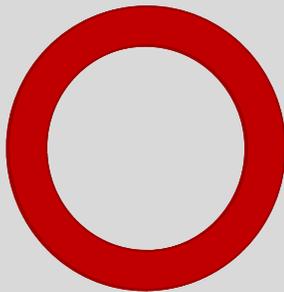




Findings for Selected Public Authorities in Bermuda

Access to Information Legislation
Implementation Assessment Tool (IAT)
The Carter Center



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June 2020

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<https://www.cartercenter.org/peace/ati/index.html>

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Finally, we thank the Information Commissioner’s Office in Bermuda for affording The Carter Center the opportunity to apply the Implementation Assessment Tool. We are hopeful that the findings from the assessment may be used to focus efforts and resources to ensure full and effective implementation, thus advancing the opportunities of the citizens of Bermuda to enjoy the myriad benefits of the right of access to information.

The findings, interpretations, and conclusions expressed herein are those of the authors, and do not necessarily reflect the views of the Government of Bermuda or the Information Commissioner’s Office. The Carter Center remains responsible for any errors or omissions.

Executive Summary

Background

The right of access to information is a powerful tool in the fight against corruption and in achieving good governance and development. It serves both government and its citizens by increasing confidence through enhanced transparency and accountability. It supports government to improve public administration efficiencies and effectiveness and to be more responsive to citizen needs. Moreover, increased information enables citizens to participate more fully in public life, understand policies, and help determine priorities. Citizens also can use information to exercise their fundamental human rights and to hold their government accountable for responding to their needs and providing high-quality service delivery.

While the laws that regulate the right of access to public information have existed for hundreds of years, we saw a significant increase in the number beginning in the mid-1990s, from 19 laws in 1995 to more than 120 in 2020.¹ Rapid increase in the approval of laws on access to public information has been due to a series of factors, including an evolution in the concept of transparency, pressure of international non-governmental organizations and actors, mobilization of civil society, and political transitions.² The emergence of information and communication technologies also has had a significant influence as it amplified the ability to process and share information, thus increasing the availability of information in the hands of citizens and expectations about their rights to access government information.³

Implementation of access to information laws, however, remains critical to meeting these citizen expectations. Notably, in the short term, putting access to information laws into effect may even lead to a decrease in confidence in governments and an increased perception of corruption by citizens, as previously hidden information finally comes to light.⁴ Likewise, unintended consequences, contrary to the spirit of the reforms of access to public information, may appear when such transformations touch interests that struggle to maintain the status quo. Implementation of the laws of right of access to public information often is accompanied by challenges that hinder the realization of the expected benefits. Even some of the oldest and most effective regimes encounter serious obstacles at some point in their implementation. Access to information reforms are generally long-term processes and require time, resources, and political support for their implementation. These institutional reforms go beyond a single administration and are accompanied by a process of profound cultural and social change within the countries. Therefore, it is not unusual that, in the early stages of implementation, as is the case in Bermuda, governments will face challenges in the fine-tuning of processes and procedures, and in their performance, as reflected in the diagnostic tool's findings.

Objectives of the Study

Since 1999, The Carter Center has been a leader on the issue of passage, implementation, enforcement, and use of access to information legislation and regulations. The Center has observed the difficulties that governments face in fully and effectively

¹ RTI Rating, Country Data, <http://www.rti-rating.org/country-data/>

² Dokeniya, Anupama. 2013. *Implementing Right to Information: Lessons from Experience*. World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/16520>

³ Lemieux, Victoria and Stephanie Trapnell. 2016. *Public access to information for development: a guide to effective implementation of right to information laws*. Directions in Development. World Bank Group. Washington, D.C. <http://documents.worldbank.org/curated/en/983941467996646873/Publicaccess-to-information-for-development-a-guide-to-effective-implementation-of-right-to-information-laws>

⁴ Dokeniya, Anupama. 2013.

implementing access to information laws and the negative consequences that a lack of norms and standardized measures for evaluating their efforts has had on progress. The Carter Center hypothesized that without suitable implementation there would not be satisfactory compliance, thus limiting the benefits of the right to information. To advance governments' effective implementation of access to information laws, the Carter Center's Rule of Law Program (previously called the Global Access to Information Program) developed and piloted the access to information legislation Implementation Assessment Tool.

The IAT is the first diagnostic tool of its kind to assess the specific activities/inputs that the public administration has engaged—or in some cases failed to achieve—in furtherance of a well implemented law. It is deliberately designed not to focus on the sufficiency of the legal framework, the user side of the equation, or the overall effectiveness of the access to information regime, instead it looks at the internal “plumbing” of the administration's implementation.

The main objectives of the Implementation Assessment Tool are to:

1. Establish a comprehensive set of access to information implementation benchmarks;
2. Identify the extent (and in some cases the quality) to which a public authority has implemented its law; and
3. Provide a roadmap for improvements, based on the tool's findings.

In addition, the tool and its findings contribute to scholarship on implementation and to the understanding of implementation successes and challenges.

The IAT is not an overall evaluation of the current or previous public administration of Bermuda, but seeks to identify spaces where the implementation of the access to information law can be improved. The objective of the IAT is to analyze each public administrative entity individually, rather than the government in general, with the objective of

providing key stakeholders with the necessary information to easily identify the scope and quality of the law's implementation. The IAT identifies areas where additional emphasis or modified approaches are needed, such that the public authority can overcome the challenges and make positive advances in its implementation efforts. Importantly, the IAT is not intended to be used as a comparison instrument/index with other countries.

In August 2010, Bermuda passed its access to information law, although it did not come into operation until five years later, in 2015. Over the course of those five years, and with the support of the Cabinet Office, public authorities were to develop necessary guidance and tools to make the law operational. Bermuda's public administration has continued efforts to implement and operationalize this relatively new law. Most recently, the Government of Bermuda has proposed to move forward with transparency and accountability reforms, including open data and access to information. Assessments were undertaken and reports prepared with the intent to provide insights into the current state of transparency and access to information and to serve as a roadmap for improvement and progress. In collaboration with the Information Commissioner's Office, The Carter Center was engaged to apply the access to information Implementation Assessment Tool in 13 public authorities:

- Cabinet Office
- Bermuda Hospitals Board
- Bermuda Police Service
- Bermuda Tourism Authority
- The Corporation of St. George
- Department of Child and Family Services
- Department of Education
- Department of Health
- Department of Human Resources
- Department of Immigration
- Department of Public Land and Buildings
- Department of Social Insurance
- Ministry of Finance

Assessment Methodology

The IAT uses a series of indicators to assess the extent to which the public authority is capacitated and prepared to provide information and respond to requests, proactively disclose information, and assure quality records management. The tool is designed as a matrix, with indicators related to government functions/responsibilities on the x-axis and baskets of components/elements, such as leadership, rules, systems, resources, and monitoring on the y-axis.

The indicators engage both quantitative and qualitative assessments of the comprehensiveness and quality of a public authorities' access to information implementation. The IAT uses a "stoplight method" for scoring, including green, yellow, red, and black and white stripes for those rare cases in which the indicator is not applicable. Local experts are engaged to serve as the researcher and blind peer reviewer. The researcher collects data through desk research, on-site visits, and interviews and then inputs it into Indaba, an online software platform that allows The Carter Center to review the data and sources. The data is then examined by a blind-peer reviewer and, subsequently, the preliminary findings are validated through focal group review and, finally, by the public authorities themselves. In addition to quantitative data, narrative reports are drafted that provide supplementary qualitative information and accompanying explanations for the measurements.

Key Findings & Recommendations

1. The successful implementation and operationalization of an access to information law requires not only political commitment, but also sufficient resources. It is critical that the public authority's leadership take an active role in prioritizing the PATI Act's full and effective implementation, including assuring specific

budgetary allocations. The public authorities should elevate the importance of the PATI Act and its principles of openness and transparency through inclusion in its strategic plans and through regularized meetings between the Information Officers, key staff, and the highest authorities.

2. Positively, public authorities have formally appointed information officers, with sufficient authority, responsible for PATI functions and duties. The officers should continue to be supported through training, time, and staffing and their names and contact information should be easily accessible to requesters for improved communication. Moreover, The functions for proactive disclosure should explicitly be included in the PATI – or other officers' – duties
3. Records are the backbone of an access to information regime and good records management allows the system to flourish. Presently, the public authorities have scant guidance, procedures, or specialization to manage the vast quantities of information that is being developed. Instituting a modern records management system for both paper and digital records should be a priority.
4. It is essential for public authorities to develop and formalize internal procedures for the right of access to information. Institutions should design specific procedures that inform and support implementation and operationalization of the law, particularly for transferring requests, internal reviews, and fulfilling its proactive disclosure obligations. While the public authority officials have demonstrated a positive attitude toward openness and good will, over time that cannot substitute for clear and concrete guidelines and procedures. As institutions differ in size, capacity, substance, and need, each should have its own specific procedures, formalized in writing and adapted to its own unique institutional reality.

-
5. Awareness of the principles of the right of access to information and the means by which to exercise the right is critical both internally within the public authority as well as externally for the public. If public authority personnel are not aware of the basic principles underlying access to information, such as that all persons have a right to information, maximum disclosure, and the importance of records management, the public officers may not prioritize efforts to meet the PATI Act's mandates. Similarly, the public authorities have a duty to assist requesters and to make their constituencies aware of the right to information and how to make requests and find proactively disclosed information. While a general campaign is helpful, each public authority also should undertake public and internal awareness activities.
 6. Continue annual reporting, but consider adding a section for recommendations, which will allow for improvements and sharing lessons learned across public authorities. Moreover, annual reports and audits should include proactive disclosure and records management practices to further emphasize the need for advancement and oversight.

Introduction

The right of access to information is a powerful tool in the fight against corruption and in achieving good governance and development goals. It serves both government and its citizens by increasing citizen confidence as governments become more transparent and accountable. It enables citizens to participate more fully in public life, understand public policies, and help determine public priorities. Citizens also can use the information to exercise their fundamental human rights and to hold their government accountable for responding to their needs and providing high-quality service delivery. The advent of laws regulating the right of access to public information began more than two hundred years ago. Between 1766 (when the first law on access to information recognized as such was approved in Sweden) and 1983, ten countries passed laws on access to public information (beyond Sweden, including Finland, the United States, Norway, Denmark, Holland, France, New Zealand, Australia, and Canada). In Latin America and the Caribbean, for its part, Colombia was the first country to adopt the right of access to public information, more than 30 years ago, in 1985.

After that first wave of legislation, as of the mid-1990s, there was a significant increase in the number of laws on access to public information globally, going from 19 laws in 1995 to more than 120 in 2020. A number of factors may account for this rapid increase in the passage of laws for access to public information. Along with the evolution of the concept of transparency as a critical element of good governance, pressure from international multilateral organizations and non-governmental organizations has played an important role in the expansion of this type of legislation. For example, in Latin America and the Caribbean, the Organization

of American States (OAS) has supported the development and adoption of laws on the right of access to public information in the countries of the region, and internationally the Open Government Partnership, a voluntary compact to be more open, transparent, and participatory, has included access to information as a criteria for entry. In addition, the growth of information and communication technologies has had a significant influence on the progress of this agenda. The ability to process and share information massively has increased the availability of information in the hands of citizens as well as heightening their expectations about their rights to access government information. Finally, other internal factors, such as pressure from civil society groups or political transitions, have prompted countries to move forward in the approval of these laws.

Notwithstanding the motivation for establishing an access to information regime, the implementation of such progressive regimes may face challenges, and even lead to a short-term increase in the lack of trust in governments and in the perception of corruption by citizens as previously hidden information finally comes to light. For example, in India, a series of high-profile corruption scandals that were exposed through requests for access to public information and widely publicized in the media created a strong perception of corruption in the government. Moreover, unintended consequences, contrary to the spirit of the reforms of access to public information, may appear when these transformations touch interests that struggle to maintain the status quo, causing changes in the behavior of the actors, such as avoiding the formal documentation of some decisions for fear of making them public.

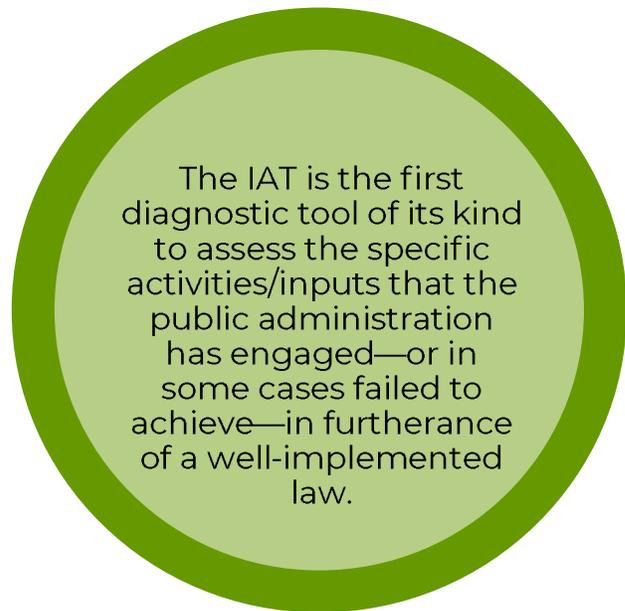
Moreover, the evidence shows that the

implementation of right of access to public information laws often is accompanied by challenges that hinder the realization of the expected benefits. Even some of the oldest and most effective regimes face obstacles at some point in their implementation, as analyzed in a case study of several countries conducted by the World Bank. For example, in the United States, a country with a law that is more than 50 years old, the legislation continues to evolve and is revised approximately every 10 years and, although its system is considered functional, there remain a number of weaknesses, such as the appeals mechanisms and responding to requests in a timely manner. Other systems, such as in Mexico, the United Kingdom, and India, are considered strong and yet still present challenges in their implementation: India faces difficulties due to the low capacities of the public sector; the United Kingdom has suffered strong opposition to the regime from political officials; and Mexico recently has experienced threats to the robustness of its system.^{5,6}

Access to information reforms are long-term processes and require time, resources, and political support for their implementation. These institutional reforms go beyond a single administration and often must be accompanied by a process of profound cultural and social change within the countries. Therefore, it not unusual that in the early stages of implementation, as in the case of Bermuda, governments will face challenges in the fine-tuning of processes and procedures, which is reflected in this diagnostic instrument's findings.

