathered during the evaluation process are significant and represent the basis upon which guidelines will be established, policies adopted, and strategies defined to guide institutional work, particularly with regard to resolving and following up on audit observations conducted by the Ministry of Public Administration in programs such as the Potable Water, Sewerage, and Sanitation Program in Urban Areas (APAZU). Therefore, the evaluation is not considered an end, since its actual meaning is evident insofar as it contributes to the transparency of government actions and the use and allocation of public resources by facilitating public accountability.

4. Programming of resources allocated to the execution of the best possible social solution detected because of this research. This is likely to be justified according to the Guidelines for the preparation and presentation of cost and benefit analyses of investment programs and projects published in the Official Gazette of the Federation on December 30, 2013. According to the characteristics of the project to be developed, the requirements of the **Simplified Cost Benefit Analysis** must be met, which is defined as:

> The simplified cost-benefit analysis will consist of a socioeconomic assessment at the profile level and must contain the same elements and sections described in Section 14 of these Guidelines.
> The information used for the profile-level assessment must be verifiable and include its sources in the bibliography section. (Cámara de Diputados 2013)

This mechanism is appropriate for implementing the best possible social solution identified as a result of this research, as it fits within the hypotheses set forth in the Guidelines, according to the following specifications:

9. The simplified cost-benefit analysis will be applied in the following cases:

(i) Economic, social, government, real estate, and other infrastructure projects with a total investment of more than 50 million pesos and up to 500 million pesos.

(ii) Procurement and maintenance programs with a total investment of more than 150 million pesos and up to 500 million pesos.

(iii) Civil protection procurement and maintenance programs with a total investment of more than 150 million pesos and up to 500 million pesos.

(iv) The investment programs referred to in Section VII of Section 3 of these Guidelines, with a total investment of more than 50 million pesos and up to 500 million pesos. (Cámara de Diputados 2013)

Consequently, the simplified cost-benefit analysis inherent in implementing the best possible social solution identified as a result of this research will contain the aspects identified in section 14 of the aforementioned Guidelines, summarized as follows: (i) **executive summary**; (ii) **current project status**; (iii) **status without the project**; (iv) **status with the project**; (v) **project evaluation**; (vi) **conclusions** and **recommendations**; (vii) **annexes**, and (viii) the **bibliography** used.

However, the benefits of implementing the best possible social solution identified because of this research may not be quantifiable or may be difficult to quantify. Therefore, the simplified cost-effectiveness analysis methodology would be used, which is defined as follows:

15. The simplified cost-effectiveness analysis will consist of a socioeconomic evaluation at the profile level and must contain the same elements described in Section 14 of these Guidelines.

16. The simplified cost-effectiveness analysis will be applied in the following cases:

(i) Economic, social, governmental, real estate, and other infrastructure projects with a total investment amount of more than 50 million pesos and up to 500 million pesos, and whose benefits are unquantifiable or difficult to quantify.

(ii) Procurement programs, including civil protection programs, with a total investment amount exceeding 150 million pesos and up to 500 million pesos, and whose benefits are unquantifiable or difficult to quantify.

(iii) Maintenance programs, including civil protection programs, with a total investment amount exceeding 150 million pesos and up to 500 million pesos, and whose benefits are unquantifiable or difficult to quantify.

(iv) The investment programs referred to in section vii of paragraph 3 of these Guidelines, with a total investment amount exceeding 50 million pesos and up to 500 million pesos, and whose benefits are unquantifiable or difficult to quantify. (Cámara de Diputados 2013)

Having clarified the above, the simplified cost-benefit study is carried out as follows:

A. Estimate the quantitative benefits that would be obtained with the successful results of implementing the best possible social solution identified because of this investigation:

1. If the implementation of the best possible social solution identified as a result of this investigation prevents the establishment of the statute of limitations for the administrative and criminal liabilities of public servants and public works contractors, this will prevent the financial losses to the public treasury of the Federation and the Federated States of Mexico for each year (which must be returned to the Federal Treasury plus the corresponding interest), with the understanding that the latest audits of the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), which determined observations of non-compliance due to improper payments or overpayments, correspond to resources allocated from fiscal year 2010 to fiscal year 2018.

