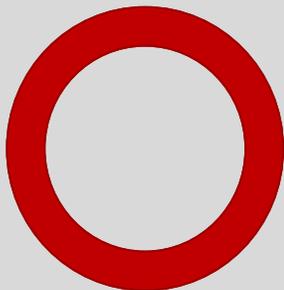
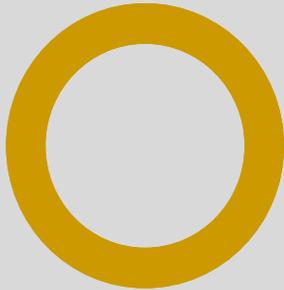


THE  
CARTER CENTER



# Pilot Findings from Select Agencies: **MEXICO**

The Carter Center's  
Access to Information Legislation  
Implementation Assessment Tool



# Pilot Findings in Select Agencies: Mexico

The Carter Center's Access to Information Legislation  
Implementation Assessment Tool

November 2014

THE  
CARTER CENTER



One Copenhill  
453 Freedom Parkway  
Atlanta, GA 30307  
(404) 420-5100  
Fax (404) 420-5196

[www.cartercenter.org](http://www.cartercenter.org)



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For additional information, contact:

Laura Neuman

Director, Global Access to Information Program

Phone: +1-404-420-5146

Email: [laura.neuman@cartercenter.org](mailto:laura.neuman@cartercenter.org)

[www.cartercenter.org/accesstoinformation](http://www.cartercenter.org/accesstoinformation)

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focus efforts and resources to ensure full and effective implementation, thus advancing the ability of the Mexican people to enjoy the myriad benefits of the right of access to information.

Contributors to the development and piloting of the IAT include:

Shaheen Anam • Jorge Mario Andrino Grotewold  
Atzimba Baltazar Macías • Tom Blanton • Stephen Bruce  
Tanti Budi Suryani • Agnes Callamard • Richard Calland  
Tamar Chugoshvili • Sandra Coliver  
Maja Daruwala • Lalanath de Silva • Mukelani Dimba  
Chad Dobson • Nancy Dubosse • Kevin Dunion  
Amy Ekdawi • Tatia Eliadze • Carole Ewart  
Carole Excell • Ahmad Faisol • Joe Foti • Silvio Gramajo  
Juan Pablo Guerrero Amparán • Libby Haight  
Nathaniel Heller • C.R. Hibbs • Farhad Hossain  
Michael Hoyle • Hilda Ijeilat • Sirajul Islam • Bruce Jenkins  
Raymond June • Suneeta Kaimal • Monica Kalemba  
Chantal Kisoan • Giorgi Kldiashvili • Manfredo Marroquín  
Emilene Martinez Morales • Marcos Mendiburu  
Daniela Moreno Tacchi • Gerardo Munck • Laura Neuman  
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Marvin Pol Álvarez • Alberto Precht • Jeffrey Prescott  
Miguel Pulido • Melanie Pustay • Charles Raab  
Gabriella Razzano • Alasdair Roberts • Jorge Romero León  
Alyamsah Saragih • Gilbert Sendugwa • Monika Shepherd  
Yahia Shukkeir • Shekhar Singh • Stephanie Trapnell  
Alberto Urzúa Toledo • Negbalee Warner  
Muhammad Zamir

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# Introduction

**T**he 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 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.

With approximately 100 countries with statutory legislation, more than 5 billion people around the globe are afforded some legal rights to information. However, 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. Furthermore, 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; governments lack the necessary diagnostic information to improve their practices in order to meet citizen demands and to promote greater transparency and accountability.

Since 1999, The Carter Center has been a leader on the issue of passage, implementation, enforcement, and use of access to information regimes. Over the past 15 years, we have 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 Carter Center's 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, but rather to look 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. It provides a more surgical tool for civil society to monitor government's implementation practice and progress.

Beginning in 2009/2010, The Carter Center's 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 the application and review of more than 8,000 indicators. Each pilot phase concluded with a review meeting of the researchers as well as some of the blind-peer reviewers, government representatives, and access to information experts. The final piloting concluded in April 2014, and the IAT was shared with the community of practice.

## Objectives and Considerations

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 in some cases quality) to which a ministry/agency has implemented its law
  3. Provide a road map for improvements, based on the tool's findings
  4. Contribute to scholarship on implementation and to the understanding of implementation successes and challenges

The IAT looks at “the boring bits<sup>1</sup>,” the ingredients necessary to ensure the effectiveness of implementation and the desired outcomes. The findings from the assessment provide key stakeholders the data necessary to easily identify the extent and quality of access to information (ATI) implementation in each government agency. It also signals places there is a need for additional input or focus, so that the public administration may overcome challenges and positively advance in their implementation efforts.

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. Moreover, for the IAT to meet its stated goals and be accepted and used by governments – critical as they are the primary data source and the main target audience – we have chosen not to develop the findings for an index or ranking of countries. Our methodologies were established with this philosophy in mind.

While there have been a number of important studies undertaken to review access to information laws and to assess government compliance with its law, the focus has been on the outcome of implementation, i.e. whether people are able to receive the information requested consistent with the statutory provisions. The Carter Center's IAT focuses



The IAT assesses individual public administration bodies. It is not designed as an index or ranking of countries.

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.

There is a very important difference between addressing the outcome of an agency performing ATI duties and assessing the input required for the agency to fulfill such obligations. If we look at the agency as a patient, and the lack of capacity as a virus within the system of access to information implementation, the IAT can be described as a medical tool diagnosing the extent to which the governmental body is prepared to provide information. The IAT provides government agencies with specifics on where and how to improve their capacity to implement access to information legislation.

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<sup>1</sup> Professor Alan Doig coined this term in his paper “Getting the Boring Bits Right First” when discussing capacity building for anti-corruption agencies.

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## 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. Remarkably, we found very few available national or agency-specific access to information implementation plans. Additionally, we did an extensive literature review related to access to information implementation and public policy and administration; again, 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 both the key issues in implementation and prospective indicators and the means by which 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.”

During this initial consultation, we modified our original design, in which we had considered implementation in a series of phases.<sup>2</sup> 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?