Objectives and Considerations

Although more than five billion people around the globe are afforded some statutory rights to information, many of these countries are failing to



fully implement their access to information laws, and there remains a dearth of information about the extent and quality of legislative implementation. Notably, there are few evaluative tools by which to measure implementation progress. With an insufficient focus on implementation, the community of practice is failing to adequately identify and analyze the structures and procedures that produce successful transparency regimes, and governments lack the necessary diagnostic information to improve their practices to meet citizen demands and promote greater transparency and accountability.

Since 1999, The Carter Center has been supporting the passage, implementation, enforcement, and use of access to information regimes. The Center has witnessed, firsthand, the difficulties that governments face in fully and effectively implementing access to information laws and the negative effects of a lack of standardized measures for developing implementation plans and evaluating their efforts. To fill this gap, the Center developed and piloted the access to information legislation Implementation Assessment Tool.

The IAT is the first diagnostic tool of its kind to assess the specific activities/inputs that the public administration has engaged—or in some cases failed to achieve—in furtherance of a well-implemented law. The assessment tool is deliberately designed not

⁵ Lemieux, Victoria and Stephanie Trapnell. 2016. Public access to information for development: a guide to effective implementation of right to information laws. Directions in Development. World Bank Group. Washington, D.C. <http://documents.worldbank.org/curated/en/983941467996646873/Publicaccess-to-information-for-development-a-guide-to-effective-implementationof-right-to-information-laws>

⁶ <http://rendiciondecuentas.org.mx/demoler-al-ifai/>

to focus on the sufficiency of the legal framework, the user side of the equation, or the overall effectiveness of the access to information regime, instead it looks at the internal “plumbing” of the administration’s implementation. The IAT does not serve as a comparative index across countries, but rather is constructed as an input for each public agency in which it is applied. However, the IAT findings provide a more surgical tool for civil society to monitor government’s implementation practice and progress. The tool’s framing question is "To what extent is the agency capacitated and prepared to provide information and respond to requests?"

Beginning in 2009/2010, The Carter Center's Rule of Law Program (then called the Global Access to Information Program) developed the IAT methodology, including a set of indicators and a scoring system. Over the course of almost four years, the IAT was tested in three pilot phases in 11 countries (Mexico, South Africa, Bangladesh, Chile, Indonesia, Uganda, Scotland, Jordan, Georgia, Guatemala, and the United States) and 65 agencies. These pilot phases consisted of review of the application of more than 8,000 indicators. Each pilot phase concluded with a review meeting of the researchers as well as several blind peer reviewers, government representatives, and access to information experts. The final pilot concluded in April 2014, and the IAT was shared with the community of practice. Since finalizing the IAT methodology and indicators, it has been used in six additional countries to assess agencies at the national and the sub-national level.

The objectives of the access to information legislation Implementation Assessment Tool are to:

1. Establish a comprehensive set of access to information implementation benchmarks;
2. Identify the extent and quality of a public authority’s implementation of the law; and
3. Provide a roadmap for improvements, based on the tool’s findings.

In addition, through application of the IAT and dissemination of findings, the Center hopes to contribute to scholarship and to the understanding of implementation successes and challenges.

The hypothesis underpinning the IAT is that IF there is a relatively well drafted access to information law that meets existing international norms AND there is effective implementation of the statute, THEN compliance will be improved, and citizens will have enhanced access to public information. While governments and civil society organizations have made important efforts to review access to information laws, including the Global Right to Information Rating and studies to test government compliance, there have been very few attempts to fully consider and quantify agency implementation. In other words, while studies have focused on the outcome of implementation, i.e. whether people can receive the information requested consistent with the statutory provisions and through proactive disclosure that meets the legislated mandate, the review of the inputs has been missing.



The hypothesis underpinning the IAT is that **IF** there is a relatively well drafted access to information law that meets existing international norms **AND** there is effective implementation of the statute, **THEN** compliance will be improved, and citizens will have enhanced access to public information

The IAT is not an overall evaluation of the current or previous public administrations of Bermuda, but rather an assessment that seeks to identify spaces where the implementation of the law on access to information can be improved. Experience has demonstrated that governments are not monolithic and that not all parts of government are as successful (or unsuccessful) as others. Thus, it is misleading to characterize a government as succeeding or failing in implementation. The IAT targets assessments to individual public administrative bodies rather than to the government as a whole.

The Carter Center's IAT focuses exclusively on the central theme of government's efforts toward implementation—the “plumbing”—providing critical data and knowledge as well as spurring additional areas for research. The IAT looks at “the boring bits,” the ingredients necessary to ensure the effectiveness of implementation, and the desired outcomes.⁷ The findings from the assessment provide key stakeholders data to easily identify the extent and

quality of access to information implementation in each government agency. It also signals places where there is a need for additional input or focus, so that the public administration may overcome challenges and positively advance their implementation efforts.

The findings from the assessment are not intended to be used as a comparison instrument with other countries. For the IAT to meet its stated goals and to be accepted and used by governments—a critical outcome as they are the primary data source and the main target audience—the Center chose not to develop the findings as an index or ranking of countries. Our methodologies were established with this philosophy in mind.

The tool's framing question is
"To what extent is the agency capacitated and prepared to provide information and respond to requests?"

⁷ Professor Alan Doig coined this term in his paper “Getting the Boring Bits Right First” when discussing capacity building for anti-corruption agencies.

Methodology

The IAT assesses the specific activities/inputs that the public administration has engaged in furtherance of a well-implemented access to information regime. A series of indicators is used to assess the extent to which the agency is capacitated and prepared to provide information and respond to requests, proactively disclose information, and assure quality records management. Because the IAT is not designed to measure outputs/compliance, its methodology does not include the systematic filling of requests for information. However, the IAT findings are validated and the user's perspective of the implementation of the right of access to information is taken into consideration through a focal group.

Constructed as an instrument to be carried out in collaboration with the public authorities, the IAT's success does not depend on the public agency or its staff being blinded to its application. On the contrary, it is crucial for the relevant government agencies to be receptive to the tool's application and participate in the assessment process, as gathering many of the key data points requires interviews and access to documents and information in the ministries'/agencies' possession. The scoring, however, is determined solely by the researcher and blind peer reviewer, in consultation with and oversight from The Carter Center.

The Architecture

The IAT is designed as a matrix, with indicators related to government functions/responsibilities on the x-axis and baskets of components/elements on the y-axis. Regardless of the type of information an agency possesses, there are universal components that allow public officials to fulfill their functions of properly managing information, adequately handling

requests for information, and efficiently making information available to the public. These functions and elements serve as the framework for the IAT.

Functions

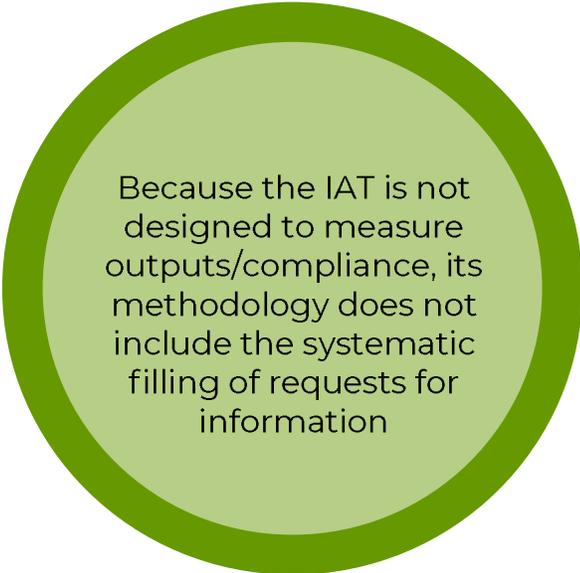
All access to information regimes depend on the public agencies' capacity to fulfill three main functions: 1) receiving and responding to requests, 2) proactively disclosing certain information, and 3) managing records. There are a number of inputs/efforts specific to these functions, while others apply to more than one of the functions. For those actions that apply more broadly—for example, the designation of a responsible officer or including PATI principles in the agency's strategic plan—we created the category "fundamental functions."

Components

To successfully implement an access to information law, public agencies need to fulfill several verifiable components. These components are assessed by a set of indicators that can be observed through different data points or sources of information. The components are the bone and marrow of access to information implementation, and include leadership, rules, procedures, resources, and monitoring.

Key Elements

The key elements are those actions that have been identified as necessary for supporting successful implementation, and each element is accompanied by an indicator. When properly combined, these elements provide government with the capacity to perform all access to information duties and obligations. The elements that comprise the assessment, among others, include whether the



Because the IAT is not designed to measure outputs/compliance, its methodology does not include the systematic filling of requests for information

agency has established, reviewed, and revised access to information policies and guidelines; the issuance of plans/instructions for the implementation and institutionalization of the access to information regime; the identification of responsible officers for overseeing the application of the law; sufficient training and capacity-building; determination of necessary financial resources; infrastructure; awareness-raising within the agency and for the public; and monitoring.

Indicators

In total the IAT includes 60 indicators. The IAT utilizes two types of indicators: 1) self-reporting indicators that are addressed through an interview (questionnaire) with the head of the public authority, general director, public officials tasked to oversee access to information functions and duties, or other relevant public officers;⁸ and 2) document-based indicators that require desk research or onsite verification of different documents and/or sources of information. While the IAT has tried to limit the number of questions that rely solely on interviews, as they have the greatest potential for bias, in

⁸ As these indicators have the greatest potential for bias, we have limited their use in the IAT, and they will rarely serve as the preferred data point.

practice the researchers often use interviews (sometimes coupled with secondary data) as their primary data source.

In addition to the research-based indicators, there are four wildcard indicators. These are “in-practice” indicators based on the experience and expertise of the researcher and blind peer reviewer. The wildcard indicators capture the overall practice of the agency for each of the functions: fundamental functions, receiving and responding to requests, proactive disclosure, and records-management. They are not an aggregate of the other indicators under these functions but rather a reflection of how – in actual practice – the researcher and blind peer reviewer believe the agency to be performing.

The IAT does not weight the indicators. Each indicator carries the same weight, as there is insufficient evidence to determine which of the indicators may be the most critical, and thus be weighted more heavily. Moreover, as the indicators are not aggregated for a score, weighting is unnecessary.

Data Collection and Analysis

Data are acquired through desk research, on-site visits, and interviews and then input into Indaba, an online software platform that allows The Carter Center to manage the researchers and review the data. Over the course of two to three months, the local researcher collects both quantitative and qualitative data. Interviews are conducted with key personnel of each assessed agency. For example, a person with responsibility over policy, the information officer, and the records manager may be interviewed to collect all the necessary data for the various indicators. For the majority of indicators, the instrument requires only a single-source; however, there are a number of indicators in which double-sourcing is necessary. In the case of Bermuda, the local researcher collected data over the period of May to August of 2019.

After the data is initially reviewed by The Carter Center for accuracy and completeness, it is sent to a blind peer reviewer. Finally, following The Carter Center's second analysis of the data, the preliminary findings are validated through focal group review and by representatives of the assessed agencies. In addition to quantitative and qualitative data, a series of narrative reports provides supplementary information and accompanying explanations for the measurements.

Assessment Results

The IAT indicators engage both quantitative and qualitative assessments of the comprehensiveness and quality of a ministry's/agency's access to information implementation. The indicators are scaled using a "stoplight method." Green, yellow, red, and black and white stripes demonstrate the findings. The stoplight colors signify the following:

- Green: The administration has done well and has met the defined good practice.
- Yellow: There has been some activity/engagement, but the administration does not meet the defined good practice.
- Red: The administration has either not engaged or done very little to advance on this part of its implementation.
- Black and white stripes: For those rare cases where the indicator is not applicable.

In using the stoplight method, the extent and quality of implementation is easily displayed, while dissuading the potential for indexing or ranking countries.

Country Context

Passage of the Access to Information Law

Although Bermuda has been considered a self-governing colony since the 17th century, meaningful political reforms to protect civil rights were not instituted until the 1960s. That decade saw the formation of Bermuda's first political party, the Progressive Labor Party (PLP) in 1963, the establishment of Bermuda's first Constitution, and the introduction of universal adult suffrage in 1968. While the constitutional process has been criticized for not engaging a delegation that was representative of Bermuda (politicians were previously elected under a system in which wealthier, elite property owners were afforded two votes), it helped establish an initial foundation, albeit limited, for the right of access to information in Bermuda. The reference to public access to information found in Section 9, paragraph 1, is somewhat vague, stating that "Except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section that said freedom includes freedom to hold opinions and to receive and impart ideas and information without interference..."⁹ However, it was not until more than three decades after the adoption of the 1968 constitution that legislative elaboration on public access to information was considered.

In the late 1990s, a host of good governance initiatives were implemented, including the establishment of the Ombudsman's Office and the formation of a Central Policy Unit, which were charged with developing and delivering better public policies. In 2003, the Progressive Labor Party's Throne Speech, delivered by Premier Alexander

Scott, outlined the government's intention to open up the government to the people and begin considering proposals for public access to information legislation, speculating that official legislation would be enacted by 2005.¹⁰ Previously, many who requested information from the Government faced a 'culture of no' or a lack of incentive by the government to provide the public with information for which the taxpayers essentially had paid.

Acting as the main architect behind the Public Access to Information legislation, Premier Scott released an official discussion paper in July of 2005 that described the rationale for PATI and what it ultimately would provide for the people of Bermuda - "a regime of openness that would contribute to more transparent and accountable government."¹¹ It was Premier Scott's belief that public records should be a national resource accessible to all Bermudians.

