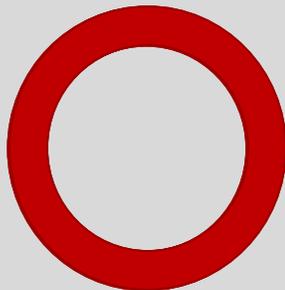
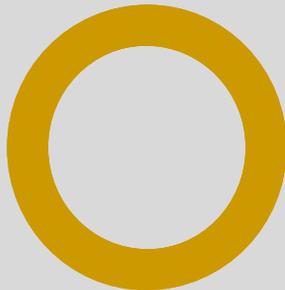




# Findings from select agencies: **PARAGUAY**

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



THE  
CARTER CENTER



# Findings in Selected Ministries and Agencies of the Government of Paraguay

Access to Information Legislation  
Implementation Assessment Tool (IAT)

The Carter Center

June 2017

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Laura Neuman, director of the Carter Center’s Global Access to Information Program, is responsible for developing the IAT methodology and indicators, reviewing the indicators and findings for accuracy and coherence, and drafting/editing this report. The Carter Center is privileged to have committed staff who worked to finalize the IAT and assure its successful application in Paraguay, including program assistant Elizabeth McGlamry, who provided the layout for the report and assisted with administrative and logistical aspects.

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by providing specific recommendations for the public entities in which the methodology was applied.

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The Carter Center is grateful to The World Bank for the technical and financial support, as well as for serving as the interlocutor with the government of

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Paraguay. The Bank's team was led by Marco Larizza, Senior Public Sector Specialist and included Daniela Felcman, Public Sector Specialist; Eduardo Estrada, Governance Specialist; Silvana Kostenbaum, Public Sector Specialist; Laura Aguirre, Research Analyst; and Alina Koenig, Consultant. As well, we note the distinguished group of peer reviewers who provided comments on the draft report, which included Patricia Miranda, Senior Counsel in The World Bank; Saki Kumagai, Governance Specialist in The World Bank; and Juan Pablo Guerrero, Network Director of the Global Initiative for Fiscal Transparency.

The findings of the IAT serve to demonstrate areas of progress in addition to identifying where implementation has been lagging. We are hopeful that these findings assist to focus efforts and resources to ensure full and effective implementation, thus advancing the opportunities of the citizens of Paraguay 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 World Bank or the Government of Paraguay. The Carter Center remains responsible for any errors or omissions.

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# Executive Summary

## Background

**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 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.

The laws that regulate the right of access to public information have existed for some years, with a significant increase in the number of laws on access to public information beginning in the mid-1990s, from 19 laws in 1995 to 111 in 2016. 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. The evolution 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.

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 in the increased perception of corruption by citizens as previously hidden information finally comes to light. 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, causing changes in the behavior of the actors (such as avoiding registering some decisions by fear of being made public). In the medium and long term, the evidence shows that the implementation of the laws of right of access to public information is often 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 initial stages of implementation, as is the case in Paraguay, governments will face challenges in the fine-tuning of processes and procedures, and in their performance, as reflected in the diagnostic tools' 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 regimes. The Center has observed the difficulties that governments face in fully and effectively

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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 Global Access to Information Program developed and piloted the access to information legislation Implementation Assessment Tool (IAT). 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 IAT is not an overall evaluation of the current public administration of Paraguay or of the previous ones, 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. It then identifies areas where additional emphasis or modified approaches are needed, such that the public administration can overcome the challenges and make positive advances in its implementation efforts. Moreover, the IAT is not intended to be used as a comparison instrument/index with other countries.

In September 2014, Paraguay became the 100th country in the world to have an access to information law, and a year later in 2015, the law went into full effect. Over the course of that year,

and with the support of the Ministry of Justice, the agencies were to develop necessary regulations and tools, particularly technological, to make the law operational. Paraguay's public administration has continued efforts to implement and operationalize this relatively new law.