In order to assure the tool’s portability across countries and diverse legislative contexts – and to avoid substantiating a law that does not rise to the international norms – we agreed that the tool could not be an assessment of compliance with a specific law and would not directly engage the particulars of national legislation. Rather, the tool’s framing question should be, “**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 concern signaled the need for an increased emphasis on developing key elements for full and effective implementation and good practices and required additional time to vet these determinations with expert colleagues from government, civil society, and academia. We also were 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 be 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 input

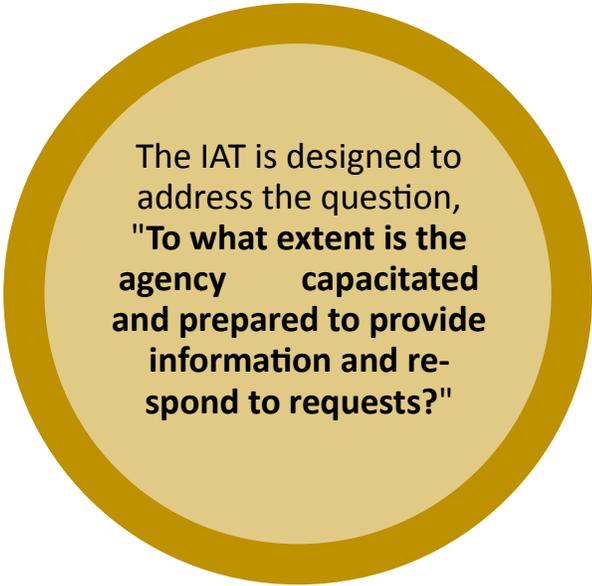
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<sup>2</sup> As there is no agreement on sequencing implementation efforts, and this would be more descriptive than substantive, we removed sequencing from the IAT methodology.

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("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 in the 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 was developed. Finally, to validate the defined indicators and measurements/scaling, The Carter Center again undertook an extensive analysis of existing implementation plans and practice.



The IAT is designed to address the question, **"To what extent is the agency capacitated and prepared to provide information and respond to requests?"**

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# Methodology

**T**he IAT is intended to assess 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. These inputs/activities are similar to what others might call “good practices.” At present, there is no universal consensus or norm on what constitutes access to information implementation “best/good practices.” This fact is useful in understanding the limitations of the tool.

The tool is designed not to focus on the sufficiency of the legal framework, the user side of the equation or the overall effectiveness of the country’s access to information regime. Because the IAT is not designed to measure outputs/compliance, its methodology does not include the systematic filling of information requests.

Moreover, the IAT is constructed as an “open instrument,” carried out with the collaboration of public authorities. Its success does not depend on the level of confidentiality held during its application. On the contrary, it is crucial for governments to welcome the tool’s application, as gathering many of the key data points requires access to documents and information in the ministries’/agencies’ possession.

## 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 managing information properly, handling requests for information adequately, and making information

available to the public efficiently. These functions and elements were identified and serve as the framework for the IAT.

### Functions

All access to information regimes rely on the public agencies’ capacity to fulfill three main functions: 1) receiving and responding to requests; 2) automatically publishing certain information; and 3) managing records. There are a number of initiatives/efforts specific to these functions while others apply to more than one of the functions. For those initiatives/efforts that apply more broadly – for example, the designation of a responsible officer or the agency’s strategic plan – we have created the category “fundamental functions.”

### Components

In order to successfully implement a comprehensive access to information law, government needs a number of verifiable components. These elements are assessed by a set of indicators that can be observed through different data-points or sources of information. The elements are the bone and marrow of access to information implementation, and include leadership, rules, systems, resources, and monitoring.

### Key Elements

The components are comprised of key elements that have been identified as necessary for supporting successful implementation. When properly combined, these elements provide government with the capacity to successfully perform all access to information duties and obligations. The elements that comprise the assessment, among others, included whether the agency has established, reviewed, and



This instrument **will not** tell whether public agencies are in compliance with established laws. It **will** tell you if the agencies have the necessary components to implement a vibrant access to information regime.

revised access to information policies, regulations, 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; and, awareness-raising within the agency and for the public.

## Assessment Results and Output

The IAT indicators engage both quantitative and qualitative assessments of the comprehensiveness and quality of a ministries'/agencies' access to information implementation. The indicators are scored on the "stoplight method," with a scale that includes green, yellow, red, and black and white stripes (for those rare cases in which the indicator will not apply). In using the stoplight method, we easily display the extent and quality of implementation while dissuading the potential for indexing/ranking countries. 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:** The indicator is not applicable.

Data are acquired through both desk research and interviews and then input into Indaba, an online software platform that allows The Carter Center to manage the researchers and data and review the inputs. The data is then reviewed by a blind-peer reviewer and, subsequently, the preliminary findings are validated through focal group review. In addition to quantitative data, we include a narrative that provides supplementary qualitative information and accompanying explanations for the measurements.

### Types of Indicators

The IAT utilizes two types of indicators: 1) self-reporting indicators that are addressed through an interview (questionnaire) with the head of the agency/ministry, general director, public officials tasked to oversee ATI functions and duties, or other relevant public officers;<sup>3</sup> and 2) document-based indicators that require desk research or onsite verification of different documents and/or sources of information.

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<sup>3</sup> 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.

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## Piloting the IAT

**T**o assure the efficacy and value of the IAT, the Center decided to apply the tool in a phased approach in more than 10 countries. Pilot phase I assessed three countries, pilot phase II assessed four countries and pilot phase III assessed an additional four countries. While the initial intent was to assess each country once, we decided to include the initial countries in the subsequent phases in light of the modifications of the indicators following each phase. 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 ATI law/regulation has been in effect
- Distinct legal system/framework (common law versus civil);
- Types of civil service (professionalized versus more partisan)
- 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

Bangladesh, Mexico, and South Africa were chosen as pilot phase I countries, while Chile, Indonesia, Scotland, and Uganda served as the pilot phase II countries. Pilot phase III included all of the above countries as well as Georgia, Jordan, Guatemala, and the United States.