In 2006, Premier Scott was replaced by Dr. Ewart Brown, who promised to take forward the previous administration's work on PATI. However, the push for PATI legislation all but fell from the government agenda and progress was halted. The legislation would not return to the Brown administration's radar until 2008, when PATI media campaigns were launched by The Royal Gazette and the Bermudian public voiced concerns regarding the retroactivity of the law.¹² In 2010, PATI legislation was passed, however the framework that would allow it to be operable would not be in place until April 2015. In December of 2012, the PLP Government lost the General Election and the One Bermuda Alliance (OBA) was elected. The OBA continued preparing the structure for PATI's operation, including passing PATI regulations in 2014 followed by the appointment of an Information Commissioner in February 2015, finally making the law fully operable.

⁹ Bermuda Constitution, Chapter 1, Section 9, clause 1

¹⁰ Bell, Jonathan. "PATI: Scott Welcomes Law He Helped Us Get: The Royal Gazette: Bermuda News." The Royal Gazette, April 1, 2015. <http://www.royalgazette.com/article/20150401/NEWS/150409974>.

¹¹ Public Access to Information (PATI): A Discussion Paper Presented by the Premier the Honourable W. Alexander Scott, JP, MP, 2005, https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/uk/bermuda/pati_bermuda.pdf

¹² Bell, Jonathan. "PATI: Scott Welcomes Law He Helped Us Get: The Royal Gazette: Bermuda News." The Royal Gazette, April 1, 2015. <http://www.royalgazette.com/article/20150401/NEWS/150409974>.

Importantly, the appointment was made by the Governor in consultation with the Premier and the Opposition Leader to facilitate neutrality in the post.

While Bermuda's adoption of an access to information regime took a lengthy road, its support across party lines speaks to its importance and the existence of broad political will necessary to ensure its implementation. The next phase in advancing the right of access to information in Bermuda is to institutionalize the principles enshrined in PATI, so that greater openness is part of the culture of the wider public sector and Bermuda community. This was well understood by the leadership. For example, when the PLP returned to Government in 2017, and in July 2019, Premier David Burt acknowledged the strain that the civil service might have to undergo to fulfill a PATI request, but stated that, "The Government is determined to write a framework for the management of PATI that fully embraces the original intentions of the Act and supports a regime that provides the people of Bermuda with the fullest information about the work done every day in their name and on their behalf."

Provisions of the Access to Information Law

The Bermuda Public Access to Information Act 2010 and Public Access to Information Regulations 2014 apply to public authorities who receive "all or most of its operating funds from the Government"¹³ as well as other public authorities listed in the Schedule to the Act. The "records relating to the exercise of judicial or quasi-judicial functions by any court, tribunal, or other body or person" or records of the Office of the Auditor General, Human Rights Commission, Office of the Information Commissioner, Office of the Ombudsman, and Department of Public Prosecutions that are obtained or created in the course of fulfilling their functions are not covered by the law.¹⁴ However, records – defined as records in any form or medium, in



which information is recorded - related to general administrative matters are within the scope of the PATI Act.

Under the PATI Act, every public authority is mandated to create an information statement on an annual basis, or more frequently as necessary. The statement provides descriptions of the public authority, its structure, functions and services, the classes of records that it holds, etc. Critically, the information statement must be made available to the public and the public authority must let the citizens know where the statement can be located.

The PATI Act extends the right of access to information to Bermudians and residents of Bermuda. For those individuals seeking information, requests must be submitted in writing. The requester does not need to state a reason or justification. The requester can be charged a fee related to their request, with the amount of the fee being determined by the schedule in the Government Fees Regulation 1976. The public authority has up to six weeks to respond to the request, with the potential for an extension of up to an additional six weeks, with written notice to the person seeking the records. To facilitate the submission of requests and response, every public authority must name one person to serve as the information officer.

The PATI Act is intended to provide the most extensive access to information possible outside of the exempted records, or part of records, stipulated in Part 4 of the Act. These exemptions allow the withholding

¹³ Portal manager. "Public Access to Information (PATI)." Government of Bermuda, March 3, 2016. <https://www.gov.bm/public-access-information-pati>.

¹⁴ Public Access to Information Act, 2010. <http://bermulaws.bmlaws/Annual%20Laws/2010/Acts/Public%20Access%20to%20Information%20Act%202010.pdf>

of information under particular circumstances in the following categories: the health or safety of an individual; personal information; commercial information; information received in confidence; cabinet documents; ministerial responsibility; deliberations and operations of public authorities; financial and economic records; national security, defense, and international relations; the Governor's responsibilities and communication with the United Kingdom; law enforcement; legal professional privilege; and contempt of court and parliamentary privilege. Additionally, a request for access can be refused on "administrative grounds." However, for the majority of these exemptions, if the public authority finds that the exemption is applicable, it must conduct a public interest test to determine whether the balance of the public interest still requires disclosure or whether access to the record can be refused. Importantly, refusal to provide the sought-after information for any reason can be challenged by the requester.

A requester has six weeks to ask for an internal review by the public authority to which the request for information was submitted. Only after an internal review has been carried out, or failed to be processed, may a requester appeal to the Information Commissioner. The Information Commissioner can rule to uphold or reverse the public authority's decision and enforce said ruling, which has the effect of an order of the Supreme Court. The requester, or any other aggrieved party, has the right to judicial review if still aggrieved following the Information Commissioner's decision. The Act outlines the sanctions that can be imposed on public officials or others for violating the law.

Furthermore, on an annual basis, the Information Commissioner's Office (ICO) has the duty to submit a report to each house of the legislature on the functioning of the Act, including number of requests made and the response, number of times exemptions were applied, number of internal appeals, etc. This summation is developed from the mandated annual written reports that each public authority must submit to the ICO before the end of each calendar year.

Implementation

According to the PATI Act, the Information Commissioner is charged with providing guidance to public authorities regarding the obligations imposed by the Act, while the Minister may make regulations to further guide implementation. The Minister "shall, following consultation with the Commissioner, establish codes of practice for public authorities regarding the administration of this Act" and assure that the public authorities are trained and prepared to ensure the law's effective operation and full compliance, including records management.

Before the PATI Act came into operation, the Cabinet Office's Central Policy Unit (CPU) created a dedicated PATI Implementation Team to help operationalize the law, for which the 2014 Regulations provided additional guidance. The CPU provided initial trainings as well as a number of templates for public authorities before the PATI Act went into effect.

According to annual reports published by the Information Commissioner, several training opportunities have been provided to public authorities and ICO staff over the years. For example, in 2018, the government's Policy and Strategy Section provide PATI training to public officers. The Information Commissioner's 2019 Annual Report indicates that technical assistance and capacity building for the ICO was provided by Newfoundland and Labrador's Office of the Information and Privacy Commissioner. Most recently, in March of 2020, the Government of Bermuda released the *PATI: Administrative Code of Practice for Public Authorities* (the Code) to serve as a guide for officers charged with responding to information requests. The Government of Bermuda has stated that the purpose of the Code is to provide standards of best practice for administration of the PATI Act and guidance on the obligations and responsibilities of public authorities to enhance their knowledge and expertise for compliance. It also articulates the process for responding to requests and enables, to the greatest extent possible, consistency of approach by public authorities.¹⁵

The government has made the filing of requests easier, through the provision of an online request form (https://www.gov.bm/sites/default/files/pati_request_form.pdf), but this form is not accessible on each government entity's website. The PATI Implementation Team developed the PATI Tracking System (PTS) and accompanying training manual to support public authorities in recording and reporting information related to requests. The initial deadline for system adoption was set for 2015, but it is not clear if this system has been adopted across government or whether some public authorities still use paper-based tracking.¹⁶

Regarding resources for operationalizing PATI, the Act only outlines how the ICO is to be funded and does not address costs for implementation by public authorities, such as access to information staff and systems, nor is such information included in annual reports. The ICO provides its fiscal year budget amount in each annual report, tables its audited financial statements, and proactively publishes its audited financial statements, budget, and salary scales on its website.



Regarding resources for operationalizing PATI, the Act only outlines how the ICO is to be funded and does not address costs for implementation

Compliance

The Information Commissioner acts as the first and foremost body of oversight in reviewing and enforcing public authorities' compliance with the access to information law in Bermuda. A significant portion of the ICO's work in this regard is conducting reviews of public authorities' decisions on, and handling of, PATI requests, using procedures consistent with the Act. The Information Commission may affirm, reverse or vary a public authority's decision, and issue any other order he or she deems necessary, consistent with the provisions of the PATI Act. The Information Commissioner's decisions and orders are legally binding, and enforceable in the same manner and to the same extent as an order by the Supreme Court. The number of cases reviewed and closed by the ICO has increased proportionally each year. The status of all case reviews by the Information Commissioner are available on the ICO's website, which details the public authority whose decision was being reviewed, a description of the case submitted, the outcome and date of the decision, and any PATI exemptions or sections applied. The sharing of such particulars helps to set precedence for the disclosure of information and application of exemptions.

The Information Commissioner's decisions are subject to judicial review. The original requestor, the public authority, or any aggrieved party has a right to seek leave for judicial review by the Supreme Court. The Supreme Court can vary, remit, or set aside the decision made by the Information Commissioner, at which point any reviews will conclude. As outlined in the annual ICO reports, there have been two cases that have reached judicial review. The most recent case was related to the ICO's order for the Bermuda Hospitals Board "to disclose the range of total costs for the Executive Team Member posts in 2015/2016 in more narrow bands, along with other compensation information."¹⁷ This case has been discontinued by the parties and the disclosures made, as ordered by the Information Commissioner.

¹⁵ Government of Bermuda, Public Access to Information: Administrative Code of Practice for Public Authorities, March 2020, <https://www.gov.bm/articles/public-access-information-administrative-code-practice-public-authorities>

¹⁶ 2015 Annual ICO Report, https://8692baf8-a59b-4adf-8b95-61e6b6541d57.filesusr.com/ugd/5803dc_6fab1369bc574e69858f9def81ddb1cb.pdf

¹⁷ Information Commissioner's Office, Annual Report 2019, *March 2020*, https://8692baf8-a59b-4adf-8b95-61e6b6541d57.filesusr.com/ugd/5803dc_fa9719b849be46cbbe970f8dd79912de.pdf

Figure 1. Initial Disposition of PATI Requests

	2016	2017	2018	2019
Initial Disposition of PATI Requests (as at year end)				
Pending	9	10	6	8
Access granted in whole	65	56	59	31
Access granted in part	27	15	22	22
Access refused in whole	54	54	49	27
Unknown	11	18	7	12

Excerpt from the 2019 ICO Report

The ICO oversees public authorities’ compliance with additional obligations under the PATI Act through the use of an annual return process. As noted above, each public authority is required to submit an annual return to the Information Commissioner detailing the number of requests made for access to records and how they were disposed of; number of applications made for internal review and how they were disposed of; and the number of times that exemptions were invoked, among other reporting requirements. A summary of these returns is included in the Information Commissioner’s Annual Report, which is tabled in both houses of the legislature within three months after the end of the calendar year. In 2019, only four of 200 public authorities failed to submit their annual return. Statistics from those entities that provided reports over the years (as shown in the table above) indicate that on average, access to information is granted in whole or part for more than 50 percent of requests.

While the law requires the proactive publication of several documents, only the publication of Information Statements and the dissemination of details of public contracts are closely and systematically monitored by the ICO. The PATI Act requires contracts for goods or services with a total value of \$50,000 or more to be published in an official Gazette Notice. The 2019 Information Commissioner’s Annual Report cites a total of 31 contracts published that year. It is not clear if there were any contracts that failed to be published.

Nevertheless, the high number of published contracts reflects the public authorities’ understanding of the importance of providing public spending information to citizens. To further incentivize public authorities to voluntarily publish information, the 2019 Information Commissioner’s Annual Report highlights those public authorities that are “going the extra mile,” providing details about the types of information they are disseminating without a request.

Figure 2. Number of Contracts Published in Official Gazette Notices



Excerpt from the 2019 ICO Report

Finally, apart from the Information Commissioner’s reviews, the PATI Act also has offenses that impose individual liability for bad faith violations of the Act. Such misconduct has three possible sanctions for a general offense: liability to a \$5,000 fine, six months imprisonment, or both the fine and period of incarceration. “Offenses to alter or destroy the record,” such as changing, erasing, or concealing any record, similarly warrant three potential sanctions: a \$10,000 fine, six months imprisonment, or both the fine and period of incarceration.

Use of the Law

Statistics related to the use of the PATI Act and the number of requests made are available to the public via the Information Commissioner’s annual reports. Per the 2015-2019 Annual Reports, 636 requests have been made since the Act became operational in 2015. In 2019, 40 out of a total 200 (or 20%) of the public authorities in Bermuda received a PATI request. The table below highlights a noteworthy trend -- the number of PATI requests has decreased each year since the law went into effect. It is possible that this is due in part to an increase in proactively disclosed information, but insufficient data exists to draw the correlation.

A request for access to information may be filed using the online PATI Request Form or by submitting a physical copy of the form to the public authority, both of which require proof of Bermudian citizenship or residency. Within five days, a letter of acknowledgement is mailed to the requestor with confirmation that the public authority has received the request. As dictated by section 14 of the Act, decisions are made and information released within six weeks of the initial request, unless an extension of time is taken under section 15 of the Act.

According to the 2016 Information and Communication Technologies Report, 92% of residents have internet access at home, with 93% of households owning at least one computer and 91% of households owning at least one smartphone.¹⁸ Based on these statistics, technology does not appear to be a significant obstacle to accessing information for Bermudians or residents. The Information Commissioner’s 2018 Annual Report cites certain advances that could be made to strengthen PATI and likely lead to an increase in requests. One of the most notable recommendations is the need to allow for the filing of anonymous PATI requests, as “potential requesters may fear retaliation or other negative consequences from submitting PATI requests with public authorities.”¹⁹ Furthermore, easier online access to request submission could facilitate the process and increase demand.

