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## **Decree 3,100, of June 30<sup>th</sup>, 1999 – qualification of a Civil Society Organization of Public Interest**

Art.1.The request for qualification as a Civil Society Organization of Public Interest addressed by the non-profit private legal entity meeting the requirements of arts. 1, 2, 3 and 4 of Law 9,790, of March 23<sup>th</sup> 1999, to the Ministry of Justice through the completion and submission of a written application and certified copies of the following documents:

- I – statutes filed before the Public Registry;
- II - minutes of the election of its current directors;
- III - balance sheet and income statement for the year;
- IV - declaration of exemption from income tax; and
- V – enrollment with the General Taxpayers Registry/National Registry for Legal Entities (CGC/CNPJ)

Art. 2. The person responsible for issuing the qualification should verify the adequacy of the documents cited in the previous article with the provisions of arts. 2, 3 and 4 of Law 9,790/99, observing the following:

- I - if the entity purposes integrate the list referred to in art. 3 of that law;
- II - if the entity is excluded from the qualification, according to art. 2nd of that law;
- III - if its statutes meet the requirements of art. 4 of that law;
- IV – in the directors’ minutes of election, if who is seeking the qualification is the competent authority;
- V – if it the balance sheet and income statement for the year were presented;
- VI - if the entity has submitted a declaration of exemption from income tax to the Federal Revenue of Brazil; and
- VII – if the CGC/CNPJ was presented.

Art. 3. The Ministry of Justice, after receiving the application, will have thirty days to approve or not the request for qualification and this act will be published in the Federal Official Gazette no later than fifteen days after the decision.

§1 In case of acceptance, the Ministry of Justice will issue within fifteen days of the decision the applicant’s certificate of Civil Society Organization of Public Interest.

§2 The publication of the refusal shall contain the reasons why the request was denegated.

§3 The non-profit legal entity having its request rejected may submit it again at any time.

Art. 4. Every citizen, being forbidden the anonymity and respected the prerogatives of the Public Ministry, since bolstered by evidence of fraud or mistake is a legitimate party to request judicially or administratively the cancelation of the qualification of Civil Society Organization of Public Interest.

Sole Paragraph. The qualification’s cancelation will be given upon decision within administrative proceedings initiated by the Ministry of Justice, *ex officio* or upon request by the interested party or in a judicial proceedings of popular initiative or from the Public Ministry, subject to the right to adversary system and full defense.

Art. 5. Any change of purpose or operation regimen of the organization implying a change of the conditions that supported its qualification should be reported to the Ministry of Justice, with a justification, under the penalty of cancelling the qualification.

Art. 6. For the purposes of art. 3 of Law in 9,790/99 it is understood as:

I – Social Assistance the development of activities provided in art. 3 of the Organic Law of Social Assistance;

II - free promotion of health and education the provision of these services by a Civil Society Organization of Public Interest, funded through its own resources.

§1 It is not considered own resources those deriving from chargings of services of any individual or legal entity, or obtained in virtue of any transfer or compulsory collection.

§2 The provision of services conditioned to the receiving of a donation, contribution, or equivalent cannot be considered as free promotion of the service.

Art. 7. It is understood as personal advantages or benefits, under item II of art. 4 of Law 9,790/99, those obtained:

I - by directors of the entity and their spouses, partners and collateral relatives to the third degree;

II - by legal entities having the persons above mentioned as controllers or holders of more than ten percent of its shares.

Art. 8. It will be signed between the Government and the entities classified as Civil Society Organizations of Public Interest a Partnership Agreement for establishing cooperation ties between the parties, for the fomentation and implementation of activities of public interest provided for in art. 3 of Law 9,790/99.

Sole Paragraph. The state body will execute the Partnership Agreement following its own standard model, which contains the rights, liabilities and obligations of the parties and the essential provisions described in art. 10, §2, of Law 9,790/99.

Art. 9. The state body in charge of execution the Partnership Agreement will previously verify the organization's proper operation.

Art. 10. For the purposes of the assessment referred to in art. 10, §1, of Law in 9,790/99, the standard model referred in art. 10, should be completed and forwarded to the competent Council of Public Policy.

§1 The opinion of the Council of Public Policy will be considered for the final decision making regarding the Partnership Agreement.