Most recently, the Government of Paraguay, with the support of the World Bank and other international cooperation actors, 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 National Transparency Team (an inter-governmental body under the leadership of the Ministry of Finance) and the World Bank, The Carter Center was engaged to apply the access to information Implementation Assessment Tool in eight public authorities:

- Ministry of Education
- Ministry of Finance
- Ministry of Health
- Ministry of Justice
- Municipality of Encarnación
- Municipality of Luque
- National Electricity Administration
- Sanitation Services Enterprise of Paraguay

## Assessment Methodology

The 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 ministry/agency has implemented its law;
3. Provide a roadmap for improvements,

- 
- based on the tool's findings; and
4. Contribute to scholarship on implementation and to the understanding of implementation successes and challenges.

The IAT uses a series of indicators 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. 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 ministries'/agencies' 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 access to information experts are utilized as the researchers and blind peer reviewers. 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 reviewed by a blind-peer reviewer and, subsequently, the preliminary findings are validated through focal group review and, finally, by the agencies themselves. In addition to quantitative data, narrative reports are drafted that provide supplementary qualitative information and accompanying explanations for the measurements.

## Key Findings & Recommendations

Through the application of the IAT in Paraguay, one can know whether the agencies have made important progress in implementing and operationalizing the law. In the case of the assessed

agencies in Paraguay, the right to information often has been prioritized through strong leadership, by the inclusion of the value of transparency and access to information in their strategic plans, and by naming an officer in charge of access to information duties. The eight agencies largely have adopted the general policies and guidelines issued by the Ministry of Justice, and the online Unified Public Information Portal (Portal) for making and responding to requests.

Nevertheless, monitoring of implementation efforts, which is critical for improvements, as well as for proper reporting on progress, is still an area of weakness in all of the agencies studied. Moreover, there is identified a need for additional investment in capacity building. Most of the information officers have received basic awareness-raising, but it is necessary to supplement it with specialized training to properly discharge their responsibilities, and the remainder of the agency officials are largely unaware of the law's mandates. Regarding the proactive disclosure element, it could benefit from improvements in its implementation; and most of the agencies lacked proper records management policies and practices.

Based on the work of the researcher, the comments from the civil society representatives during the focal group, priorities identified by the assessed agencies, and the Center's international experience, in addition to the specific agency recommendations, the following represents our key findings and general recommendations.

1. The successful implementation and operationalization of an access to information law requires not only political will, but also sufficient resources. It is imperative that the Paraguayan State and public institutions allocate, in practice, the resources necessary to implement the provisions established in the Access to Public Information law.
2. As neither Law 5282/14 nor its Regulatory Decree 4064/15 contain legal provisions related to

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records management, it is essential to develop and disseminate such rules as soon as possible and to begin development of a more modern records management system.

3. It is fundamental and a priority to strengthen the Ministry of Justice's Directorate of Access to Information.
4. It is essential for public agencies to develop and formalize internal procedures. Law 5282/14 and Decree 4064/15 establishes the basic rights, obligations, procedures for the citizen requests, and deadlines. However, each institution should design specific procedures that inform and support implementation and operationalization of that law within their agency.
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 agency as well as externally for the public. While a general campaign, led by the Ministry of Justice, would be beneficial in raising general awareness, each agency also should undertake internal and public awareness activities.
6. Sufficient training and support should be provided to the professionals responsible for receiving and responding to requests, proactive disclosure, and records management.
7. Both the work of the access to information offices and operationalization efforts should be analyzed and evaluated annually. Moreover, the development and disclosure of complete annual reports with statistics related to receiving and responding to requests is recommended. Good practice shows that sharing these annual reports with the public allows citizen's to better gauge the agency's advancements and to advocate for any necessary changes.
8. Noting that the implementation and operationalization of the access to information law depends largely on the online portal administered by the National Secretariat of Information and Communication Technologies (SENATICs), it is important that measures are adopted for an adequate and continual maintenance of the Portal, not only to process

information requests, but to proactively disclose information, and to facilitate the Ministry of Justice's monitoring functions.