Figure 3. Total PATI Requests 2016-2019

	2016	2017	2018	2019
Total PATI Requests				
Reported new requests	145	143	133	91
Reported requests carried over from prior year	24	10	11	9
Total requests in processing for year	169	153	144	100

Excerpt from the 2019 ICO Report

¹⁸ Government of Bermuda, Ministry of Economic Development, Department of ICT Policy and Innovation. 2016 *State of ICT in Bermuda*. <https://libguides.wvu.edu/c.php?g=418946&p=2855160#s-lg-box-8755694>

¹⁹ Information Commissioner’s Office, Annual Report 2018, March 2019, https://8692bafe-a59b-4adf-8b95-61e6b6541d57.filesusr.com/ugd/5803dc_d98b17690e8b4188adbdf071aa80136c.pdf

Focal Group

On January 27, 2020, a focal group was held at Bermuda College in Paget Parish, including participants from both civil society and the media with experience making access to information requests. In advance of the meeting, the invited persons were asked to canvass their members and constituencies to see if they previously had made any PATI requests and ascertain the outcomes. Several participants unable to attend the group discussion submitted written reports sharing their PATI experiences. In total, five civil society and media representatives provided feedback.

To start the feedback, participants were provided background information on the implementation assessment tool's methodology and indicators and then shown a presentation of the preliminary IAT findings with the leading discussion question of whether their personal experiences were reflected in the assessment results. Overall, the respondents agreed that the findings were consistent with their knowledge of the PATI processes in Bermuda and that while there is a framework in place for accessing information under PATI, there still were some obstacles facing requesters. For example, focal groups participants believed that there were times where subjective determinations were being made to withhold information and that the spirit of the law – to be more open and provide more public information – was being subverted by the letter of the law. They also expressed the view that there were deliberate attempts to hinder information flows as officers directed persons to use the formal PATI process for even the most general and basic information, knowing that this would discourage requests.

In some cases, it was felt that public authorities' deficiencies in administering PATI might be the public officers' genuine lack of knowledge of the process, where to find requested records, or how to

assist the requestor. Occasionally, in other situations, it was considered that the Information Officers were less cooperative/friendly or might be engaging in deliberate obfuscation. For instance, focal group participants felt that the de facto position of public authorities was not to provide information and to automatically attempt to claim exemptions under the Act, even when such exemptions did not apply in a particular request. Experiences in delays and excessive times for resolving appeals also was shared, with some expressing a loss of confidence with the public authorities and the Information Commissioner's Office.

Nevertheless, it was indicated that following the implementation of the PATI Act, the public authorities clearly had the sense of a more definite obligation to provide requested information, especially compared to the participants' experiences prior to PATI's implementation. In general, the participants' experience was that they either received a response or a rejection to a request within the specified timeframe and that Information Officers were well-versed on the law and their role in supporting access to information. Despite this generally good track record, there were isolated public authorities which responded well outside of the timeframe designated by the PATI Act.

In considering the priority areas for improvement, particularly in light of the IAT findings, participants suggested better communication between the public authority and the requestors; increased proactive disclosure, facilitated by better records management; and institutionalizing the cultural shift towards greater openness and transparency. Finally, it was inferred that individuals needed to take advantage of the powerful tool that PATI was in a democracy, even if the current regime was not uniformly embraced.

Aggregated Bermuda IAT Findings

The findings below indicate the extent and quality of implementation of access to information legislation. The letters (A, B, C, and D) correspond to the response that the local researcher provided for each indicator, which was then “scored” with a color, as described below. This qualification is then revised and validated by the blind peer reviewer and The Carter Center team.

Key:

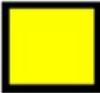
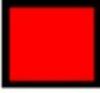
color	significance:
	Green: administration has done well and has met the defined good practice
	Yellow: there has been some activity/engagement, but does not meet the defined good practice
	Red: administration has either not engaged or done very little to advance on this part of its implementation
	Black and white stripes: indicator is not applicable (n/a) in this agency

Table 1. Aggregated Public Authority Findings

Fundamental Functions: Leadership																					
Cabinet Office	BM Hospitals Board	BM Police Service	BM Tourism Authority	Corp of St. George	Dept. of Child & Family Services	Dept. of Education	Dept. of Health	Dept. of Human Resources	Dept. of Immigration	Dept. of Public Land and Buildings	Dept. of Social Insurance	Ministry of Finance HQ									
1	Does the agency's strategic plan incorporate ATI, such as by including specific mention of access to information and/or principles of openness and transparency?																				
Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B
2	How often does an agency official with authority over policy participate in meetings with public officials responsible for ATI activities?																				
Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Green	A	Finding: Red	C	Finding: Red	C	Finding: Red	C
Fundamental Functions: Rules																					
3	Has the agency created or adopted specific guidelines on ATI?																				
Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Green	A	Finding: Red	B	Finding: Green	A	Finding: Red	B
4	How often are ATI guidelines reviewed by an agency official with authority over policy?																				
Finding: Red	C	Finding: Yellow	B	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C
5	How often are ATI guidelines revised by an agency official with authority over policy?																				
Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C	Finding: N/A	C
6	Does the agency make all guidelines available for reference?																				
Finding: Red	C	Finding: Yellow	B	Finding: Green	A	Finding: Yellow	B	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Yellow	B	Finding: Red	C	Finding: Red	C	Finding: Red	C
Fundamental Functions: Rules, cont.																					
7	Does the agency have a document(s) that establishes instructions for ATI implementation and/or operation?																				
Finding: Red	B	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B
8	Does the document(s) detailing instructions for ATI implementation and/or operation currently reflect the agency's ATI policy?																				
Finding: Red	B	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B
9	Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?																				
Finding: Red	C	Finding: Yellow	B	Finding: Green	A	Finding: Green	A	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C	Finding: Red	C
Fundamental Functions: Procedures																					
10	Does the agency's public outreach specifically include a component regarding ATI?																				
Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B	Finding: Red	B
11	Does the agency specifically provide information on how to make a request and to find proactively published information?																				
Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Green	A	Finding: Red	B	Finding: Red	B	Finding: Green	A

Fundamental Functions: Resources																					
Cabinet Office	BM Hospitals Board	BM Police Service	BM Tourism Authority	Corp of St. George	Dept. of Child & Family Services	Dept. of Education	Dept. of Health	Dept. of Human Resources	Dept. of Immigration	Dept. of Public Land and Buildings	Dept. of Social Insurance	Ministry of Finance HQ									
12	Has one or more public official been made responsible for ATI functions and duties?																				
Finding: Green	Finding: Green	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green
A	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
13	Has the name of the public official(s) appointed/tasked responsible for ATI functions and duties been made known to the public?																				
Finding: Green	Finding: Green	Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green
A	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
14	Does the public official(s) appointed/tasked responsible for ATI functions and duties have the authority needed to comply with ATI mandate?																				
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green
A	A	A	A	A	A	A	A	A	B	A	A	A	A	A	A	A	A	A	A	A	A
15	Does the public official(s) appointed/tasked responsible for ATI functions and duties have the time and staff needed to fulfill his/her ATI responsibilities?																				
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Red	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red
A	A	A	A	A	A	A	C	D	D	C	D	D	D	D	C	A	A	A	D	D	D
16	Does the public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI?																				
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow
A	A	A	A	A	A	A	B	A	B	A	B	A	B	A	B	A	A	A	B	B	B
Fundamental Functions: Resources, cont.																					
17	Are all public officials made aware of basic ATI principles?																				
Finding: Yellow	Finding: Green	Finding: Green	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Red
B	A	A	C	D	C	A	D	C	A	D	C	A	D	C	A	D	C	A	D	C	D
18	Are training materials related to ATI created and maintained for future reference by public officials?																				
Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
A	B	B	B	B	C	B	C	B	C	B	C	C	C	C	C	C	C	C	C	C	C
19	Does the public official(s) responsible for ATI functions and duties have regular access to necessary equipment?																				
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green
A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
20	Has the agency created a space, physical or virtual, to make requests, review documents, and share proactively published information?																				
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Yellow
A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B
21	Does the agency specifically allocate the financial resources necessary for fulfilling its ATI functions and duties?																				
Finding: Red	Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
B	B	A	A	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Fundamental Functions: Monitoring																					
22	Does the agency monitor its ATI functions and duties?																				
Finding: Yellow	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow								
B	B	A	B	B	B	B	B	B	B	A	A	A	B	B	B	B	B	B	B	B	B
23	Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?																				
Finding: Red	Finding: Green	Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Green	Finding: Red	Finding: Red
B	A	B	A	A	B	B	B	B	B	A	A	B	B	B	B	B	B	B	A	B	B
24	Does the agency's performance review of persons appointed/tasked with ATI functions and duties take these responsibilities into account in their review?																				
Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Green	Finding: Red	Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Green
B	A	A	A	A	B	A	B	B	A	A	A	A	A	A	A	A	A	A	B	B	A

Fundamental Functions: Wildcard

Cabinet Office	BM Hospitals Board	BM Police Service	BM Tourism Authority	Corp of St. George	Dept. of Child & Family Services	Dept. of Education	Dept. of Health	Dept. of Human Resources	Dept. of Immigration	Dept. of Public Land and Buildings	Dept. of Social Insurance	Ministry of Finance HQ
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25	In your expert opinion, in practice does the agency effectively fulfill its fundamental functions related to access to information?																							
Finding:	Green	A	Yellow	B	Green	A	Green	A	Yellow	B	Green	A	Yellow	B	Yellow	B	Green	A	Yellow	B	Yellow	B	Yellow	B

Receive and Respond to Requests: Rules

26	Does the agency have written guidelines for receiving requests?																							
Finding:	Green	A	Green	A	Green	A	Yellow	B	Green	A	Yellow	B	Yellow	B	Red	C	Yellow	B	Yellow	B	Yellow	B	Yellow	B
27	Does the agency have written guidelines for processing requests?																							
Finding:	Yellow	B	Yellow	B	Green	A	Yellow	B	Red	C	Yellow	B	Red	C	Red	C								
28	Does the agency have written guidelines for responding (release or deny) to requests?																							
Finding:	Green	A	Yellow	B	Green	A	Yellow	B	Yellow	B	Yellow	B	Yellow	B	Red	C	Yellow	B	Red	C	Red	C	Red	C
29	Does the agency have written guidelines for internal review?																							
Finding:	Green	A	Yellow	B	Green	A	Yellow	B	Red	C	Yellow	B	Red	C	Red	C	Yellow	B	Red	C	Red	C	Red	C

Receive and Respond to Requests: Procedures

30	Does the agency have a procedure for logging and tracking requests and responses?																							
Finding:	Green	A	Green	A	Green	A	Yellow	B	Green	A	Green	A	Yellow	B	Green	A	Yellow	B	Green	A	Green	A	Green	A
31	Does the agency have a procedure for processing a request?																							
Finding:	Green	A	Red	C	Green	A	Yellow	B	Yellow	B	Red	C	Yellow	B	Green	A	Yellow	B	Yellow	B	Red	C	Red	C
32	Does the agency have a procedure for transferring requests to other agencies?																							
Finding:	Red	C	Red	C	Green	A	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C
33	Does the agency have a procedure for issuing and serving responses?																							
Finding:	Yellow	B	Yellow	B	Green	A	Yellow	B	Yellow	B	Green	A	Yellow	B	Yellow	B	Yellow	B	Red	C	Red	C	Red	C

Receive and Respond to Requests: Monitoring

34	Does the agency regularly capture statistics related to receiving and responding to requests?																							
Finding:	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A

Receive and Respond to Requests: Wildcard

35	In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?																							
Finding:	Green	A	Green	A	Green	A	Yellow	B	Yellow	B	Green	A	Yellow	B										

Proactive Disclosure: Rules

36	Does the agency have written guidelines for proactive disclosure?																							
Finding:	Red	C	Red	C	Green	A	Red	C	Yellow	B	Red	C	Red	C	Red	C								

Proactive Disclosure: Procedures																					
Cabinet Office	BM Hospitals Board	BM Police Service	BM Tourism Authority	Corp of St. George	Dept. of Child & Family Services	Dept. of Education	Dept. of Health	Dept. of Human Resources	Dept. of Immigration	Dept. of Public Land and Buildings	Dept. of Social Insurance	Ministry of Finance HQ									
37	Does the agency have a procedure for proactive disclosure?																				
Finding: Red	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow									
C	A	B	B	B	C	C	B	C	C	C	C	B									
Proactive Disclosure: Resources																					
38	Has one or more public official been appointed responsible for proactive disclosure functions and duties?																				
Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Green	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Green									
B	A	A	A	A	B	B	A	A	C	B	A	A									
39	Does the public official(s) responsible for proactive disclosure have the time and staff necessary to effectively fulfill his/her functions and duties?																				
Finding: Green	Finding: Green	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Green									
A	A	B	A	A	A	D	D	D	D	D	D	A									
40	Is the public official(s) responsible for proactive disclosure trained to comply with their duties?																				
Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red									
C	B	A	C	B	B	B	B	C	C	C	C	C									
Proactive Disclosure: Monitoring																					
41	Does the agency capture statistics related to proactive disclosure on an annual basis?																				
Finding: Red	Finding: Red	Finding: Red	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red									
B	B	B	A	B	B	B	B	B	B	B	B	B									
42	Does the agency regularly monitor its proactive disclosure?																				
Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red									
C	B	B	B	C	C	C	C	C	B	C	C	C									
Proactive Disclosure: Wildcard																					
43	In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?																				
Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red									
C	B	B	A	C	C	C	C	C	B	C	C	C									
Records Management: Leadership																					
44	How often does an agency official with authority over policy participate in meetings with public officials responsible for records management?																				
Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red									
C	A	A	C	C	C	A	A	A	C	C	C	C									
45	Has the agency created or adopted a records management policy for managing paper-based and digital information?																				
Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red									
B	A	A	A	A	A	A	A	B	B	B	B	B									
Records Management: Rules																					
46	Does the agency have written guidelines for records management, regardless of format (including digital records, maps etc.)?																				
Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red									
B	A	B	B	B	C	B	C	C	B	B	C	C									
47	Does the agency have written guidelines for security classification of documents?																				
Finding: Red	Finding: Green	Finding: Green	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red									
C	A	A	B	C	C	C	C	C	C	B	C	C									
48	Does the agency have a document(s) that establishes instructions/guidelines for implementation and/or operations for records management?																				
Finding: Red	Finding: Green	Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red									
B	A	B	A	A	B	B	B	B	B	B	B	B									