§2 If case there is no Council of Public Policy at the corresponding area of operation, the state body partner is released from the assessment, being not allowed the replacement by another Council.

§3 The Council of Public Policy will have thirty days as of the date of receiving the consultation, to give its opinion about the Partnership Agreement, being the state body ultimately in charge of the final decision on the execution of the respective Partnership Agreement.

§4 The extract of the Partnership Agreement, in accordance with the model in Annex I of this Decree, shall be published by the state body partner in the Federal Official Gazette within fifteen days after its execution.

Art. 11. For the purpose of art. 4, section VII, "c" and "d" of Law in 9,790/99, it is understood as rendering of accounts the proof of the correct application of the funds transferred to the Civil Society Organization of Public Interest.

§1 The annual rendering of accounts will be performed over the totality of the patrimonial transactions and results of the Civil Society Organizations of Public Interest.

§2 The rendering of accounts will include the following documents:

I - annual report on the activities execution;

II - the income statement for the year;

III - balance sheet;

IV - statement of origin and investment of funds;

V - statement on social patrimony changes;

VI – clarifying notes to the financial statements, if necessary;

VII – technical opinion and audit report according to art. 20 of this Decree, where applicable.

Art. 12. For the purposes of §2, item V, of art. 10 of Law 9,790/99, it is understood as rendering of accounts regarding the Partnership Agreement implementation the probation to the state body partner, of the correct application of public resources received and fulfillment of the Partnership Agreement object, upon the presentation of the following documents:

I - Report on the implementation of the Partnership Agreement object, containing a comparison between the aimed goals and the results achieved;

II – a full statement of income and expenditure incurred during the implementation;

III – technical opinion and audit report, as provided in art. 20; and

IV - delivery of the extract of the physical and financial execution as provided in art. 19.

Art. 13. The Partnership Agreement may be entered into for a period superior than the fiscal year.

§1 If the Partnership Agreement term expires without the total accomplishment of its object by the partner body or in case of surplus funds available with the Civil Society Organization of Public Interest, that term may be extended.

§2 The expenditures under the Partnership Agreement and held during the whole period, as from the original date of termination and the formalization of a new ending date, will be considered as legitimate since covered by the correspondent pawn.

Art. 14. The release of financial resources necessary to implement the Partnership Agreement shall be made in a special bank account, to be opened in a bank appointed by the state body partner.

Art. 15. The release of funds for the implementation of the Partnership Agreement will be done according to the correspondent schedule, unless authorized the release in a single installment.

Art. 16. The existence of one or more Partnership Agreement even with the same state body is possible, according to the operational capacity of the Civil Society Organization of Public Interest.

Art. 17. The monitoring and supervision by the Council of Public Policy referred to in art. 11 of Law 9,790/99 shall not introduce or induce modifications on the obligations established in the Partnership Agreement entered into.

§1 Eventual recommendations or suggestions from the Council on the Partnership Agreements monitoring should be sent to the state body partner, for the adoption of measures rendered applicable.

§2 The state body partner will inform the Council about their monitoring activities.

Art. 18. The extract of physical and financial execution referred to in art. 10, §2, section VI of Law 9,790/99, shall be completed by the Civil Society Organization of Public Interest and published in the Official Gazette from the area covered by the project within sixty days after the end of each financial year, according to the model referred to in Annex II of this Decree.

Art. 19. The Civil Society Organization of Public Interest should conduct an independent audit on the investment of resources from the Partnership Agreement, according to item "c", section VII, art. 4 of Law 9,790/99, when the amount of resources is higher than or equal to R\$ 600,000.00 (six hundred thousand reais).

§1 The provisions of the caput are also applicable when the Civil Society Organization of Public Interest celebrates concurrently several Partnership Agreements with one or several state body partners, which the sum exceeds that value.

§2 The independent audit should be conducted by a person or legal entity authorized by the Regional Councils of Accountancy.

§3 The expenditures regarding the independent audit services should be included in the project budget as an expense.

§4 For the hypothesis referred to in §1, addendum might be entered into, for the purposes of the preceding paragraph.

Art. 20. The evaluation Committee referred to in art. 11, §1 of Law in 9,790/99 should be composed of two members of the Executive Branch, one from the Civil Society Organization of Public Interest and one member appointed by the Council of Public Policy of the corresponding field of activity, if there is any.