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

- Those ministries agencies that held information critical for fundamental human and socioeconomic rights
- Ministries and agencies that play a role in poverty reduction and in fulfillment of the Millennium Development Goals
- Ministries and agencies that are key in the overseeing or promoting the ATI regime
- A mix of ministries and agencies, in particular public agencies of varying size and resources

Ultimately, the ministries/agencies selected were: Finance, Education, Health, Justice, Agriculture, Customs, and, Statistics (or another small/less-resourced agency). In some cases, the specified ministry did not exist or was combined with another ministry or agency. In those cases, we substituted an equivalent ministry/agency.

### 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 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

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countries applied all revised IAT indicators and were joined by the researchers from pilot phase I and pilot phase 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 whether we could identify universally applicable best practices. However, during 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.” 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 in addition to the focus group, assessing a smaller, less-resourced agency, and using the Indaba platform for data collection.

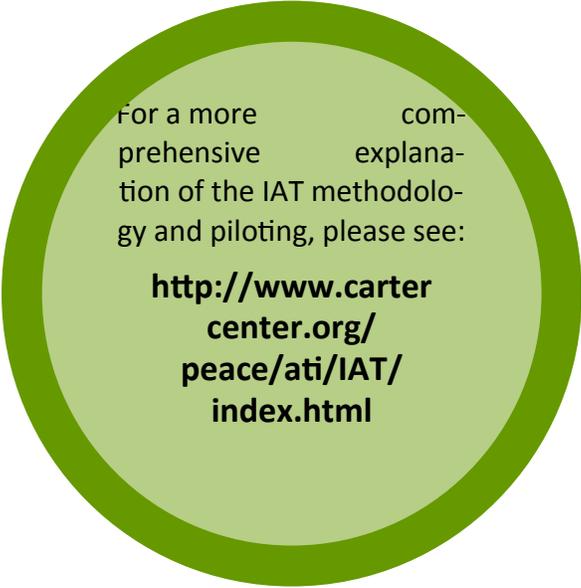
### **Pilot Phase II**

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 tested the tool in the original six ministries as well as in the seventh smaller agency, and in this phase we engaged the Indaba platform. 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 the final pilot phase was to

include indicators that looked more specifically at implementation in practice, which was accomplished through the use of four “wild cards.” We also reduced the indicators to a more manageable 65, and strengthened the indicators related to records management.

### **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. 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 (researchers felt there were still too many) and presented the IAT to the community of practice.



For a more comprehensive explanation of the IAT methodology and piloting, please see:

**<http://www.cartercenter.org/peace/ati/IAT/index.html>**

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## Country Context<sup>4</sup>

In 1977, Article 6 of the Mexican Constitution was amended to read: “access to information will be guaranteed by the State.” It took 25 years for the Mexican government to act on that guarantee, but on April 30, 2002, the Congress unanimously approved the Federal Law on Transparency and Access to Official Information. The law was aimed at guaranteeing the right to access public information contained in the documents held by federal agencies. President Vicente Fox signed it into law two months later, and it went into effect in 2003.

The efforts that led to the passage of that law began in 1998, when human rights activists responded to release of American documents related to the 1968 Tlatelolco Massacre by demanding the release of Mexico’s corresponding documents. As a result, a national debate arose around the openness of information held by the state. Access to information advocates were also committed to changing the culture of secrecy that permeated the Mexican government during a stretch of one-party rule; which was exacerbated during times of crisis, including the 1985 earthquake and the 1994 economic meltdown.

The law regulates access to information in all federal bodies, including the three branches of government and the autonomous constitutional agencies (namely the Ombudsman, the Central Bank and the Federal Electoral Institute).<sup>5</sup> It establishes a clear procedure for individuals to exercise the right to access information. Requests are made directly to a federal agency, which has 20 days to respond. Agencies are required to respond even when the information requested is not in their possession or cannot be found. Requests for information are free, but fees may apply for reproduction or delivery costs. If the petitioner is not satisfied with the response, the cost, or the contents of the documents provided, he/she can appeal to the Ministry’s or Agency’s internal unit or to the Federal Institute for Access to Public Information (IFAI).

Under Mexico’s ATI law, public Ministries and Agencies must apply the “principle of maximum disclosure” and bodies subject to the law are required to post information related to its structure, personnel, budget, and operating procedures on its website. The law does provide for a number of exemptions, including information that poses a risk to national security, the economic well-being of the country, or the health or safety of a person.<sup>6</sup> The state is explicitly prohibited, however, from classifying information related to human rights abuses. Mexico was the first Latin American country to include such a provision in its ATI law.<sup>7</sup> In spite of a few weaknesses, the Federal Law on Transparency and Access to Official Information is very strong, ranking 7th in the world according to the Global Right to Information Rating.<sup>8</sup>

Since the law’s passage, there have been several attempts to modify its content or impact. In 2006, ATI advocates concerned that a new administration would seek to dilute the law lobbied Congress to amend the Constitution to entrench the right in Mexican law. That amendment was passed by Congress and approved by each state in 2007. It instituted new guidelines for implementing the law, standardized the ATI regime across states, and made access to information a permanent fixture in Mexican institutions. This amendment served the critical role of preventing ATI-skeptical administrations or political parties from overriding, repealing, amending, or refusing to implement the Federal

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<sup>4</sup> The country context was largely drawn from the narrative drafted by researchers Atzimba Baltazar and Ariel Gomez.

<sup>5</sup> Citizens’ access to information in South Asia: Diagnostic analysis - Bangladesh Chapter. Management and Resources Development Initiative (MRDI), 2013. Print. <[http://sartian.org/media/k2/attachments/RTI\\_MRDI\\_Country\\_Diagonistic.pdf](http://sartian.org/media/k2/attachments/RTI_MRDI_Country_Diagonistic.pdf)>.