Records Management: Procedures																							
Cabinet Office	BM Hospitals Board	BM Police Service	BM Tourism Authority	Corp of St. George	Dept. of Child & Family Services	Dept. of Education	Dept. of Health	Dept. of Human Resources	Dept. of Immigration	Dept. of Public Land and Buildings	Dept. of Social Insurance	Ministry of Finance HQ											
49	Does the agency have a procedure for security classification of documents?																						
Finding: Red	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: B	
50	Does the agency have a procedure to manage its paper records?																						
Finding: Red	Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: B
51	Does the agency have a procedure to manage its digital records?																						
Finding: Red	Finding: Red	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: B	Finding: B
52	Does the agency have a procedure to retrieve and access paper records?																						
Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Yellow	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: B
53	Does the agency have a procedure to retrieve and access digital records?																						
Finding: Red	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Yellow	Finding: B
Records Management: Resources																							
54	Has one or more public official been appointed responsible for records management?																						
Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow
55	Does the public official(s) appointed/tasked responsible for records management functions and duties have the time and staff needed to fulfill his/her responsibilities?																						
Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
56	Does the public official(s) appointed/tasked responsible for records management and his/her staff receive specialized training on records management?																						
Finding: Red	Finding: Green	Finding: Green	Finding: Green	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
57	Are all public officials made aware of basic records management procedures?																						
Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
58	Has the agency created space and facilities for storing paper and digital records?																						
Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green	Finding: Green
Records Management: Monitoring																							
59	Does the agency regularly monitor its records management functions and duties?																						
Finding: Red	Finding: Green	Finding: Green	Finding: Red	Finding: Yellow	Finding: Red	Finding: Red	Finding: Green	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red
Records Management: Wildcard																							
60	In your expert opinion, in practice does the agency effectively fulfill its function related to records management?																						
Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Green	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Yellow	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red	Finding: Red

General Findings and Recommendations

Bermuda's Public Access to Information Act of 2010 (PATI) and Regulations of 2014 seek to increase transparency and accountability and to make the most information possible available to citizens through requests and by placing it in the public domain. To reach these ideals, the public authorities charged with its execution must assure full and effective implementation. This remains a challenge. Though clear that all thirteen public authorities assessed have made great strides in implementing the PATI Act, there remains areas for additional progress.

In reviewing the findings, it is important to note that while the stoplight methodology provides an accessible means of recognizing progress against good practice, it does not allow for as much discernible variation. For example, while a public authority received a yellow, it may have been closer to a green based on its implementation efforts. Conversely, another public authority that received a yellow could have been closer to a red, as it did the most minimal actions necessary for a yellow. As presently developed, the stoplights are not granular enough to demonstrate all the actions that a public authority may have undertaken nor does it countenance direct comparisons among public authorities, but it does allow for consideration of areas in need of additional efforts as seen below.

Fundamental Functions

Fundamental functions incorporate those implementation elements that transverse more than one function. In many ways, these areas serve as the framework for the authorities' access to information regime. In considering the public authorities

assessed, many have made important strides with relation to various components of the fundamental functions.

Critical to the overall success of the right of access to information is leadership and political commitment. This is particularly true for implementation, which can be time-consuming and costly and where clarity from leadership of its priority is necessary.²⁰ While difficult to measure commitment, the assessment tool considers factors such as the explicit inclusion of the PATI or its principles of openness and transparency in the public authority's strategic plans and the participation of leadership in meetings to discuss PATI activities, thus elevating its importance. For those public authorities assessed that did include the PATI principles in their overall strategy, statements ranged from the Bermuda Tourism Authority's inclusion of accountability, integrity and "the courage to confront tough issues transparently" to the Bermuda Hospitals Board's strategic plan's inclusion of the value of accountability and the commitments to "policies and processes ensure good governance" and communication that is "timely, honest, and transparent." Yet, it was the minority of public authorities that incorporated principles of openness and transparency in their strategic considerations. Similarly, in few authorities was it found that high level officials participate in meetings with public officials responsible for access to information. In some cases, meetings took place related to a specific PATI request, but in general, regular meetings at least twice per year were not the norm.

Public authority specific guidelines and instructions clarify expectations, roles, and processes and are an important component to assuring the successful operation of the access to information law. Positively, many of the public authorities assessed

²⁰ The measures by which senior officials in the government express their support for the right to information determines its priority. Such signals thus impact the strength of the strategic and operational leadership of senior public officials engaged in the management of the public sector. This encompasses political will and support for the reform, which are expressed in a practical and tangible support for the implementation of access to information laws. Indeed, political support is one of the primary drivers of sustainable and effective implementation (Dokeniva 2013, Trapnell and Lemieux 2014)

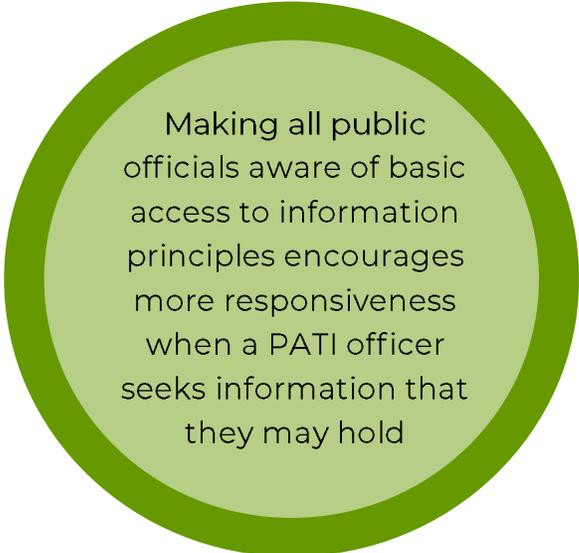
have adopted the guidelines originally issued by the Policy and Strategy Section within the Cabinet Office. However, far fewer have created more public authority-centric guidance on the implementation and operationalization of the PATI Act. For example, instructions for implementation and maintaining these efforts in practice were developed in only three public authorities (the Bermuda Hospital Board, Bermuda Police Service and Bermuda Tourism Authority) and internally disseminated to all public officials that handle and manage information in only two.

A review of the findings demonstrates that the majority of public authorities have the necessary human resources and infrastructure, such as equipment and space, to advance implementation of the PATI Act. In all but one public authority, a public official has formally been made responsible for PATI functions and duties. While the officer's name is available on the annual PATI Statement, often found on their website and on the ICO website, it would benefit from more prominence on each public authority's home page to improve communications between the requesters and the public authority. Importantly, with one exception, the appointed officers have the requisite authority needed to comply with the PATI mandates. But time, staffing and specialized training of the officers is not uniformly sufficient for these public authorities to fulfill their PATI responsibilities. The lack of additional staff, as needed, or time to devote to PATI was identified as an ongoing issue, particularly for those public authorities that receive a higher volume or more challenging requests.

Notably, in rare instances have there been specific allocations of the financial resources necessary for fulfilling PATI functions and duties. In the case of the Bermuda Police Service, in recognition of the time necessary for responding to requests, the Commissioner of Police removed some duties to allow the officer to focus on PATI, which was considered a budgetary reallocation. However, while it was uniformly understood that there are costs associated with PATI and that it is another potential indication of political commitment, all other public authorities stated that they must find resources from the existing budget, even the costs for copying and mailing.

Raising awareness both internally within the public authority and externally to its constituencies is a core element to assuring the smooth functioning of the law and that its benefits are appreciated by both the public authorities and citizens. Making all public officials aware of basic access to information principles encourages more responsiveness when an Information Officer seeks information that they may hold and serves to shift the overall culture within the public authority. In addition, including a component on access to information and how to make requests or find proactively published information in public authority outreach efforts helps to meet the central purposes of the Act, builds greater trust as it demonstrates the public authority's interest in meeting citizen's information needs, and clarifies procedures and expectations, which helps the public authority in the long-run as more concise and actionable requests are made. Among the public authorities assessed in Bermuda, few provide formal communication to their staff regarding PATI and none include information regarding PATI in any public outreach, such as brochures, posters, inclusion in speeches by leadership, etc. However, encouragingly, more than half did provide some instructions on their websites related to the processes for making requests and seeking information.

Finally, in terms of monitoring and performance review, in most of the public authorities assessed, there was both internal monitoring, including



Making all public officials aware of basic access to information principles encourages more responsiveness when a PATI officer seeks information that they may hold

development of annual reports for submission to the Information Commissioner's Office, and performance reviews that take into account PATI responsibilities for those persons tasked with access to information functions. For those public authorities that received a yellow on the IAT assessment, often it was because their regular monitoring reports did not include recommendations for improvement, which is an integral factor for advancement, or their monitoring and oversight was limited to the handling of specific requests rather than the overall system.

Overall Recommendations:

- Elevate the importance of the PATI Act and its principles of openness and transparency through inclusion in the public authority's strategic plans and through regularized meetings between Information Officers, key staff, and the highest authorities.
- Adopt or review public authority specific guidelines and instructions for maintaining PATI operations and make widely available to all staff.
- Continue to assure that each public authority has an appointed Information Officer with sufficient training, staff support, time, and authority to effectively fulfill their duties, particularly in those public authorities that receive more significant numbers of requests.
- Consider making the name and contact details of the Information Officer more prominent in order to facilitate better communication between the requesters and the public authority.
- Identify specific budget/financial resources for fulfilling PATI duties, as both a practical matter and one that reflects the prioritization of the right.
- Raise awareness of basic access to information principles with staff and with the public.
- Assure effective monitoring systems with recommendations for continuous improvement.

Receiving and Responding to Requests

The processes for requesting and responding to documents should be as easy, simple, and flexible as possible. For this goal to be met, implementation efforts should be focused on operationalizing procedures that decrease bureaucratic obstacles, provide clarity to the Information Officer, and support requesters. In Bermuda, a number of rules and procedures have been issued to guide public authorities, including the PATI Act provisions and 2014 Regulations, the Policy and Strategy Section's guidelines, the ICO's publications, and Information Commissioner's decisions. Ideally, when placed together, these guidelines should contain provisions related to determining what constitutes a request, the mandate and means for providing acknowledgment and, as necessary, assisting the requester, coordination within the public authority, timeframes for response, cost determinations and fee calculations, provision of the requested documents or written denials, transfers of requests, and internal review. It is then incumbent upon the public authority to adopt these guidelines, incorporate additional guidance as necessary, and develop specific internal standard operating procedures to assure they function smoothly, are consistent with the unique attributes of the particular public authority, and that there is clarity and the avoidance of arbitrariness or ad hoc application.

Overall, amongst the public authorities assessed, there are some clear areas of strength within the function of receiving and responding to requests. This is reflected in the researcher and blind peer reviewer's "wildcard" scaling that public authorities in practice either are doing well or have taken some affirmative steps to meet good practice. For the most part, the public authorities have developed or adopted written guidelines, often those that were created by the Policy and Strategy Section, for receiving requests, including what constitutes a request, providing a receipt acknowledging the request, and assisting requesters. Those public

authorities dependent on the central tracking system are assisted by prompts to acknowledge the request. A number of the public authorities that received a “yellow” noted that they do not have specific guidelines for assisting requesters.

Positively, the public authorities assessed had developed procedures for logging and tracking requests and responses, including keeping their logs updated, organized in one place, and detailed, facilitated by the centralized system for cataloging requests. In some cases, there were questions as to whether the tracking system included internal reviews, which is why some public authorities did not receive full marks.

Finally, an area where all public authorities performed particularly well was associated with monitoring. In all cases, the public authorities regularly and systematically captured statistics related to receiving and responding to requests, again supported by the established centralized systems for logging requests. Nonetheless, as the systems continue to mature, and as noted above, it would be beneficial to include additional narratives related to how the processes are functioning within the public authorities, any creative measures taken, lessons learned, and recommendations for future improvements.

While many public authorities adopted the centrally issued guidelines for receiving requests, fewer demonstrated that the authority had written guidelines for responding to a request. This was equally true for authority-specific standard operating procedures for processing requests and issuing and serving responses, where the majority of the public authorities had not created specific processes that speak to their unique functions, administrative organization, and attributes. For example, though the public authorities assessed had developed some processes, these did not include all of the components such as a procedure for determining release of records, the means for providing requested information, the way in which notice of denials will be given and the reason for denial.



Transfers of requests and internal reviews are areas of particular note for consideration. Only one public authority, the Bermuda Police Service, had created an internal procedure for transferring requests to other public authorities and only two public authorities, the Cabinet Office and Bermuda Police Service, had created or adopted written guidelines for internal review. While there likely are existing informal procedures that the Information Officers and the authorities use, they were not written and thus could be applied inconsistently.

Overall Recommendations:

- Develop specific guidelines and procedures that contemplate the unique features of the public authority, with particular focus on:
 - processing requests, including determining who holds the records and responsibility and means for redactions
 - responding to requests, including notice of fees and payment/collection processes
 - transferring requests
 - internal review
- Develop and assure functioning of internal review processes.
- Consider including additional qualitative data/narratives in annual reports to the ICO, such as creative measures undertaken, lessons learned, and recommendations for continuing progress.

Proactive Disclosure

One of the most efficient means by which to share the vast quantities of documents that public authorities hold is through proactive disclosure, also called automatic publication. This is the flip side of the access to information coin. While on the one side, applicants may make specific requests for information, proactive disclosure requires that information holders make some documents available automatically without request. Proactively publishing information as a matter of practice is one measure that can be implemented immediately and would have both short-term and long-term benefits, including being more economical, time-saving, and consistent with the spirit of PATI. Automatic release of documents is an exceptionally potent means of sharing information when living in small state societies where citizens may fear repercussions or reprisals for submitting requests.