As expected, while there are some consistent areas of progress among the agencies and subnational governments assessed, there also are several variations with regard to the challenges and potential matters for consideration and advancement. This report concludes with several short and medium-term recommendations for each agency.

Nearly two years since the Access to Public Information and Transparency Law took effect in Paraguay, clear advances across all eight ministries and agencies assessed are observable, however, important steps remain to assure the effective implementation of the access to public information law. Through successfully implementing the access to information and transparency law, Paraguay's public administration will benefit from increased efficiencies and citizen trust, and the people of Paraguay will be able to more fully exercise their fundamental right of access to information.

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# 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 has existed for many years. 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, 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 111 in 2016.<sup>1</sup>

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

non-governmental organizations and actors has played an important role in the expansion of this type of legislation.<sup>2</sup> For example, in Latin America, 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. On the other hand, the growth of information and communication technologies also 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.<sup>3</sup>

However, in the short term, the implementation of access to information regimes may face some challenges, and even lead to an 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.<sup>4</sup> 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

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<sup>1</sup><http://www.rti-rating.org/country-data/>

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

<sup>3</sup>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/Public-access-to-information-for-development-a-guide-to-effective-implementation-of-right-to-information-laws>

<sup>4</sup>Dokeniya, Anupama. 2013.

<sup>5</sup><https://opendatastudy.files.wordpress.com/2014/08/worthy-and-hazell-foi-in-the-uk.pdf>

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behavior of the actors (such as avoiding registering some decisions for fear of making them public).<sup>5</sup>

Also in the medium and long term, the evidence shows that the implementation of right of access to public information laws is often 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 60 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 responding to requests and the appeals mechanisms. Other systems, such as 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 has recently experienced threats to the robustness of its system.<sup>6,7</sup>

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 initial stages of implementation, as in the case of Paraguay, governments will face challenges in the fine-tuning of processes and procedures, which is reflected in the performance in this diagnostic instruments' findings.



## Objectives and Considerations

Although more than 5 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; 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

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<sup>6</sup> 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/Public-access-to-information-for-development-a-guide-to-effective-implementation-of-right-to-information-laws>

<sup>7</sup> <http://rendiciondecuentas.org.mx/demoler-al-ifai/>

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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 (IAT).

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 diagnostic tool 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 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. Moreover, the findings of the IAT 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 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 application and review of more than 8,000 indicators. Each pilot phase concluded with a review meeting of the researchers as well as a number of 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. Since finalizing the IAT methodology and indicators, it has been used in a number of additional countries to assess agencies at the national level and now, for the first time with the Paraguay assessment, at the sub-national level.

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

- Establish a comprehensive set of access to information implementation benchmarks.
- Identify the extent (and in some cases the quality) to which a ministry/agency has implemented its law.
- Provide a roadmap for improvements, based on the tool's findings.
- Contribute to scholarship on implementation 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. 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 with its access to information law exist, 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 proactive disclosure that meets the legislated mandate, the review of the inputs has been missing.

The IAT is not an overall evaluation of the current public administration of Paraguay or of the previous ones, 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

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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,”<sup>8</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 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?"**

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<sup>8</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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# 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. 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.

Moreover, the IAT is constructed as an instrument to be carried out in collaboration with the public authorities, and its 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