<sup>6</sup> <http://www.hrw.org/node/11319/section/4>

<sup>7</sup> <http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

<sup>8</sup> [http://www.rti-rating.org/country\\_data.php](http://www.rti-rating.org/country_data.php)

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## Law on Transparency and Access to Official Information.<sup>9</sup>

Nevertheless, such attempts have been made. In 2006, two Senators from the National Action Party proposed an amendment to the law governing the Federal Administrative Tribunal that would grant it the power to arbitrate freedom of information disputes. This amendment was never passed. Similarly, President Felipe Calderon proposed reforms that would undermine the role of the IFAI in settling freedom of information disputes under the guise of improving efficiency.<sup>10</sup> These proposed reforms elicited a tremendous response from ATI advocates, who argued that they violated the Constitution as amended in 2007.<sup>11</sup> Calderon's proposal was passed by the Senate in 2010 but was removed from a larger bill in the Chamber of Deputies. According to Freedom Info, the defeat of the proposed provisions was largely due to a "tweet war," or barrage of Twitter messages, which was organized by a group called Fundar.<sup>12</sup>

In 2011, Mexico became a founding member of the Open Government Partnership (OGP). Among other commitments through the OGP, Mexico pledged to increase and improve proactive disclosures.<sup>13</sup> And in February 2014, President Enrique Pena Nieto signed a new set of transparency reforms that will strengthen the IFAI's autonomy once they go into effect.

## Implementation

According to Human Rights Watch, the Federal Law on Transparency and Access to Official Documents has been well-implemented for the most part, "[dealing] a major blow to [the] culture of

secrecy."<sup>14</sup> However, a general lack of political will has also been a substantial barrier to implementation. According to some experts, bureaucrats are incentivized to favor secrecy over transparency. Most officials also appear to be disinterested in the right to know.<sup>15</sup>

The ATI Law created three instances in charge of access to information implementation. The Federal Institute for Access to Information (IFAI), a quasi-judicial administrative court with the power of determining if requested information should be disclosed; IFAI is also in charge of establishing the procedures for implementation and legally responsible for oversight, enforcement, protection of private data and promotion of the right to information. IFAI is legally embodied with decision making, budgetary and administrative autonomy. IFAI's resolutions are mandatory and public agencies cannot present appeals against them. However, IFAI cannot impose sanctions against failures to compliance. If any agency fails to comply with IFAI resolutions, the petitioner should appeal to the Courts so they can review the case and provide (or not) access to the information requested. Since 2012, IFAI also was made responsible for enforcing the protection of personal information held by private enterprises and businesses.

Besides IFAI, which is the administrative body with authority only within the Executive branch and its Public Federal Administration, two other instances were created to ensure ATI implementation. The Access to Information Office (Liaison Unit), which is responsible for receiving and processing information requests as well as updating and uploading proactively disclosed public information within every agency. And the Information Committee, which stands as the internal instance in charge of deciding on the classification or disclosure of requested information. The Information

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<sup>14</sup><http://www.hrw.org/reports/2006/mexico0506/3.htm>

<sup>15</sup>[http://www.tandfonline.com/doi/abs/10.1080/07393180500072038?journalCode=rscsm20#.VE\\_vnfnF9dc](http://www.tandfonline.com/doi/abs/10.1080/07393180500072038?journalCode=rscsm20#.VE_vnfnF9dc)

<sup>9</sup><http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

<sup>10</sup><http://www.freedominfo.org/2010/02/transparency-advances-in-mexico-in-reverse/>

<sup>11</sup> <http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

<sup>12</sup><http://www.freedominfo.org/2011/04/improvements-to-mexican-transparency-law-passed/>

<sup>13</sup>[http://www.opengovpartnership.org/sites/default/files/Mexico\\_Action\\_Plan.pdf](http://www.opengovpartnership.org/sites/default/files/Mexico_Action_Plan.pdf)

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Committee is formed by the Head of the Liaison Unit, the Head of the Internal Control Office and a public servant appointed by the Head of the Ministry or Agency.

In 2012 a new Archives Federal Law was implemented, which establishes a general framework that regulates the organization of all documents and files that are in the Federal Public Administration's possession (including creation, access, circulation and retrieval). In addition, the General Archive of the Nation issued the General Guidelines for the Organization and Preservation of the archives of the Ministries and Agencies of the Federal Public Administration, which details the type of archives, authorities in charge, timelines and systems (catalogues, indexes, electronic systems, etc.) to be implemented by the Ministries and Agencies in order to organize and preserve their documents and files. This Law creates within each Ministry and Agency an Archive Coordination Unit in charge of developing and applying rules and guidelines regarding archives. This Unit should be in close coordination with the Information Committee and with the ITC Unit in order to secure the correct implementation of the Archives Federal Law. However, the implementation of this Law has been somewhat slow.

The Center for Global Communication Studies identified several areas where Mexico could improve implementation of its FOI law, including training, inter-agency expertise sharing, and archiving. These shortcomings are at least partially caused by a lack of sufficient financial resources. In fact, the law did not allocate any additional resources<sup>16</sup> to help government agencies apply the law.<sup>17</sup> Other barriers previously noted have included missing documents, officials ignoring the law, and the legacy of a culture of secrecy. Nonetheless, based largely on compliance studies, most experts had considered implementation of the ATI law in Mexico to have been mostly effective.

## Use of the Right

Awareness of the law in Mexico was very low in the years immediately following its passage but has since improved. According to Freedom Info, only 22 percent of the population was aware of the law in 2003, a figure which improved to 33 percent in 2004.<sup>18</sup> In 2006, the Center for Global Communication Studies found that 49 percent of the population was aware of the law.<sup>19</sup> As a result of that growing awareness, a large number of information requests have been filed under Mexico's law. From June 2003 to June 2007, over 218,000 requests were made. Requests and appeals have increased each year since the law went into effect.<sup>20</sup> Many requests have been made for information related to the salaries of government employees, school budgets, crime, and government contracts.<sup>21</sup>

The table on the following page shows which ministries/agencies received the most requests as of February 2014.

According to a study by the National Security Archive, citizens have found the law to be very useful when the information they require is not especially complex, which constitute 65 percent of requests. They found, for example that from 2003 to 2006 found that bodies subject to the law produced satisfactory responses to 76 percent of requests.<sup>22</sup>

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<sup>16</sup><http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB247/Annenberg.pdf>

<sup>17</sup>[http://www.tandfonline.com/doi/abs/10.1080/07393180500072038?journalCode=rscsm20#.VE\\_vnfnF9dc](http://www.tandfonline.com/doi/abs/10.1080/07393180500072038?journalCode=rscsm20#.VE_vnfnF9dc)

<sup>18</sup><http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

<sup>19</sup><http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB247/Annenberg.pdf>

<sup>20</sup>Ibid.