In the assessment of the 13 public authorities in Bermuda, proactive disclosure is the area where the public authorities appeared to have made the least progress. Though most public authorities stated that they complied with the law in respect to the automatic publishing of contracts valued at \$50,000



Automatic release of documents is a potent means of sharing information when living in small state societies, where citizens may fear repercussions or reprisals for submitting requests

or more, availability of the myriad other types of information was more limited. This is reflective of the IAT findings, where there was little evidence that guidelines or procedures for proactive disclosure had been adopted or created, and of the in-practice wildcard indicator, where only the Bermuda Tourism Authority was considered to be doing well.

Although the public authorities had appointed a staff person responsible for overseeing and assuring proactive disclosure functions and duties, these were at times informal determinations. Training for these professionals was limited to the technological skills necessary for posting documents and did not focus on the substance of the law, such as the statutory requirements for proactive disclosure and identifying records ripe for automatic publication. As this area was not prioritized, time and staff required to fulfill this mandate were not always present.

Unlike monitoring for receiving and responding to requests, the public authorities were not capturing any statistics related to proactive disclosure nor was there any form of written reports with findings and recommendations. Without the reporting and monitoring, it is hard to fully assess the efforts being undertaken to advance proactive disclosure.

Overall Recommendations:

- Leadership should prioritize proactive disclosure as the most effective and efficient means of sharing public information, particularly in light of Bermuda's small state society.
- Develop written guidelines and procedures to provide direction for determining/deciding which records to proactively publish, updating and adding documents, roles and responsibilities, etc.
- Formally appoint officers to be responsible for proactive disclosure and provide them substantive training, beyond the technical skills necessary to upload documents, time and staff.
- Increase monitoring and reporting of proactive disclosure, including capturing statistics of records released automatically, lessons learned, recommendations for improvement, etc.

Records Management

If there are no records to be found, or they are so unorganized that locating them becomes an insurmountable obstacle, the best access to information law is meaningless. In order to respond to requests, an adequate information management system must be designed and established.²¹ The importance of records management is captured in the Part 8 of the PATI Act where it calls upon the Minister to make regulations “providing for the management and maintenance of records held by public authorities” and “in consultation with the Commissioner and the Archivist, establish codes of practice for public authorities regarding the maintenance and management of records of public authorities in a manner that facilitates ready access to the records.”²² Good records management becomes even more critical as paper-based systems are overlaid with newer digital structures.

Like fundamental functions, there is a demonstrable absence of leadership and policy with relation to records management. The IAT found that in only four of the public authorities did leaders with the authority over policy meet at least twice a year with those persons responsible for records management. Similarly, few public authorities had created or adopted a records management policy for paper or digital information.

Moreover, even with the clear statutory mandate, many of the public authorities assessed had not progressed with records management rules or procedures. The public authorities lacked rules related to creating, organizing, storing/preserving, retention, security, retrieval, and access. This is true for both paper and digital records. In some cases, such as the Cabinet Office, they are using a basic filing system but are in the process of developing a more robust policy to guide their records management systems. In other public authorities, which are quite dependent on records, for instance the Department of Health, certain classes of records such as patient records are better regulated. Nevertheless, as there are few policies or operating procedures, likewise, there are no instructions or documents for implementing or operationalizing records management.

Even without rules or guidelines, the IAT noted that a number of public authorities had established some internal procedures for handling and organizing records. For example, the Department of Human Resources and the Department of Immigration have instituted formalized procedures for managing, retrieving, and accessing paper records, and have made some inroads related to digital records. However, in most other public authorities, there were informal processes that had developed over time but not necessarily been codified. For records deemed of historical value, the Archives have established clear and detailed instructions, but this relates to a smaller percentage of the myriad documents that public authorities create and manage on a regular basis. While there were some components of a records management system for paper-based documents, less progress has been made to systematize the management of digital records.

All the public authorities assessed either had formally appointed a person responsible for records management (four public authorities) or informally tasked personnel with the records management functions and duties. This is an important first step. Positively, most interviewed felt that time and staffing was sufficient, but far fewer believed that there was enough specialized training on records management to fulfill their duties. For those that spoke of training, the reference was to capacity-building that took place during the roll-out of PATI over five years ago, or to training that has accompanied the establishment of new systems, such as the Bermuda Police Service.

Although each public authority had a place where



Many public authorities lacked rules related to creating, organizing, storing/preserving, retention, security, retrieval, and access — for both paper and digital records.

²¹ *Making the Law Work: The Challenges of Implementation*, The Right to Know, L. Neuman and R. Calland, 2007.

²² Bermuda Public Access to Information Act 2010, Sec 8 (59) and (60).

records could be stored (both physically and electronically), the records were not always retrievable or easily accessible. Indeed, some public authorities acknowledged the fact that less than ideal record systems had led to requests for a time extension in order to find the information.

In many ways, records management is the responsibility of all public officials. While specialized records managers are key to establishing and overseeing the organization and maintenance of records, all staff play a role in the creation, handling, and storage of information. Awareness of basic records management procedures helps assure that “information is available when and where it is needed, in an organized and efficient manner, and in an appropriate environment.”²³ All public officials had periodically received formal communication of basic records management procedures in only two of the assessed public authorities. In the Bermuda Hospitals Board, information on records management is disseminated through monthly leadership meetings, with managers being charged to share the material with their teams. In addition, the Bermuda Tourism Authority affirmed that an email is sent to all staff at least once a year related specifically to records management. The remainder of the assessed authorities may provide some informal communication but there are no systematized, formal mechanisms undertaken to make public officials aware of basic records management procedures.

In the area of monitoring, once again, almost every public authority assessed confirmed that they were not monitoring their records management systems. The exceptions to this were the Department of Child and Family Services, which conducts regular audits of its paper records but has not yet fully implemented a system for digital records, and the Bermuda Board of Tourism, which had sometime in the past audited the records management system.

Overall Recommendations:

- Increase engagement of leadership in establishing records management as a priority, including through periodic meetings with responsible staff.
- Develop a records management policy for paper

and digital records, which could be done at the central level to assure consistency among the public authorities and coherence with the existing Archives rules.

- Establish formal guidelines and standard operating procedures for records management through its lifecycle from creation of the record through its disposition, particularly for digital records.
- Assure the formal appointment of records managers and institute regular specialized training.
- Periodically communicate basic records management procedures to all staff.
- Institute regular monitoring/audits of records management systems.

Conclusion

The application of the Implementation Assessment Tool clearly highlights the many developments and strengths in the public authorities’ PATI Act implementation. Overall, the public authorities’ performance of functions related to receiving and responding to requests was more advanced, with some formalized guidelines and specialized staff. For the areas of proactive disclosure and records management, a lack of preparedness was evident with much left to be accomplished.

Critically, since the public authorities have been through this assessment, they are more keenly aware of where they are doing well and where they must place greater effort. Some had begun the process of improvement soon after the interviews had taken place. For instance, some who did not have any references to PATI on their website, if they were not a part of the government website, added such information. Those that had information but found that it was difficult to locate placed the information in a more accessible location. These are optimistic first steps, providing hope that all public authorities will use the assessment findings to further advance their implementation efforts to provide greater transparency and accountability in the provision of government services.

²³ The Basics of Records Management, Florida Department of State, State Library and Archives of Florida, 2009, <https://dos.myflorida.com/media/31105/basicrecordsmanagement.pdf>.

Public Authority Specific Findings

Cabinet Office

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 2. IAT Findings for the Cabinet Office

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement ● Strategic Planning ●			Engagement ● Policy ●
Rules (guide)	Guidelines ● ● ● ● ● Instructions/plans ● ● ● ● ●	Guidelines for receiving/processing ● ● Guidelines for responding ● Guidelines for internal review ●	Guidelines ●	Guidelines ● ● Instructions/plans ●
Procedures (order)	Public awareness raising ● ●	Procedures for receiving/ processing ● ● Procedures for transfer/ responding ● ●	Procedures for proactive disclosure ●	Classification ● Manage Records ● ● Retrieve Records ● ●
Resources (enable)	Staffing ● ● ● ● ● Training ● ● ● ● ● Infrastructure ● ● ● ● ● Budget ●		Staffing ● ● Training ●	Staffing ● ● Training ● ● Infrastructure ●
Monitoring (adjust)	Internal oversight ● ● Performance monitoring ●	Capturing of statistics ●	Capturing of statistics ● Reporting ●	Reporting ●
Wildcard	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●

Bermuda Hospitals Board

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 3. IAT Findings for the Bermuda Hospitals Board

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement ● Strategic Planning ●			Engagement ● Policy ●
Rules (guide)	Guidelines ● ● ● ● Instructions/plans ● ● ● ●	Guidelines for receiving/processing ● ● Guidelines for responding ● Guidelines for internal review ●	Guidelines ●	Guidelines ● ● Instructions/plans ●
Procedures (order)	Public awareness raising ● ●	Procedures for receiving/ processing ● ● Procedures for transfer/ responding ● ●	Procedures for proactive disclosure ●	Classification ● Manage Records ● ● Retrieve Records ● ●
Resources (enable)	Staffing ● ● ● ● Training ● ● ● ● Infrastructure ● ● Budget ●		Staffing ● ● Training ●	Staffing ● ● Training ● ● Infrastructure ●
Monitoring (adjust)	Internal oversight ● ● Performance monitoring ●	Capturing of statistics ●	Capturing of statistics ● Reporting ●	Reporting ●
Wildcard	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●

Bermuda Police Service

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 4. IAT Findings for the Bermuda Police Service

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement Policy
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review 	Guidelines 	Guidelines Instructions/plans
Procedures (order)	Public awareness raising 	Procedures for receiving/ processing Procedures for transfer/ responding 	Procedures for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 		Staffing Training 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Bermuda Tourism Authority

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 5. IAT Findings for the Bermuda Tourism Authority

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement  Policy 
Rules (guide)	Guidelines     Instructions/plans   	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review 	Guidelines 	Guidelines   Instructions/plans 
Procedures (order)	Public awareness raising  	Procedures for receiving/ processing   Procedures for transfer/ responding  	Procedures for proactive disclosure 	Classification  Manage Records   Retrieve Records  
Resources (enable)	Staffing     Training    Infrastructure   Budget 		Staffing   Training 	Staffing   Training   Infrastructure 
Monitoring (adjust)	Internal oversight   Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Corporation of St. George

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 6. IAT Findings for the Corporation of St. George

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement Policy
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review 	Guidelines 	Guidelines Instructions/plans
Procedures (order)	Public awareness raising 	Procedures for receiving/ processing Procedures for transfer/ responding 	Procedures for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 		Staffing Training 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Department of Child and Family Services

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 7. IAT Findings for the Department of Child and Family Services

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement Policy
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review 	Guidelines 	Guidelines Instructions/plans
Procedures (order)	Public awareness raising 	Procedures for receiving/ processing Procedures for transfer/ responding 	Procedures for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 		Staffing Training 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Department of Education

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 8. IAT Findings for the Department of Education

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement Policy
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review 	Guidelines 	Guidelines Instructions/plans
Procedures (order)	Public awareness raising 	Procedures for receiving/ processing Procedures for transfer/ responding 	Procedures for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 		Staffing Training 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Department of Health

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 9. IAT Findings for the Department of Health

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement  Policy 
Rules (guide)	Guidelines     Instructions/plans   	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review 	Guidelines 	Guidelines   Instructions/plans 
Procedures (order)	Public awareness raising  	Procedures for receiving/ processing   Procedures for transfer/ responding  	Procedures for proactive disclosure 	Classification  Manage Records   Retrieve Records  
Resources (enable)	Staffing     Training    Infrastructure   Budget 		Staffing   Training 	Staffing   Training   Infrastructure 
Monitoring (adjust)	Internal oversight   Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Department of Human Resources

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 10. IAT Findings for the Department of Human Resources

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement ● Strategic Planning ●			Engagement ● Policy ●
Rules (guide)	Guidelines ● ● ● ● Instructions/plans ● ● ●	Guidelines for receiving/processing ● ● Guidelines for responding ● Guidelines for internal review ●	Guidelines ●	Guidelines ● ● Instructions/plans ●
Procedures (order)	Public awareness raising ● ●	Procedures for receiving/ processing ● ● Procedures for transfer/ responding ● ●	Procedures for proactive disclosure ●	Classification ● Manage Records ● ● Retrieve Records ● ●
Resources (enable)	Staffing ● ● ● ● Training ● ● ● Infrastructure ● ● Budget ●		Staffing ● ● Training ●	Staffing ● ● Training ● ● Infrastructure ●
Monitoring (adjust)	Internal oversight ● ● Performance monitoring ●	Capturing of statistics ●	Capturing of statistics ● Reporting ●	Reporting ●
Wildcard	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●

Department of Immigration

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 11. IAT Findings for the Department of Immigration

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement  Policy 
Rules (guide)	Guidelines     Instructions/plans   	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review 	Guidelines 	Guidelines   Instructions/plans 
Procedures (order)	Public awareness raising  	Procedures for receiving/ processing   Procedures for transfer/ responding  	Procedures for proactive disclosure 	Classification  Manage Records   Retrieve Records  
Resources (enable)	Staffing     Training    Infrastructure   Budget 		Staffing   Training 	Staffing   Training   Infrastructure 
Monitoring (adjust)	Internal oversight   Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Department of Public Lands and Buildings

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 12. IAT Findings for the Department of Public Lands and Buildings

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement ● Strategic Planning ●			Engagement ● Policy ●
Rules (guide)	Guidelines ● ● ● ● Instructions/plans ● ● ● ●	Guidelines for receiving/processing ● ● Guidelines for responding ● Guidelines for internal review ●	Guidelines ●	Guidelines ● ● Instructions/plans ●
Procedures (order)	Public awareness raising ● ●	Procedures for receiving/ processing ● ● Procedures for transfer/ responding ● ●	Procedures for proactive disclosure ●	Classification ● Manage Records ● ● Retrieve Records ● ●
Resources (enable)	Staffing ● ● ● ● ● Training ● ● ● ● Infrastructure ● ● Budget ●		Staffing ● ● Training ●	Staffing ● ● ● Training ● ● Infrastructure ●
Monitoring (adjust)	Internal oversight ● ● Performance monitoring ●	Capturing of statistics ●	Capturing of statistics ● Reporting ●	Reporting ●
Wildcard	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●	Researcher ● Blind Peer Reviewer ●

Department of Social Insurance

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 13. IAT Findings for the Department of Social Insurance

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement  Policy 
Rules (guide)	Guidelines     Instructions/plans   	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review 	Guidelines 	Guidelines   Instructions/plans 
Procedures (order)	Public awareness raising  	Procedures for receiving/ processing   Procedures for transfer/ responding  	Procedures for proactive disclosure 	Classification  Manage Records   Retrieve Records  
Resources (enable)	Staffing     Training    Infrastructure   Budget 		Staffing   Training 	Staffing   Training   Infrastructure 
Monitoring (adjust)	Internal oversight   Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Ministry of Finance Headquarters

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the public authority has done well and has met the defined good practice; yellow means there has been some activity/engagement, but does not meet the defined good practice; and red means the public authority has either not engaged or done very little to advance on this part of its implementation. The black and white stripes mean that the indicator is not applicable in this public authority.