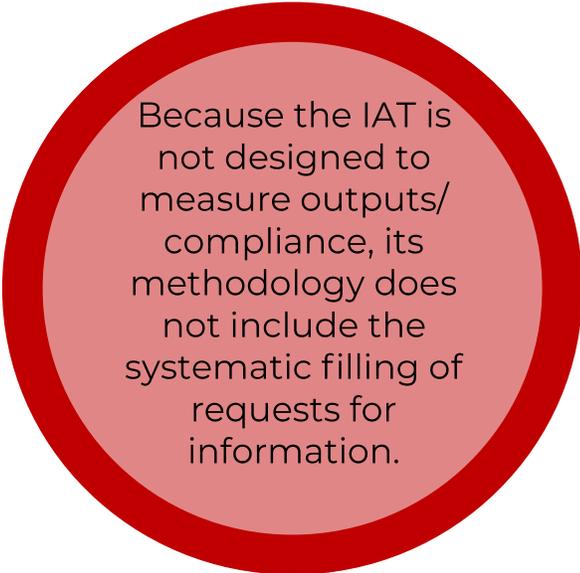
All access to information regimes rely on the public agencies' capacity to fulfill three main functions: 1) receiving and responding to requests, 2) proactively disclosing certain information, and 3) managing records. There are a number of initiatives/efforts specific to these functions, while others apply to more than one of the functions. For those actions that apply more broadly—for example, the designation of a responsible officer or 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



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

successfully perform all access to information duties and obligations. The elements that comprise the assessment, among others, include whether the 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.

## 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 a "stoplight method," with a scale that includes green, yellow, red, and black and white stripes. In using the stoplight method, the extent and quality of implementation is easily displayed, 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:** For those rare cases where the indicator is not applicable.

## 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 inputs. Over the course of two months, the local researcher collects both quantitative and qualitative data from the agencies. 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. In the case of Paraguay, the local researcher collected data over the period of April and May of 2017.

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 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.

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## 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 access to information functions and duties, or other relevant public officers;<sup>9</sup> 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 practice the researchers often use interviews (sometimes coupled with secondary data) as their primary data source.

## Engaging IAT in Paraguay

The Government of Paraguay is determined to undergo a package of reforms related to Open Data and Access to Information. With the support from the World Bank, there is progress on reports on the state of transparency and accountability in the country that will serve as a roadmap for improvement and progress. These efforts are complementary to the implementation of Paraguay's Open Government Partnership's third National Action Plan, which included a commitment to "perform activities that promote, disseminate and facilitate the exercise of the right of access to information law and open government with civil society and public officials," including full and effective implementation of the law. In this context, and in collaboration with the National Transparency Team (ENT), an inter-governmental body under the leadership of the Ministry of Finance, and the World Bank, The Carter Center was engaged to apply the access to information implementation assessment tool to a sample of eight public authorities.

Initially, the potential for assessing only national level executive branch ministries was discussed. However, with the support and encouragement of the ENT and the World Bank, it was agreed to include state-owned enterprises and subnational governments. As with the earlier pilot phase criteria, the ministries and agencies assessed were chosen based on the relevance of the information they hold, their importance to the citizens of Paraguay, the institutional role in supporting access to information, as well as their willingness to participate in this exercise. For example, the Ministry of Justice, which served as one of the agencies assessed, is responsible for supporting the implementation of the access to information law and the Ministry of Finance plays a role in assuring sufficient resources for institutionalizing the right of access to information.

In addition to key government ministries and agencies, and for the first time, subnational governments were included in the assessment. Local governments, such as municipalities, often hold information that it is even more important for citizens, and they are the government entities closest to the citizens. The municipalities selected to be assessed were chosen based on their population size, existing efforts to advance implementation of the access to information law, and willingness to engage in this project.

Ultimately, the ministries, agencies, and municipalities selected for this initial exercise included:

- Ministry of Education
- Ministry of Finance
- Ministry of Health
- Ministry of Justice
- Municipality of Encarnación
- Municipality of Luque
- National Electricity Administration
- Sanitation Services Enterprise of Paraguay

Following the selection of the agencies and municipalities to be assessed, the Ministry of Finance

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<sup>9</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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and the ENT sent a formal letter requesting their engagement with the IAT. The local researcher was then in contact with the relevant agency personnel to schedule a site visit and interview. At the conclusion of the assessment, as discussed in further detail below, the preliminary findings were validated by a group of civil society representatives with experience seeking public information. The participants of the focal group were selected by the local researcher with approval by the Carter Center. The focal group reviewed the findings and was asked to consider whether these results were consistent with their realities as the demand-side/users of the access to information law.