<sup>21</sup><http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

<sup>22</sup><http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB247/index.htm>

**Table 1. Requests by Ministry<sup>23</sup>**

MINISTRY/AGENCY	TOTAL	% OF TOTAL REQUESTS PRESENTED
Mexican Institute of Social Security	194,548	18.8%
Ministry of Public Education	45,044	4.4%
Social Security Institute for Public Servants	32,515	3.1%
Ministry of Finance	31,385	3.0%
Ministry of Health	30,913	3.0%
Ministry of Environment and Natural Resources	28,524	2.8%
Ministry of Communications and Transport	25,547	2.5%
Ministry of Public Service	25,101	2.4%
Ministry of the Interior	22,332	2.2%
Attorney General	22,067	2.1%
Federal Electricity Commission	18,446	1.8%
Revenue Administration Service	17,872	1.7%
National Water Commission	17,478	1.7%
Ministry of National Defense	17,223	1.7%
Ministry of Foreign Affairs	16,131	1.6%
Federal Institute of Access to Information and Data Protection	15,016	1.5%
Ministry of Economy	14,939	1.5%
PEMEX (State-owned Oil Enterprise)	14,938	1.4%
Office of the President	14,426	1.4%
Ministry of Social Development	13,956	1.4%

Notably, use of the law varies according to location. Mexico City accounts for about 41 percent of requests. Citizens in rural areas are much less likely to make a request for information. Similarly, citizens with access to the Internet are far more likely to utilize the law. Requests can be filed in person or by mail, but the vast majority are made online. In fact, as of 2006, 92 percent of requests were made on Mexico’s Internet Portal.<sup>24</sup>

## Enforcement of the Right

Requesters have several avenues for enforcement of the right to information. They can appeal decisions to the body that they originally filed the request with, the courts, or the IFAI. The IFAI is empowered to investigate responses to requests for information. In 2005, 2,639 appeals, or 5 percent of all requests, were made to the IFAI. 2,091 of those appeals were resolved, 42 percent in favor of the requester, and

<sup>23</sup>“IFAI, Statistics, February 2014”; [www.ifai.org.mx](http://www.ifai.org.mx)

<sup>24</sup><http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB247/Annenberg.pdf>

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17 percent in favor of the agency (the remaining appeals were dismissed for various reasons).<sup>25</sup> Yet, IFAI is severely limited in its ability to compel agencies to produce information when they rule in favor of the requester, relying on the Ministry of Public Administration to enforce its rulings. Compliance with these rulings varies by agency.

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<sup>25</sup><http://www.freedominfo.org/regions/latin-america/mexico/mexico2/>

# Pilot III Findings for Mexico

## Aggregated Findings by Indicator

**Table 2. Key for Findings**

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 3. Mexico Pilot Phase III Findings**

Fundamental functions, Leadership													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
1	Does an agency official with authority over policy actively participate in the creation, adoption, or review of ATI specific policy?	Finding: green		A	Finding: green		A	Finding: green		A	Finding: green		A
2	How often does agency official with authority over policy participate in meetings with public officials responsible for ATI activities?	Finding: green		A	Finding: green		A	Finding: yellow		B	Finding: green		A
3	Does the agency's strategic plan incorporate ATI, such as by including principles of access to information in goals, objectives, and/or outcomes?	Finding: red		B	Finding: red		B	Finding: red		B	Finding: green		A

Fundamental functions, Rules													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
4	Does the agency create or adopt specific guidelines on ATI?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
5	How often are ATI guidelines reviewed by an agency official with authority over policy?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
6	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
7	Does the agency make all guidelines available for reference?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
8	Does the agency have a document(s) that establishes instructions for ATI implementation and/or operation?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
9	Does the document(s) detailing instructions for ATI implementation and/or operation currently reflect the agency's ATI policy?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
10	Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Fundamental functions, Systems													
11	Does the agency's public outreach specifically include a component regarding ATI?	Finding: red	B	Finding: red	B	Finding: red	B	Finding: green	A	Finding: green	A	Finding: red	B
12	Does the agency's public outreach specifically include information on ATI procedures?	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B

Fundamental functions, Resources													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
13	Has one or more public official been formally tasked/appointed responsible for ATI functions and duties?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
14	Has the name of the public official(s) tasked/appointed responsible for ATI functions and duties been made known to the public?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
15	Does the public official(s) tasked/appointed responsible for ATI functions and duties have the authority needed to comply with ATI mandate?	Finding: green	A	Finding: red	B	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
16	Does the public official(s) tasked/appointed responsible for ATI functions and duties have the time and staff needed to fulfill his/her ATI responsibilities?	Finding: green	A	Finding: red	D	Finding: yellow	B	Finding: red	D	Finding: yellow	B	Finding: green	A
17	Does the public official(s) tasked/appointed responsible for ATI functions and duties and his/her staff receive specialized training on ATI?	Finding: yellow	B	Finding: yellow	B	Finding: green	A	Finding: yellow	B	Finding: green	A	Finding: green	A
18	Are all public officials made aware of basic ATI principles?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
19	Are training materials related to ATI created and maintained for future reference by public officials?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: yellow	B	Finding: green	A
20	Does the public official(s) tasked/appointed responsible for ATI functions and duties have regular access to necessary equipment?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
21	Does the agency specifically allocate the financial resources necessary for fulfilling its ATI functions and duties?	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B

Fundamental functions, Monitoring													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
22	Does the agency monitor its ATI functions and duties?	Finding: green	A	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: green	A
23	Is an agency report on its ATI functions and duties prepared and released annually to the public?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
24	Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
25	Does the agency's performance review take into account ATI?	Finding: green	A	Finding: red	C	Finding: red	C	Finding: red	C	Finding: red	C	Finding: green	A

Fundamental functions, Wild Card													
26	In your expert opinion, in practice does the agency effectively fulfill its fundamental function related to access to information?	Finding: yellow	B	Finding: yellow	B	Finding: green	A	Finding: green	A	Finding: green	A	Finding: yellow	B