Table 14. IAT Findings for the Ministry of Finance Headquarters

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement Policy
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review 	Guidelines 	Guidelines Instructions/plans
Procedures (order)	Public awareness raising 	Procedures for receiving/ processing Procedures for transfer/ responding 	Procedures for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 		Staffing Training 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Annex 1 – Background Information on IAT

Developing the IAT

The Carter Center designed and created the IAT through desk research, consultant support, and periodic peer reviews. As a first step, the Center engaged in considerable research to identify the breadth of national and subnational implementation plans and to evaluate the commonalities. There are very few available national or agency-specific access to information implementation plans. Additionally, the Center did an extensive literature review related to access to information implementation and public policy and administration; again, at the time, there were relatively few articles or studies. Based on the initial research and our experience, we developed a preliminary draft matrix of similarities and unique/innovative approaches to implementation.

Following the research phase, The Carter Center convened a group of renowned experts to consider the value and efficacy of an implementation assessment instrument and to provide input into its basic design. This first meeting considered the key issues in implementation and prospective indicators as well as how to measure them. It was agreed that a major goal of the IAT was to create a tool that would be useful for governments—allowing them to assess the breadth and quality of their implementation efforts—rather than as a more punitive ranking or “hammer.” The two days of robust discussion established the importance of the IAT but also highlighted a number of potential problems and risks associated with an implementation assessment. Underlying both days of discussion were the following questions:

1. How do we make the study replicable and portable across varying countries?

2. How do we ensure that the tool also assesses quality of the implementation rather than simply falling into a “check the box” exercise showing that an input/activity occurred but not demonstrating whether it was done well?

From these discussions and considerations emerged the tool’s framing question: **To what extent is the agency capacitated and prepared to provide information and respond to requests?**

Perhaps the most challenging aspect in developing the IAT was the lack of clearly agreed-upon universal best practices for access to information legislation implementation. This absence of consensus signaled the need for an increased emphasis on vetting determinations on good practice with expert colleagues from government, civil society, and academia. The Center also was aware that the tool should work equally well when used in a mature system (where the law has existed for years) as well as in a country with a newly passed access to information law. This mandate forced us to verify that each indicator is valid in a variety of disperse contexts.

With the initial design of the IAT completed, The Carter Center convened a broader based group of access to information and transparency experts to peer review the first draft indicators, application methodology, and sampling (country and ministry/agency) determinations. After long discussions and considerations, the Center decided to retain the initial design to focus on administrative inputs (“the plumbing”), rather than assessing the quality of the outputs, i.e., compliance with the law/user satisfaction. We also made the decision to include internal reconsideration but not go further to include indicators related to judicial or quasi-judicial enforcement measures in the implementation assessment.

Over the course of the next months, the design of the IAT was modified to allow for assessment on both the x- and y-axis, and a series of indicators were developed. Finally, to validate the defined indicators and measurements/scaling, The Carter Center again undertook an extensive analysis of existing implementation plans and practice.

Piloting the IAT

To assure the efficacy and value of the IAT, the Center determined to apply the tool in a phased approach in more than 10 countries. Pilot phase I was meant to assess three countries, pilot phase II assessed four countries, and pilot phase III an additional four countries. While the initial intent was to assess each country once, considering the significant modifications of the indicators following each pilot phase, we decided to include the initial countries in the subsequent pilot phases. Thus, for example, in pilot phase III, we applied the revised indicators in all 11 countries.

Selection of Countries/Agencies

In preparation for selecting the pilot countries to test the IAT, The Carter Center created a list of criteria and variables. For the pilot selection, we considered the following conditions:

- Regional diversity
- Variety in length of time that the access to information law/regulation had been in effect
- Distinct legal system/framework (common law versus civil)
- Types of civil service (professionalize versus more partisan)
- Contrasting development status/income level
- Availability of social scientists/civil society leaders to undertake the study
- Existing data sets or studies related to access to information

- Political will/interest
- Divergent participation in the Open Government Partnership

The IAT was applied in seven ministries and/or agencies in each country. For uniformity, we chose to engage the same ministries/agencies in each of the countries. Criteria used in determining the specific ministries/agencies included:

- Those agencies that held information critical for fundamental human and socioeconomic rights
- Ministries and agencies that play a role in poverty reduction
- Ministries and agencies that provide important services
- Ministries and agencies that are key in overseeing or promoting the overall access to information regime
- A mix of ministries and agencies, in particular agencies of varying size and resources

Pilot Phases

In 2011, The Carter Center completed pilot phase I of the tool in three countries—Bangladesh, Mexico, and South Africa, followed by an expert review and extensive modifications to the methodology and indicators. Pilot phase II was completed in the spring of 2013 and included application of the indicators in the original three countries as well as in Chile, Indonesia, Scotland, and Uganda. Once again, The Carter Center conducted a review meeting to refine the tool and methodology. In the fall of 2013, pilot phase III commenced and included four new countries: Georgia, Jordan, Guatemala, and the United States. The researchers in these countries applied all revised IAT indicators and were joined by the researchers from pilot phases I and II who applied all new or modified indicators in their respective countries.

Pilot Phase I

Pilot phase I included 72 indicators. During this phase, we were still considering identifying narrowly defined and universally applicable best practices. However, through the review discussion, it became clear that this would be too prescriptive and not capture the nuances of each country context. Moreover, it would not reflect the terminology utilized by leading oversight practitioners, who use the term “good practice” rather than best practice. The participants recommended, and we concurred, that the implementation assessment tool should serve to develop and measure “good practice” and in this way more meaningfully reflect the reality that there may be multiple good practices, depending on country circumstances and administrative dynamics. Methodological changes were made following this phase, including adding a blind-peer review, assessing a smaller, less-resourced agency, and using the Indaba platform for data collection.

Pilot Phase II

With the revisions and refinements based on the pilot phase I review, the IAT now included 75 indicators to test in pilot phase I and II countries: Chile, Indonesia, Scotland, and Uganda joined South Africa, Bangladesh, and Mexico. The local researchers applied the tool in the original six ministries as well as in a seventh smaller agency, and in this phase, we engaged the Indaba platform, an online data collection system. During the two-day review meeting, following data collection, analysis, findings, and validations, the experts actively revised the indicators, removing any indicator deemed repetitive and making necessary language changes to accommodate a variety of government contexts. One of the main modifications made for pilot phase II was to include indicators that looked more specifically at implementation in practice, which was accomplished through use of four “wild cards.” We also reduced the number of indicators to a more manageable 65 and strengthened the indicators related to records management, with increased focus on electronic records.



Pilot Phase III

Pilot phase III was the final testing of the indicators. For this phase, we retained the same methodology and workflow, including the blind-peer reviewer and the focal groups, but used the modified indicators. As with the other phases, Carter Center staff reviewed each finding, submitted questions to both the researchers and the blind-peer reviewers, and assured the quality and consistency of each finding. At the conclusion of pilot phase III, we held the final expert review to make any necessary, last adjustments to the indicators and presented the IAT to the community of practice.

Overall, during the three phases of piloting, the IAT had been applied in six to seven agencies in eleven countries, with many of the countries assessed more than once, resulting in the review of over 8,000 individual indicators.

Annex 2 - Final Indicators of the Implementation Assessment Tool

The access to information legislation Implementation Assessment Tool (IAT) is designed as a matrix, with indicators related to baskets of activities (leadership, rules, systems, resources, and monitoring) and government functions/responsibilities (such as responding to requests, automatic publication, etc.). The indicators are scored using the “stoplight method,” with a scale including green, yellow, and red. Green will indicate that the administration has done well, yellow will demonstrate that there has been some activity/engagement but an insufficient amount, and red will show that the administration has either not engaged or done very little to advance on this part of its implementation. Black and white stripes are used to reflect that the indicator is not applicable in the agency being tested.

There are two types of indicators; 1) self-reporting indicators which are addressed through an interview and 2) indicators which can be verified through desk research or document review. All findings will then go through a validation process and two forms of peer review (blind peer review and focal groups).

It is important to note that these indicators have been tested in three pilot phases in more than 10 countries. While these are the final indicators emanating from the pilot testing and reviews, there is a possibility that additional changes/amendments will be made in the future.

Fundamental Functions: Leadership

1. Does the agency’s strategic plan incorporate ATI, such as by including specific mention of access to information and/or principles of openness and transparency?
 - a. Yes
 - b. No
2. How often does an agency official with authority over policy participate in meetings with public officials responsible for ATI activities?
 - a. Twice a year
 - b. Once a year
 - c. Rarely or never

Fundamental Functions: Rules

3. Has the agency created or adopted specific guidelines on ATI?
 - a. Yes
 - b. No
4. How often are ATI guidelines reviewed by an agency official with authority over policy?
 - a. ATI guidelines are reviewed at least every two years
 - b. ATI guidelines are reviewed periodically
 - c. ATI guidelines have not been reviewed
 - d. Not applicable, the guidelines are less than two years old

5. How often are ATI guidelines revised by an agency official with authority over policy?
 - a. ATI guidelines are revised following a change in policy
 - b. ATI guidelines have not been revised following a change in policy
 - c. Not applicable, the policy has not been changed or agency does not have authority to revise
6. Does the agency make all guidelines available for reference?
 - a. The guidelines are kept online or in an easily accessible reference center for consultation by civil servants and the public
 - b. The guidelines are kept online or in an easily accessible reference center but are only available to civil servants
 - c. The guidelines are not easily available for reference or do not exist
7. Does the agency have a document(s) that establishes instructions for ATI implementation and/or operation?
 - a. Yes
 - b. No

8. Does the document(s) detailing instructions for ATI implementation and/or operation currently reflect the agency's ATI policy?

- a. Yes
- b. No

9. Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?

- a. The document(s) has been disseminated electronically and/or in print to all public officials who handle and manage information
- b. The document(s) has only been disseminated to some public officials
- c. The document(s) has only been referenced and not disseminated or there is no document(s)

Fundamental Functions: Procedures

10. Does the agency's public outreach specifically include a component regarding ATI?

- a. Yes
- b. No

11. Does the agency specifically provide information on how to make a request and to find proactively published information?

- a. Yes
- b. No

12. Has one or more public official been made responsible for ATI functions and duties?

- a. One or more public official(s) has been formally appointed with ATI functions and duties
- b. One or more public official(s) has been informally tasked with ATI functions and duties
- c. There is no specific appointment/tasking of ATI functions and duties

13. Has the name of the public official(s) appointed/tasked responsible for ATI functions and duties been made known to the public?

- a. Yes
- b. No

14. Does the public official(s) appointed/tasked responsible for ATI functions and duties have the authority needed to comply with ATI mandate?

- a. Yes
- b. No

15. Does the public official(s) appointed/tasked responsible for ATI functions and duties have the time and staff needed to fulfill his/her ATI responsibilities?