Sole Paragraph. The Committee shall be responsible for monitoring the implementation of the Partnership Agreement.

Art. 21. The Civil Society Organization of Public Interest shall publish in the Official Gazette of the Union State or Municipality within thirty days as of the execution of the Partnership Agreement the regulation referred to in art. 14 of Law 9,790/99 forwarding a copy for the state body partner acknowledgement.

Art. 22. For the purposes of arts. 12 and 13 of Law 9,790/99, the Civil Society Organization of Public Interest shall appoint for each Partnership Agreement at least one director who will be responsible for the proper administration of the funds received.

Sole Paragraph. The name of the managers or directors nominated will be published in the extract of the Partnership Agreement.

Art. 23. The selection of the Civil Society Organization of Public Interest for entering into a Partnership Agreement may occur through the publication, by state body partner, of a contest announcement for projects, to obtain goods and services and to carry out activities, events, consulting, technical cooperation and advice.

Sole Paragraph. Once the selection process is initiated through the contest, it is forbidden to the government to enter into a Partnership Agreement with a similar object, outside the initiated contest.

Art. 24. For the implementation of the contest, the state body partner should prepare with clarity, objectivity and detailing, the technical specification of the good, project, construction or service to be accomplished through the Partnership Agreement.

Art. 25. The contest announcement should contain at least information on:

- I - terms, conditions and manner of submission of proposals;
- II- technical specifications of Partnership Agreement object;
- III - criteria for selection and judgment of proposals;
- IV - dates for presentation of proposals;
- V – place for presentation of proposals;
- VI - the dates of judgment and expected date of conclusion of the Partnership Agreement; and
- VII – the maximum amount to be disbursed.

Art. 26. The Civil Society Organization of Public Interest shall submit its technical project and detailing costs for its implementation to the state body partner.

Art. 27. For the selection and judgment of the projects it will be considered:

- I- the intrinsic merit and adequacy to the contest announcement;
- II - the technical and operational capacity of the candidate;
- III - the adequacy of means suggested, their costs, schedules and results;
- IV - the proposal adjustment to the technical specifications;
- V - the legal and institutional regularity of the Civil Society Organization of Public Interest; and
- VI - the analysis of the documents referred to in art. 12, §2 of this Decree.

Art. 28. Obeying the principles of the public administration are unacceptable as criterion for selection, disqualification or punctuation:

- I - the place of domicile of the Civil Society Organization of Public Interest or the requirement of work experience of the organization in the domicile of the state body partner;
- II – the obligation of consortium or association with entities based in the locality where the Partnership Agreement shall be entered into;
- III – the amount of contribution or any other benefit offered by the Civil Society Organization of Public Interest.

Art. 29. The judgment will embrace all the proposals of Civil Society Organizations of Public Interest and it will not be accepted as a criterion for judging legal, administrative, technical or operational aspects not established in the contest announcement.

Art. 30. The state body partner shall appoint a judging committee for the contest which will consist of at least one member of the Executive Branch, one specialist on the contest theme and one member of the Council of Public Policy of the competent filed, if there is any.

§1 The work of this committee will not be paid.

§2 The state body shall explain to the judging committee the score regarding each item of the proposal or project and will ensure that the identity of the proposing organization is omitted.

§3 The committee may request the state body partner additional information about the projects.

§4 The committee will classify the proposals of the Civil Society Organizations of Public Interest obeying the criteria established in this Decree and in the contest announcement.

Art. 31. After the final judgment of the proposals the committee will present in the presence of the competitors the results of their work indicating the ones approved.

§1 The state body partner:

I – will not analyze administrative appeals against decisions from the judging committee;

II – will neither be able to cancel or suspend administratively the results of the contest nor enter into other Partnership Agreements with the same object without first concluding the procedure initiated by the contest.

§2 After the public announcement of the contest results the state body partner shall homologate it and it will be immediate the execution of the Partnership Agreements according to order of classification.

Art. 32. The Minister of Justice shall issue an ordinance within fifteen daysas of the publication of this decree regulating the procedures for the qualification.

Art. 33. This Decree shall enter into force upon its publication.