Receive and Respond to Requests, Rules													
27	Has the agency created or adopted written guidelines for receiving requests?	Finding: green	A										
28	Has the agency created or adopted written guidelines for processing requests?	Finding: green	A										
29	Has the agency created or adopted written guidelines for responding (release or deny) to requests?	Finding: green	A										
30	Has the agency created or adopted written guidelines for internal review?	Finding: green	A										
31	Does the document(s) detailing instructions for implementation and/or operations have the necessary components for receiving and responding to requests?	Finding: green	A										

Receive and Respond to Requests, Systems													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
32	Has the agency created or adopted a system for logging and tracking requests and responses?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
33	Has the agency created or adopted a system for processing a request?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
34	Has the agency created or adopted a system for transferring requests to other agencies?	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D
35	Has the agency created or adopted a system for issuing and serving responses?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Receive and Respond to Requests, Resources													
36	Is there a designated space, physical or virtual, for receiving and responding to requests?	Finding: green	A										

Receive and Respond to Requests, Monitoring													
37	Does the agency capture statistics related to receiving and responding to requests?	Finding: green	A										

Receive and Respond to Requests, Wild Card													
38	In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?	Finding: green	A										

Proactive Disclosure, Rules													
39	Has the agency created or adopted written guidelines for proactive disclosure?	Finding: green	A										
40	Does the document(s) detailing instructions for implementation and/or operations have the components necessary for proactive disclosure?	Finding: green	A										

Proactive Disclosure, Systems													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
41	Has the agency created or adopted a system for proactive disclosure?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Proactive Disclosure, Resources													
42	Has one or more public official been formally tasked/appointed responsible for proactive disclosure functions and duties?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
43	Does the public official(s) tasked/appointed responsible for proactive disclosure have the time and staff necessary to effectively fulfill his/her functions and duties?	Finding: green	A	Finding: yellow	B	Finding: green	A	Finding: yellow	B	Finding: green	A	Finding: green	A
44	Is the public official(s) responsible for proactive disclosure trained to comply with their duties?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
45	Has the agency established space, physical or virtual, for public viewing of information proactively disclosed?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Proactive Disclosure, Monitoring													
46	Does the agency capture statistics related to proactive disclosure?	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: green	A	Finding: red	C	Finding: yellow	B
47	Does the agency monitor its proactive disclosure?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Proactive Disclosure, Wild Card													
48	In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?	Finding: green	A										

Records Management, Leadership													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
49	Does an agency official with authority over policy actively participate in creation, adoption, or review of records management policy?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	
50	Has the agency created or adopted an information policy for managing paper based and electronic information?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	

Records Management, Rules													
51	Has the agency created or adopted written guidelines for records management, regardless of format (including electronic records, maps etc.)?	Finding: green											
		A		A		A		A		A		A	
52	Has the agency created or adopted written guidelines for classification of documents?	Finding: green											
		A		A		A		A		A		A	
53	Does the document(s) detailing instructions for implementation and/or operations for a records-management system have the necessary components?	Finding: green											
		A		A		A		A		A		A	

Records Management, Systems													
54	Has the agency created or adopted a system for classifying documents?	Finding: yellow		Finding: yellow		Finding: yellow		Finding: green		Finding: yellow		Finding: yellow	
		B		B		B		A		B		B	
55	Has the agency created or adopted a system to manage its paper records?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	
56	Has the agency created or adopted a system to manage its electronic records?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	
57	Has the agency created or adopted a system to retrieve and access paper records?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	
58	Has the agency created or adopted a system to retrieve and access electronic records?	Finding: green		Finding: green		Finding: green		Finding: green		Finding: green		Finding: green	
		A		A		A		A		A		A	

Records Management, Resources													
#	Indicator question:	Mexico Agriculture		Mexico Customs		Mexico Education		Mexico Finance		Mexico Health		Mexico Justice	
59	Has one or more public official been formally tasked/appointed responsible for records management?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
60	Does the public official(s) tasked/appointed responsible for records management functions and duties have the time and staff needed to fulfill his/her responsibilities?	Finding: green	A	Finding: red	D	Finding: green	A	Finding: yellow	B	Finding: green	A	Finding: green	A
61	Does the public official(s) tasked/appointed responsible for records management and his/her staff receive specialized training on records management?	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B
62	Are all public officials made aware of basic records management procedures?	Finding: yellow	C	Finding: yellow	C	Finding: yellow	C	Finding: yellow	C	Finding: yellow	C	Finding: yellow	C
63	Has the agency created space for storage (including electronic records) and archives of records?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A

Records Management, Monitoring													
64	Does the agency monitor its records management system?	Finding: green	A	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: red	C	Finding: yellow	B

Records Management, Wild Card													
65	In your expert opinion, in practice does the agency effectively fulfill its function related to records management?	Finding: yellow	B	Finding: green	A	Finding: yellow	B	Finding: green	A	Finding: yellow	B	Finding: green	A

## Ministry/Agency Summary of Findings

Table 4. Ministry of Agriculture

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

**Table 5. Customs Agency**

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

**Table 6. Ministry of Education**

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

**Table 7. Ministry of Finance**

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

**Table 8. Ministry of Health**

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

**Table 9. Ministry of Justice**

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

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## Focal Group Narrative<sup>26</sup>

**F**or Pilot Phase III, researchers Atzimba Baltazar and Ariel Gómez conducted a focal group session with six people largely familiarized with the Mexican ATI legal framework and its implementation. These focal group consisted of persons have worked in the Federal Institute of Access to Information (IFAI) or in non-governmental organizations specialized in transparency, assuring that it included persons that have used INFOMEX –the system developed by IFAI to manage information requests in the Ministries and Agencies of the Federal Public Administration this assuring they have knowledge as requesters and expertise in ATI norms and systems.

The focal group participants agreed with the findings of this study, asserting that these findings provide useful insights for planning the implementation of the new laws derived from the recent Constitutional reform on transparency passed by the Mexican Congress. The focal group noted that the elements and indicators contemplated in the IAT help to identify the main weaknesses of the current implementation processes and systems. Hence, the new ATI Law and secondary regulations must take into account these findings for improving the practices of transparency and access to information in Mexico.