- a. The public official(s) appointed/tasked responsible

for ATI functions and duties has both the time and staff needed to fulfill his/her ATI responsibilities

b. The public official(s) appointed/tasked responsible for ATI functions and duties has the time but not the staff needed to fulfill his/her ATI responsibilities

c. The public official(s) appointed/tasked responsible for ATI functions and duties does not have the time but does have the staff needed to fulfill his/her ATI responsibilities

d. The public official(s) appointed/tasked responsible for ATI functions and duties does not have the time or the staff needed to fulfill his/her ATI responsibilities

16. Does the public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI?

a. The public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI in order to effectively do their job

b. The public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI but not sufficient in order to effectively do their job

c. The public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff do not receive specialized training on ATI

17. Are all public officials made aware of basic ATI principles?

a. All public officials periodically receive formal communication regarding basic ATI principles

b. All public officials receive periodic communication regarding basic ATI principles but not formally

c. All public officials receive formal communication regarding basic ATI principles but not periodically

d. No systematized formal mechanisms are undertaken by the agency to periodically make public officials aware of basic ATI principles

18. Are training materials related to ATI created and maintained for future reference by public officials?

a. All training materials related to ATI are kept online or in an easily accessible reference center for consultation by public officials

b. Some but not all training materials related to ATI are made available for consultation

c. Training materials related to ATI are not created or they are not made available

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19. Does the public official(s) responsible for ATI functions and duties have regular access to necessary equipment?
 - a. The responsible public official(s) has dedicated or regular access to all of the following: computers with internet; scanners; and photocopy machines
 - b. The responsible public official(s) has dedicated or regular access to some but not all of the above
 - c. The responsible public official(s) has no access or irregular access
 20. Has the agency created a space, physical or virtual, to make requests, review documents, and share proactively published information?
 - a. The agency has created space for making requests, reviewing documents, and sharing proactively published information.
 - b. The agency has created some of the spaces, but not all
 - c. The agency has not created space for making requests, reviewing documents, or sharing proactively published information
 21. Does the agency specifically allocate the financial resources necessary for fulfilling its ATI functions and duties?
 - a. Yes
 - b. No

Fundamental Functions: Monitoring

22. Does the agency monitor its ATI functions and duties?
 - a. The agency regularly monitors its ATI functions and duties and written reports with findings and recommendations are issued on an annual basis
 - b. The agency regularly monitors its ATI functions but written reports with findings and recommendations are not issued on an annual basis
 - c. The agency does not regularly monitor its ATI functions
23. Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?
 - a. Yes
 - b. No
24. Does the agency's performance review of persons appointed/tasked with ATI functions and duties takes these responsibilities into account in their review?
 - a. Yes
 - b. No

Fundamental Functions: Wildcard

25. In your expert opinion, in practice does the agency effectively fulfill its fundamental functions related to access to information?
 - a. In practice, the agency fulfills its fundamental functions related to access to information
 - b. In practice, the agency partly fulfills its fundamental functions related to access to information
 - c. In practice, the agency does not effectively fulfill its fundamental functions related to access to information

Receiving and Responding to Requests: Rules

26. Does the agency have written guidelines for receiving requests?
 - a. The agency has created or adopted written guidelines for receiving requests that include all of the following:
 - i. determining what constitutes a request;
 - ii. providing an acknowledgment of receipt;
 - iii. and assisting the requester
 - b. The agency has created or adopted written guidelines that include some but not all of the above
 - c. The agency has not created or adopted written guidelines for receiving requests
27. Does the agency have written guidelines for processing requests?
 - a. The agency has created or adopted written guidelines for processing requests that include all of the following:
 - i. coordination within the agency;
 - ii. timeframes;
 - iii. cost determination; fee collection;
 - iv. and transfer (where applicable)
 - b. The agency has created or adopted written guidelines that include some but not all of the above
 - c. The agency has not created or adopted written guidelines for processing requests
28. Does the agency have written guidelines for responding (release or deny) to requests?
 - a. The agency has created or adopted written guidelines for responding to requests that include all of the following:
 - i. process for determining release;
 - ii. means for providing requested information;
 - iii. means for providing notice of denial;
 - iv. and reason for denial of information

requested

- b. The agency has created or adopted written guidelines that include some but not all of the above
 - c. The agency has not created or adopted written guidelines for responding to requests
29. Does the agency have written guidelines for internal review?
- a. The agency has created or adopted written guidelines for internal review that include all of the following:
 - i. receiving requests for review;
 - ii. reviewing agency's motives for initial decisions;
 - iii. and issuing findings and decisions
 - b. The agency has created or adopted written guidelines that include some but not all of the above
 - c. The agency has not created or adopted guidelines for internal review
 - d. Not applicable, if the law does not mandate/provide for internal review
32. Does the agency have a procedure for transferring requests to other agencies?
- a. The agency has created or adopted a procedure for transfer of requests that includes all of the following:
 - i. identifying the correct agency;
 - ii. transferring requests;
 - iii. and providing notice of transfer to the requester
 - b. The agency has created or adopted a procedure that includes some but not all of the above
 - c. The agency has not created or adopted a procedure for transferring requests
 - d. Not applicable, if the law does not provide for transfers
33. Does the agency have a procedure for issuing and serving responses?
- a. The agency has created or adopted a procedure for issuing and serving responses that includes all of the following:
 - i. provision of requested documents; notice and collection of fees, where applicable;
 - ii. and sending notice of denial and right of review or appeal
 - b. The agency has created or adopted a procedure for issuing and serving responses that includes some but not all of the above
 - c. The agency has not created or adopted a procedure for issuing and serving responses

Receiving and Responding to Requests: Procedures

30. Does the agency have a procedure for logging and tracking requests and responses?
- a. The agency has created a logging and tracking procedure that includes all of the following:
 - i. updating to keep current;
 - ii. tracking a request in one place;
 - iii. and detailing the request from submission through resolution, including processing agent(s), transfers, and internal reviews
 - b. The agency has created or adopted a logging and tracking procedure that includes some but not all of the above
 - c. The agency has not created or adopted a logging and tracking procedure
31. Does the agency have a procedure for processing a request?
- a. The agency has created or adopted a procedure for processing a request that includes all of the following:
 - i. identifying who in the agency holds the information searching and finding information;
 - ii. and determining release, redaction, or denial
 - b. The agency has created or adopted a procedure for processing a request that includes some but not all of the above
 - c. The agency has not created or adopted a procedure for processing a request

Receiving and Responding to Requests: Monitoring

34. Does the agency regularly capture statistics related to receiving and responding to requests?
- a. The agency systematically captures statistics on an annual basis including all of the following:
 - i. number of requests;
 - ii. number of transfers (if applicable);
 - iii. number of denials; reasons for denial;
 - iv. and number of days to respond to requests
 - b. Some of the statistics are systematically captured on an annual but not all of the above
 - c. The agency does not systematically capture statistics on an annual basis

Receiving and Responding to Requests: Wildcard

35. In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?
- In practice, the agency fulfills its function related to receiving and responding to requests
 - In practice, the agency partly fulfills its function related to receiving and responding to requests
 - In practice, the agency does not effectively fulfill its function related to receiving and responding to requests

Proactive Disclosure: Rules

36. Does the agency have written guidelines for proactive disclosure?
- The agency has created or adopted written guidelines for proactive disclosure that includes **all** of the following:
 - development of the publication scheme;
 - updating and maintaining the scheme;
 - guidance for clearly identifying/listing classes of documents to be proactively disclosed;
 - and how documents will be disclosed
 - The agency has created or adopted written guidelines for proactive disclosure that includes some but not all of the above
 - The agency has not created or adopted written guidelines for proactive disclosure

Proactive Disclosure: Procedures

37. Does the agency have a procedure for proactive disclosure?
- The agency has created or adopted a procedure for proactive disclosure that includes **all** of following:
 - creating and maintaining publication scheme;
 - placing documents in public realm;
 - updating and adding document(s) for proactive disclosure;
 - and publishing previously requested document(s)
 - The agency has created or adopted a procedure for proactive disclosure that includes some but not all of the above
 - The agency has not created or adopted a procedure for proactive disclosure

Proactive Disclosure: Resources

38. Has one or more public official been appointed responsible for proactive disclosure functions and duties?
- One or more public official has been appointed responsible for proactive disclosure functions and duties
 - One or more public official has been informally tasked responsible for proactive disclosure functions and duties
 - There is no specific appointment/tasking of proactive disclosure functions and duties
39. Does the public official(s) responsible for proactive disclosure have the time and staff necessary to effectively fulfill his/her functions and duties?
- The public official(s) tasked/appointed responsible for proactive disclosure has both the time and staff needed to fulfill his/her functions and duties
 - The public official(s) tasked/appointed responsible for proactive disclosure has the time but not the staff needed to fulfill his/her functions and duties
 - The public official(s) tasked/appointed responsible for proactive disclosure does not have the time but does have the staff needed to fulfill his/her functions and duties
 - The public official(s) tasked/appointed responsible for proactive disclosure does not have the time or the staff needed to fulfill his/her functions and duties
40. Is the public official(s) responsible for proactive disclosure trained to comply with their duties?
- The public official(s) responsible for proactive disclosure receives specialized training in order to effectively do their job
 - The public official(s) responsible for proactive disclosure receives some specialized training but not sufficient in order to effectively do their job
 - The public official(s) responsible for proactive disclosure does not receive specialized training

Proactive Disclosure: Monitoring

41. Does the agency capture statistics related to proactive disclosure on an annual basis?
- Yes
 - No

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42. Does the agency regularly monitor its proactive disclosure?
- The agency regularly monitors its proactive disclosure and written reports with findings and recommendations are issued on an annual basis
 - The agency regularly monitors its proactive disclosure but written reports with findings and recommendations are not issued on an annual basis
 - The agency does not regularly monitor its proactive disclosure

Proactive Disclosure: Wildcard

43. In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?
- In practice, the agency fulfills its function related to proactive disclosure
 - In practice, the agency partly fulfills its function related to proactive disclosure
 - In practice, the agency does not effectively fulfill its functions related to proactive disclosure

Records Management: Leadership

44. How often does an agency official with authority over policy participate in meetings with public officials responsible for records management?
- Twice a year
 - Once a year
 - Rarely or never
45. Has the agency created or adopted a records management policy for managing paper based and digital information?
- Yes
 - No

Records Management: Rules

46. Does the agency have written guidelines for records management, regardless of format (including digital records, maps etc.)?
- The agency has created or adopted written guidelines for records management that include **all** of the following:
 - creating records;
 - organizing records;
 - storing/preserving;
 - retention; security;
 - and retrieval and access

- The agency has created or adopted some written guidelines for records management but do not include all of the above
 - The agency has not created or adopted written guidelines for records management
47. Does the agency have written guidelines for security classification of documents?
- The agency has created or adopted written guidelines for security classification of documents that includes **all** of the following:
 - determining classification and periods of classification (reserve);
 - access and internal transmission of classified documents;
 - and creation of index or other means of identifying classified documents
 - The agency has created or adopted some written guidelines for security classification of documents but they do not include all of the above
 - The agency has not created or adopted written guidelines for security classification of documents
48. Does the agency have a document(s) that establishes instructions/guidelines for implementation and/or operations for records-management?
- Yes
 - No

Records Management: Procedures

49. Does the agency have a procedure for security classification of documents?
- The agency has created or adopted a procedure for classifying documents that includes **all** of the following:
 - assessing documents for security classification when created, received, transmitted and/or requested;
 - security measures and access control;
 - timelines for classification;
 - and creating and disseminating an index or other means of identifying classified documents
 - The agency has created or adopted a procedure for security classification of documents that includes some but not all of the above
 - The agency has not created or adopted a procedure for security classification of documents

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50. Does the agency have a procedure to manage its paper records?
- a. The agency has created or adopted a procedure to manage paper records that includes **all** of the following:
 - i. creation;
 - ii. organization/aggregation of files (non-security related classification);
 - iii. survey and inventory;
 - iv. indexes and circulation logs;
 - v. access permission;
 - vi. and retention and disposal
 - b. The agency has created or adopted a procedure to manage paper records but it does not include all of the above
 - c. The agency has not created or adopted a procedure to manage paper records
51. Does the agency have a procedure to manage its digital records?
- a. The agency has created or adopted a procedure to manage digital records that includes **all** of the following:
 - i. creation, including structured metadata;
 - ii. organization/aggregation of files (non-security related classification);
 - iii. survey and inventory; organization;
 - iv. security rights and access permissions;
 - v. and retention/preservation and disposal
 - b. The agency has created or adopted a procedure to manage digital records but it does not include all of the above
 - c. The agency has not created or adopted a procedure to manage digital records
52. Does the agency have a procedure to retrieve and access paper records?
- a. The agency has created or adopted a procedure to retrieve and access paper records, which includes **all** of the following:
 - i. Indexes or registries;
 - ii. scheme to physically locate records;
 - iii. and a log that tracks circulation and retrieval
 - b. The agency has created or adopted a procedure to retrieve and access paper records, but does not include all of the above
 - c. The agency has not created or adopted a procedure to retrieve and access of paper records
53. Does the agency have a procedure to retrieve and access digital records?
- a. The agency has created or adopted a procedure to retrieve and access digital records that includes **all** of the following:
 - i. an organization (non-security classification) structure;
 - ii. naming conventions for records in shared drives;
 - iii. and location of systems holding digital records
 - b. The agency has created or adopted a procedure to retrieve and access digital records but does not include all of the above
 - c. The agency has not created or adopted a procedure to retrieve and access of digital records
- Records Management: Resources**
54. Has one or more public official been appointed responsible for records management?
- a. One or more public official(s) has been appointed with records management functions and duties
 - b. One or more public official(s) has been informally tasked with records management functions and duties
 - c. There is no specific appointment/tasking of records management function and duties
55. Does the public official(s) appointed/tasked responsible for records management functions and duties have the time and staff needed to fulfill his/her responsibilities?
- a. The public official(s) appointed/tasked responsible for records management functions and duties has both the time and staff needed to fulfill his/her responsibilities
 - b. The public official(s) appointed/tasked responsible for records management functions and duties has the time but not the staff needed to fulfill his/her responsibilities
 - c. The public official(s) appointed/tasked responsible for records management functions and duties does not have the time but does have the staff needed to fulfill his/her responsibilities
 - d. The public official(s) appointed/tasked responsible for records management functions and duties does not have the time or the staff needed to fulfill his/her responsibilities

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56. Does the public official(s) appointed/tasked responsible for records management and his/her staff receive specialized training on records management?
- The public official(s) appointed/tasked responsible for records management and his/her staff receive specialized and formal training on records management
 - The public official(s) appointed/tasked responsible for records management and his/her staff receives only formal basic records management training
 - The public official(s) appointed/tasked responsible for records management and his/her staff receives no formal training
57. Are all public officials made aware of basic records management procedures?
- All public officials periodically receive formal communication of basic records management procedures
 - All public officials receive periodic communication regarding basic records management procedures but not formally
 - All public officials receive formal communication regarding basic records management procedures but not periodically
 - No systematized formal mechanisms are undertaken by the agency to make public officials aware of basic records management procedures
58. Has the agency created space and facilities for storing paper and digital records?
- The agency has created sufficient space/facilities to store and preserve all relevant paper and digital records
 - The agency has created space/facilities to store and preserve all relevant paper and digital records but it is not sufficient
 - The agency has not created space/facilities to store all relevant paper and digital records

Records Management: Monitoring

59. Does the agency regularly monitor its records management functions and duties?
- The agency regularly monitors its records management system and written reports with findings and recommendations are issued on an annual basis
 - The agency regularly monitors its records management system but written reports with findings and recommendations are not issued on an annual basis
 - The agency does not regularly monitor its records management system

Records Management: Wildcard

60. In your expert opinion, in practice does the agency effectively fulfill its function related to records management?
- In practice, the agency fulfills its function related to records management
 - In practice, the agency partly fulfills its function related to records management
 - In practice, the agency does not effectively fulfill its functions related to records management



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