The following summary tables (which were created by the undersigned) provide a schematic description of the data required to calculate the following by fiscal year: (i) the direct benefits that would be generated by the investment required to implement the best possible social solution identified as a result of this research; (ii) expenses; (iii) direct effects; (iv) indirect effects; (v) risks, and (vi) externalities.

DIRECT BENEFITS (in millions of Mexican pesos)													
CONCEPTS TO OPTIMIZE	**2010**	**20111**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2022**	**2021**	**2022**	**SUBTOTALS**
Asset losses to avoid:														
Interests adjustable according to the INPC														
Salaries and benefits of auditors, Secretariat of Public Service:														
Salaries and benefits of CEAJ public servants who handle audit follow-ups.														
Salaries and benefits of Public Prosecutors, Secretary and Actuary of the Attorney General's Office.														
Federal Court of Administrative Justice, which hears nullity proceedings for serious administrative misconduct by public servants.														
TOTAL:														

EXPENSES **(MONTH AND YEAR)** (in millions of Mexican pesos)					
CONCEPTS	**JAN**	**FEB**	**MARCH**	**APR**	**SUBTOTALS**
Computer Equipment:					
Stationery:					
Consumables:					
Electricity:					
Transport:					
Parking lot:					
Present Value of Costs (PV) or Present Discounted Value (PDV).					
Net Present Value (NPV). The difference between the cost and value of a project, considering the flows of benefits and costs that occur over time; the optimal size of a project can be determined by comparing this indicator.					
The **Net Present Value (NPV)** of a project is the sum of the project's future net benefits discounted to a current year at a relevant discount rate. In the case of a private valuation, the market rate will be considered.					
Annual Equivalent Value (AEC) or **Equivalent Annual Cost (EAC).** The Annual Equivalent Cost (AEC) is used to select between project alternatives with different useful lives. The difference between NPV and AEC is that the former considers the costs and benefits generated by the project, while AEC only considers the costs.					
Internal Rate of Return (IRR). Equivalent to the					

maximum discount rate a project could have to be profitable. It is the maximum rate the project would bear to be profitable. Any discount rate greater than the IRR would result in a negative NPV for the project, and therefore, the project should be rejected. Any discount rate lower than the IRR will guarantee a positive return for the project, and therefore, it is advisable to undertake it.					
Instant Rate of Return. The Instant Rate of Return indicates the optimal time to start operating an investment project.					
Payback Period (PBP).- The PBP criterion aims to identify the point at which the investor will be able to recover the investment made at the start of the project. There are two approaches to using the method: one that considers the present value of the cash flows for its determination, and the other that considers the nominal cash flows of the project.					
TOTAL:					

DIRECT EFFECTS (Those considered in a common financial evaluation and that are part of the market for the good or service targeted by the project).	
1.-	Public servants would use the time spent so far monitoring audits to address other priority objectives.
2.-	This would prevent financial losses to federal public entities (Federal Treasury, National Water Commission, and the Water Commissions of the Federated States of Mexico).
3.-	
4.-	

Instruments for Measuring the Risk of Statute of Limitations for Administrative and Criminal Liability Arising from Audits.

INDIRECT EFFECTS (arising from "substitution effects")	
1.-	
2.-	
3.-	
4.-	

RISKS	
1.- Economic risk.	
2.- Financial risk.	
3.- Market risk.	
4.- Technical risk.	
5.- Environmental risk.	
6.- Reputational risk.	
7.- Technological risk.	
8.- Exchange risk.	
9.- Legal risk.	
10.- Organizational risk.	

EXTERNALITIES	
1.-	As a positive externality, public servants would use the time spent so far monitoring audits to address other priority objectives.
2.-	
3.-	
4.-	

VI. CONCLUSIONS

First: Technical Specifications. This project was developed based on specifications contained in regulatory texts that have been considered the minimum requirements applicable to the subject matter of the project. These specifications are satisfied during project implementation, thereby granting it seriousness and viability.