However, the experts stressed that there are other relevant factors – not directly included as indicators – that influence the Ministries’ performance on ATI issues. For example, the culture of secrecy continues and, in some cases, even encouraged some public officials to respond to information requests vaguely and/or at the very last moment. To identify the extent and impact of the culture of secrecy, the focal group suggested that indicators such as the number of complaints made against individual public officials for

non-compliance with ATI Law, the outcomes of these complaints, and the number of times that the Ministries have violated IFAI’s resolutions should be included as part of the assessment.

The commentators also discussed the political aspects that help to explain the poor performances of certain ministries. For instance, they explained that the highest authorities of the ministries and agencies get involved in transparency duties only in polemic and politically important cases. They also stress the impossibility of sanctioning those who fail to comply with ATI law, thus encouraging the idea that transparency need not be a priority for public officials.



“...the new ATI Law and secondary regulations must take into account these findings for improving the practices of transparency and access to information in Mexico.”

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<sup>26</sup>The focal group findings section was largely drawn from the narrative drafted by researchers Atzimba Baltazar and Ariel Gomez.

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The experts agreed on the benefits of having homogenous/uniform systems and norms across the federal government, as this practice makes it easier for citizens and public officials to exercise their right of access to public information. One commentator celebrated the existence of INFOMEX as a unique platform to submit information requests. However, he stressed that this system also makes the right of access to information somehow elitist, as only 30 percent of Mexicans have access to the Internet. The same commentator criticized the Portal of Transparency Obligations for its difficult interface and lack of sophisticated search engines.

Finally, the experts also agreed that centralized and standardized legal frameworks and guidelines can serve to avoid contradictory and inconsistent criteria in regards to implementation processes and the type information to be classified or disclosed. They emphasized the benefits that the recent Constitutional reform on transparency will bring by aligning existing local laws and procedures with federal ones so that all local authorities and institutions can operation under the same legal framework.

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## Summary of Findings<sup>27</sup>

**M**exico has a solid regulatory and institutional framework in favor of transparency and access to information at the federal level thanks to the Transparency and Access to Information Federal Law (ATI Law) that establishes clear processes, timelines, tasks and instances necessary for compliance. Nevertheless, this framework will largely change this year as the Congress recently passed a constitutional reform that expands the competences of the Federal Institute for Access to Public Information (IFAI).

The IFAI will now supervise the performance on transparency and access to information not only of the Federal Public Administration, but also of other authorities such as the Congress, federal unions, local authorities and any entity that receives public resources. Therefore, the current ATI law will be transformed in order to embrace a wider spectrum of subjects and consolidate the culture of access to information in a larger range of public offices.

IFAI has worked as a resourceful quasi-jurisdictional tribunal for the last 12 years. It has the power to oversee, set regulations, promote the right of access to information and rule in case of controversy, which guarantees the basic processes within each Ministry and Agency. The main result is a fair implementation of the ATI Law. However, even when there are no great differences in the rules and resources across Ministries and Agencies, there is significant variation in leadership, systems, and the monitoring and follow up activities, which suggests that some ministries are better guided, prepared and endowed to comply with transparency and access to information duties than are others.

### Leadership

In general, it can be said that political aspects play a more important role than technical matters in the

performance of the public administration. Within each Ministry and Agency, the Information Committee is the body that has the final say regarding access to information deliberations. These Committees are integrated by the Head of the Liaison Unit, the Head of the Internal Control Body, and an official directly appointed by the Minister of Agency head. As such, its members often are subject to the influence of the highest levels of authority, resulting in different degrees of ATI implementation.

It is important to identify who runs the Liaison Unit (in charge of ATI internal procedures) and how much autonomy and power that person has to negotiate with other administrative units for information disclosure. In all the cases, the Head of the Liaison Unit holds a General Director position (third level, below the minister and the undersecretaries/head of units) or higher, which provides important negotiation and enforcement powers. However, as they all have other demanding responsibilities, ATI duties are delegated to lower level public servants (in all cases a Director or higher) who stated, in general, that they have the necessary authority to comply with ATI mandate. There are only two cases where the Head of the Liaison Unit actually runs the office: the Ministries of Agriculture and Education. Therefore, it is not easy to assess the extent to which the highest level of leadership in the agencies is committed to compliance with ATI legislation. Significantly, all Ministries' strategic plans contemplate transparency and access to information as part of their activities. However, only the Ministry of Finance and the Attorney General's

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<sup>27</sup>The summary of findings section was largely drawn from the narrative drafted by researchers Atzimba Baltazar and Ariel Gomez.

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Office included specific goals and strategies relating to ATI in their institutional plans.

## Rules and Guidelines

Although according to the law the Information Committees have the authority to dictate ATI processes and regulations within each Ministry or Agency, this has not been a common practice. In fact, the Revenue Administration Service is the only agency that has issued specific internal guidelines. There are three primary reasons for this. First, the ATI Law and its secondary regulation clearly state processes, tasks and timelines for receiving, processing and responding to requests; thus providing a relatively comprehensive blueprint for implementation. Secondly, IFAI also issues periodically administrative codes that elaborate on concepts and criteria and guidelines that have regulated the formats and systems for processing information requests and uploading and updating proactively disclosed information. Finally, in 2010, the Ministry of Public Service (in charge of internal control and audits within the Federal Administration) issued a Manual on Transparency and Access to Information aimed at standardizing ATI procedures across the Federal Government. While it specifically replaced previous regulations, according to the public servants interviewed, this Manual does not substantially modify previous processes; thus, IFAI's guidelines and regulations are still observed and used.

With regard to records management, a new Archives Federal Law was implemented in 2012 that established a general framework that regulates the organization (including creation, access, circulation and retrieval) of all documents and files that are in the Federal Public Administration's possession. In addition, the General Archive of the Nation issued the General Guidelines for the Organization and Preservation of the archives of the Ministries and Agencies of the Federal Public Administration,

which details the type of archives, authorities in charge, timelines and systems (catalogues, indexes, electronic systems, etc.) to be implemented by all Ministries and Agencies in order to organize and preserve their documents and files. However, the interviewed public servants highlighted that these norms are too vague, broad and difficult to follow, and insufficient systems, human and material resources to ensure success.