Thus, these specifications are supported by the following regulatory provisions: (i) General Law of Administrative Responsibilities; (ii) Federal Penal Code; (iii) Audit Guidelines for the Review of Federalized Funds and Programs, and (iv) Operating Rules of the Drinking Water, Sewerage, and Sanitation Program in Urban Areas (APAZU).

The project's technical specifications were consistent with the execution of actions based on indicators established in the tools considered relevant, considering that they reflect the best possible social solution to the problem at hand. These were: (i) Financial Profitability Analysis; (ii) Operational Risk Control Panel; (iii) Results Indicator Matrix (MIR); (iv) Problem Tree; (v) SWOT Analysis; (vi) Multicriteria Analysis, and (vii) Analytic Hierarchy Process (AHP) through the SAATY Scale.

As a result of the implementation of these instruments, the relevance of the project was justified as a mechanism for resolving the problem posed in all its dimensions and, consequently, its usefulness in fulfilling its general objective was demonstrated: to avoid: (i) the endless and prolonged follow-up of audits carried out by the Secretariat of Public Function; (ii) the prescription of administrative responsibility procedures and/or the exercise of criminal action that lead to public entities suffering a patrimonial loss as a result of excessive or improper payments made to contractors, and (iii) the consequent climate of impunity for public servants and contractors.

2. Second: Project sizing and scope. This project met the goal of analyzing, understanding, and resolving the problem at hand and its various implications, primarily legal, political, economic, social, and cultural.

The legal approach of this project played a relevant role in designing measures aimed at preventing the configuration of the prescription of the administrative responsibility of public servants and private contractors, as well as those of a criminal nature, since with the Operational Risk Control Board the best legally admissible alternatives were identified: (i) the normative provision of the suspension of the terms of its computation for a reasonably sufficient time to carry out whatever follow-up is required to address both preventively and correctively the observations expressed in the audit reports of the Secretariat of Public Function (with the consequent implications of lack of definition, uncertainty and even deterioration of the institutional image), or (ii) that the Secretariat of Public Function would only provide one opportunity for the public entity subject to audit to provide the necessary elements to refute or satisfy both preventive and corrective observations.

Through a policy-based study and the development of the Results Indicator Matrix (MIR) and the Analytic Hierarchy Process (AHP), the project determined that, despite the existence of a National Anti-Corruption System, insufficient public policies exist to inhibit conduct considered serious or non-serious misconduct, as well as criminal offenses committed by both public servants and private individuals. This creates a state of impunity, necessitating the implementation of actions aimed at its prevention and, where appropriate, effective sanctions.

The examination, conducted within an economic context through Financial Profitability Analysis and SWOT Analysis, is carried out. and the Simplified Cost Benefit Study revealed the lack of timely definition regarding the attribution of responsibilities, both administrative and criminal, which leads to a delay in the recovery of expenditures observed in the audits of the Secretariat of Public Function as improper or overpaid, which in turn generates an imbalance in public finances, where it would be desirable to avoid this type of expenditures.

With this project and particularly with the Multicriteria Analysis tool, the social perception of the exercise of public function (and particularly in the contracting of public works and services related to them) was known, prevailing a climate of dishonesty, both with regard to public bidding procedures (due to the abuse of direct awards) and to the supervision of progress of works (given the validation of improper payments or approval of overpayments by the corresponding supervisor, since curiously and despite the previous existence of a works project, there will always be extraordinary prices to be paid), which corroborates that the public service reflects an image of impunity, which invites citizens to benefit from the situation rather than worrying about avoiding it.

From a cultural perspective and based on a Multicriteria Analysis, it was possible to confirm that the culture of ethics, transparency, and accountability is a challenge that remains to be overcome by public servants and individuals participating in public bidding processes. Despite the existence of codes of conduct and a comprehensive legal framework for sanctions, risk prevention will always be more effective through a cultural approach that raises awareness of the seriousness of conduct and the advantages of conducting oneself correctly.

As a preliminary conclusion, it could be stated that this project is based on purely factual and therefore realistic situations, thus ruling out any trace of utopian pretensions.