## Systems

IFAI developed an Internet system (INFOMEX) as the unique window between agencies and requesters in order to manage all the information requests received by the federal government. Petitioners can make their requests, receive responses, get the information requested directly in their account and file a complaint to IFAI if necessary. This system minimizes transaction costs as the petitioner does not have to go to the Liaison Unit to make an information request or use the inefficient postal service. All Ministries and Agencies are obliged to use INFOMEX to receive and respond to information requests.

In addition to INFOMEX, some Ministries and Agencies, like the Ministries of Education and Finance and the Revenue Administration Service, have developed internal systems for processing requests, whereas the others process all information requests via internal communications (e-mails or circulars). Internal systems are particularly important in Ministries with a considerable number of administrative units or those that have local offices in various states of the country. These systems are important for tracking the status of a request and for monitoring compliance to timelines.

For proactive disclosure, IFAI developed a web-based system called "Portal of Transparency Obligations," under which all Ministries and

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Agencies should upload and update information as mandated in article 7 of the ATI Law. This has forced the agencies to systematize their files for proactive disclosure. As the current centralized and unified Portal of Transparency Obligations seems to meet the needs, there has been no movement towards creating other Ministry or Agency-based systems for proactive disclosure. It is important to mention that with the changes envisioned for the ATI Law, the transparency obligations for the Ministries will increase, for which they will require more human and material resources to comply with these obligations.

In regards to records management, the new archives law and guidelines stipulate that all ministries and agencies must systemize their files and documents in electronic systems, include certain information (catalogues, indexes, dates, etc.), and specify public officials responsible for the security and maintenance of these systems. However, the public servants interviewed affirmed that these norms lack specificity, particularly in regards to the kind of systems to be implemented, which tend to be insufficient for containing and processing the amount of documents and files in possession of the public agencies.

## Resources

The number of officials working in the Liaison Units, including management and operative positions and full and part-time staff, varies widely across the Federal Public Administration. In terms of material resources, not only do the personnel in charge of ATI duties have access to computers, printers, internet and scanners, but all Agencies and Ministries contain a physical space where people can make requests and have access to computers for any matter related to access to information.

Despite these requirements, the Third Transitory Article of the ATI Law establishes that Ministries should use their available resources to form the Liaison Unit, which means that no additional financial resources can

be budgeted for the creation or enlargement of these areas. In fact, all material and human resources that the Liaison Units use are determined by the administrative unit to which they are tied. This helps explain how, in all cases, the staff in charge of ATI duties held other unrelated tasks and responsibilities. Moreover, this Article existed for more than ten years, whereas the workload in each Ministry and Agency has substantially increased every year. Therefore, even when the staff in the Liaison Units is sufficiently trained and has the material resources to fulfill its duties, the number of public servants is inadequate to address the growing number of information requests. As such, most of the interviewees complained about this legal blockage, wherein they cannot access more resources nor expand their staff in order to properly maintain the law's operationalization.

According to the public servants interviewed, training and technical assistance do take place periodically, and they are a very important feature in the successful implementation of the ATI Law. All public servants are obliged to attend IFAI's trainings sessions about information requests, the use of systems, and IFAI's criteria on information classification/disclosure. The Ministries of Education and Health and the Attorney General's Office also have developed their own training materials and courses. Nevertheless, there were complaints regarding the content of the training sessions and materials since, according to the interviewees, they are not continuously updated and the content is too basic to assure developing deeper competencies.

All ministries and agencies also have a contact within each administrative unit that is in charge of processing requests and maintaining consistent communication with the Liaison Unit. These contacts and the Liaison Units hold frequent meetings (at least every month and in some cases every

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week) to discuss ATI related issues. All Ministries and Agencies also have an annual meeting with high-level officials, Liaison Units and administrative units to review ATI performance.

## Monitoring

Monitoring is the weakest part of the ATI implementation process. Monitoring duties depend on basic statistics that each Ministry or Agency gathers for their annual report of activities, for IFAI's annual reports, or for the annual meetings. Some Ministries try to align the decisions of the Information Committee with those of IFAI, but there are no sanctions for bad performance or non-compliance with IFAI resolutions. Unfortunately, a second potential monitoring tool that is rarely utilized is the formats and statistics that IFAI and the Ministry of Public Service demand to evaluate the Internal Control Offices, which exist in each agency.

Apart from these two monitoring tools, ATI and records management duties are not usually evaluated in individual performance reviews.

## Strengths and Weaknesses of ATI Implementation

The above findings suggest that legally established homogenous processes for proactive disclosure and for receiving, processing and responding to information requests are the main strengths of Mexican ATI implementation. Rules and guidelines are established by federal law and secondary regulations and are thus mandatory for all agencies and ministries. Training and internal communications mechanisms facilitate implementation/operationalization and advance awareness of basic ATI principles among all relevant public servants.

Records management is the most significant weakness of ATI implementation. This can be explained by the novelty of the legal framework that rules these activities; its length; the lack of human and material resources in the Ministries and Agencies to comply with the regulation; the lack of punishment for non-compliance; and a short-sighted perspective among public servants about the relationship between records management and access to information in the long term. In general, heads of records management offices have a lower hierarchy than those of the Liaison Unit and only the Ministry of Health has developed a system for records management and retrieval specifically linked to the ATI procedures. However, neither IFAI nor the General Archive of the Nation has implemented thorough monitoring systems for these duties.

The new ATI Law, which has been debated and passed by the Congress in February 2014, must seek to address many of the flaws mentioned above, especially those regarding leadership (derived from structural issues) and resources. The prevailing law and the existing institutional channels have managed to create and spread the culture of transparency and access to information among the Mexican public service and the citizenry, although it still has to be strengthened and fully consolidated. For this, there is optimism regarding what the new ATI Law and its secondary regulations will achieve.

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THE  
CARTER CENTER



One Copenhill  
453 Freedom Parkway  
Atlanta, GA 30307  
(404) 420-5100 • Fax (404) 420-5145  
[www.cartercenter.org](http://www.cartercenter.org)