Third: Comprehensiveness. This project is fully aligned with the 2019-2024 National Development Plan, published in the Official Gazette of the Federation on July 12, 2019, particularly with Axis 1: Politics and Government, and the action to eradicate corruption, waste, and frivolity.

Likewise, this project is aligned with the Federated States of Mexico Development Plan, specifically with Axis 1: Citizen Security, Justice, and the Rule of Law, and the Governance Objective: Promote peace under the concept of citizen security through the effective coordination and collaboration of citizen security, law enforcement, and justice delivery systems, generating social and democratic stability as a foundation for building a freer society in which human rights are protected and observed, inclusive economic growth is facilitated, and the environment is protected.

It is also aligned with Axis 5: Effective Government and Public Integrity (referring to the functioning of the government apparatus responsible for public management. It includes efforts to improve the effectiveness and efficiency of public institutions, the full use of available material and human resources, and integrity in public administration), and the Governance Objective of achieving the results established in the State Governance and Development Plan with efficiency, integrity, and transparency, incorporating citizen participation processes, civil service professionalization, innovation, internal control, monitoring, and evaluation.

Fourth: Financing. The execution of the actions planned within the framework of the best possible social solution is eligible for financing through the National Strategic Programs (PRONACES) that the National Council of Humanities, Sciences and Technologies (CONAHCYT) has planned as a Fiscal Incentive for Research and Development of Technology, particularly in the thematic axis of Water and inherent to the items of Strengthening of local and community institutions for water management and Technical, organizational and cultural alternatives for water saving.

Additionally, the implementation of the best possible social solution could be eligible for support through the World Bank, since the Public Sector Management area provides funding for areas such as: (i) Public Finance Management (Public Expenditure Management, Internal Revenue Management), and (ii) Public Administration (Transparency, Accountability and Good Governance, Public Goods, and Investment Management).

Finally, the best possible social solution is also eligible for funding through the State Council for Science and Technology, through the Call for Proposals for the Innovation Programs, in accordance with the Operating Rules for the "Management of Funds and Support Programs for Science, Technology, and Innovation", Fiscal Year 2022, and the Terms of Reference.

Fifth: Functionality. With the execution of this project, its applicability was demonstrated at the factual level, not only in the resolution but also in the prevention of the problems detected and dimensioned in this document, since its implementation is within the scope of feasibility due to the adoption of regulatory reforms within the H. Congress of the Union or guidelines produced by the Federal Executive Branch.

Sixth: Compliance with pre-assessments. To assess the feasibility of implementing the best possible social solution, the requirements established in the following pre-assessment tools were met:

(i) Financial Profitability Analysis (the result of which determined the reliability of the best possible social solution, by enhancing the generation of financial profitability by optimizing resources not only allocated to the audit itself but also derived from avoiding financial losses if the audit follow-ups were carried out in such a way as to avoid the establishment of the statute of limitations for administrative and criminal liability);

(ii) Operational Risk Control Panel (since with the application of the methodology provided for the execution of the best possible social solution, the identification, analysis, assessment and definition of actions were achieved to address and reduce the risks to which the Water Commissions of the Federated States of Mexico are exposed in terms of auditing regarding the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU), and its follow-ups, which made it possible to focus on the measures to be implemented to ensure compliance with the objectives, goals and the legal framework applicable in that area);

(iii) By applying the **Matrix of Indicators for Results (MIR),** it was possible to determine the degree of compliance with the collaboration agreement and technical annex signed between SEMARNAT (CONAGUA) and the Federated States of Mexico, as well as the regulatory provisions contained in the Law on Acquisitions, Leases and Services of the Public Sector; the Fiscal Coordination Law; the Law on Public Works and Related Services; the Federal Law on Budget and Fiscal Responsibility; the Federal Law on Transparency and Access to Public Information; the General Law on Administrative Responsibilities; the Federal Penal Code; and the Audit Guidelines for the Review of Federalized Funds and Programs, and likewise allowed the identification of measures to avoid the prescription of administrative and criminal liabilities of public servants and private contractors, derived from the considerable number of follow-ups to the observations of the audit report carried out by the Secretariat of Public Function and inherent to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU).

(iv) The configuration of the **Problem Tree** allowed the identification of the Statute of Limitations for the administrative and criminal liabilities of public servants and contractors executing public works with resources from the APAZU program as the central problem. It also determined the Regulatory Inaccuracy of the start date of the calculation of the statute of limitations for the administrative and criminal liability of public servants and contractors, when audits admit more than one follow-up to the observations, as the first cause of the problem. Similarly, it led to the establishment that Regulatory Inaccuracy (which prevents determining whether we are facing an infraction or crime of instant or continuous exhaustion, since the start of the calculation of the administrative and criminal statute of limitations depends on it) is the second cause of the formulated problem. As far as the effects are concerned, this tool identified the Loss of credibility in public institutions as Effect number 1 one; to the loss of assets of public entities as Effect number 2 two, and to the impunity of public servants and private offenders as Effect number 3 three.

(v) The most relevant aspects of the **SWOT** analysis carried out for this project relate to the identification of threats to the success of the best possible social solution, and lie in: that even if regulatory adjustments are achieved, these are not sufficient to avoid the statute of limitations and the consequent loss of assets due to the loss of credibility in public institutions, if they adopt a complacent stance in the follow-up of audit observations; that the Secretariat of Public Function systematically and without delving into the background of the matter, adopts the criterion of not having public entities resolve the observations in the only follow-up that this project intends to establish as a possibility; and that the Secretariat of Environment and Natural Resources

(SEMARNAT) in the budget assigned to the National Water Commission (CONAGUA) reduces the amounts corresponding to the Potable Water, Sewerage and Sanitation Program in Urban Areas (APAZU) and even decides to terminate it.

(vi) Regarding the **Multicriteria Analysis**, and particularly with the implementation of the **Analytic Hierarchy Process (AHP)** methodology through the **SAATY Scale**, it helped to structure the decision-making problem based on a hierarchy model. It also made it possible to establish two feasible solution alternatives: (i) to maintain that the infractions and crimes derived from the audit observations are of instant exhaustion and to proceed immediately to the presentation of the corresponding complaints, or (ii) to make the adjustments to consider the administrative and criminal conduct as either permanent or continuous or as ongoing, which would merit the regulatory adaptation of the General Law on Administrative Responsibilities and the Federal Penal Code.

(vii) Regarding the **budget** for the implementation of the best possible social solution, its feasibility is confirmed by the results of the simplified cost-benefit analysis by comparing the data generated in the executive summary prepared; the current status of the project; the situation without the project; the situation with the project; and the project evaluation, which can be verified by reviewing the conclusions and recommendations, all of which are corroborated by the annexes and the bibliography used in its preparation.

The only drawback identified through the instruments employed that could arise if the measure consisting of the legislative reform aimed at justifying the suspension of the statute of limitations for the administrative and criminal liability of the public servants and contractors involved were to be implemented, would be the delay in the development of the legislative process that would have to be carried out to reform the General Law on Administrative Responsibilities and the Federal Penal Code in this regard.

Seventh: Solution to the problem posed. Given that this was an eminently exploratory project, with the results obtained from the implementation of the tools chosen and considered relevant, the solution to the identified problem was achieved and is channeled from the basis of the implementation of the reforms leading to the General Law of Administrative Responsibilities, the Federal Penal Code and the Penal Codes of the different federal entities, as well as the Audit Guidelines for the Review of Federalized Funds and Programs, so that the audit results must be carried out within a short period of time from its practice (within a margin of reasonableness and depending on the degree of difficulty of its development), and that it should not include more than one follow-up to its observations and in any case must be carried out within a short period of time (estimating that 15 fifteen business days will suffice) at most, so that administrative infractions and the commission of crimes in this matter must be considered exhaustive or instantaneous.

With this possible social and regulatory solution, impunity will be avoided for public servants and individuals who incur in administrative offenses and/or commit crimes, facing an inevitable and even predictive prescription of responsibility and the consequent modification of the social perception of impunity.

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