On May 31, 2017, The Carter Center presented the assessment findings to key representatives of the eight assessed agencies and municipalities to gather their comments on the validity of the findings and recommendations for priority actions. Finally, from June 1-2, the IAT findings were shared with the ENT, the Ministry of Finance, and other relevant agencies at a workshop organized by the Government of Paraguay with the support from the World Bank and the Global Initiative for Fiscal Transparency (GIFT).

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# Country Context<sup>10</sup>

## Passage of the Access to Information Law

**A**fter 35 years of authoritarian rule, in 1989, General Alfredo Stroessner's regime was toppled. He was succeeded by General Andrés Rodríguez, who had been politically close to the previous dictator and part of his trusted circle. Nevertheless, the period of Rodríguez's presidency was characterized as a time of expansion of broad civil liberties. A new Constitution was promulgated and ratified in 1992, whose article 28 recognizes "the right of persons to receive information that is truthful, responsible and fair" and it established that "public sources of information are free for all." This constitutional provision also mandated that "the law shall regulate the modalities, terms and sanctions, so as to make this right effective."

However, it was not until 2001 that this right was first regulated by law. But, the new statute was quickly hailed as a "gag law," since it established broad and discretionary exceptions, enabled the Government to charge for giving information, and, though judicial action against negative state decisions was provided, the enforcement process would be long, costly, and could only occur in the nation's capital, Asunción. This initial access to information law was quickly repealed, largely due to pressure exerted by the media.

In 2005, several civil society organizations (CSOs) came together to create the Group to Promote Access to Information (with the Spanish acronym of GIAI), with the aim of drafting their own version of the law and advocating its adoption in Congress. In 2006, the Paraguayan Congress rejected these efforts to

promote the approval of the law, as a result of opposing demonstrations by some sectors of the local press.

In 2007, the Institute of Law and Economics (IDEA), one of the organizations that comprised the GIAI, began to use strategic litigation to lay the legal groundwork for a future law on access to information. In all cases that went to the courts, IDEA invoked the doctrine of the *Claude Reyes vs. Chile* case, whereby the Inter-American Court of Human Rights had ruled that persons have a fundamental right to public information and that a law should be established to facilitate that right. Slowly, the courts began to rule in favor of the applicants for public information. That was true for all cases, except that of Mr. Daniel Vargas Telles, who in 2008 went to the Supreme Court. After several years of *Amicus Curiae* interventions from groups such as the Open Society Institute - Justice Initiative, the Regional Alliance for Free Expression and Information, and local organizations, the Supreme Court ruled in October 2013 recognizing the right of Mr. Vargas Telles to public information.<sup>11</sup>

The media coverage of this decision had no precedent in recent Paraguayan judicial history. Its impact was such that it enabled the necessary political climate to allow for the adoption of a law on access to public information.<sup>12</sup> In 2014, Paraguay became the 100th country to establish a statutory right to information.<sup>13</sup>

Quickly, the Cartes Administration endorsed the discourse of transparency. Indeed, the enactment of the law was held with a ceremony in the Presidential Palace with the presence of the heads of the Congress and the Judiciary and with the representatives of the CSOs that for years had advocated for the law's

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<sup>10</sup> This section was primarily drafted by researcher Ezequiel Santagada.

<sup>11</sup> The full case and proceedings are found at <http://www.pj.gov.py/contenido/945-informacion-publica/945>

<sup>12</sup> Acceso a la información es un derecho humano fundamental, October 16, 2013 in *Diario ABC Color*, <http://www.abc.com.py/edicion-imprensa/politica/acceso-a-la-informacion-es-un-derecho-humano-fundamental-628834.html>

<sup>13</sup> Paraguay is 100th nation to pass FOI law, but struggle for openness goes on, September 19, 2014, *The Guardian*, <http://www.theguardian.com/public-leaders-network/2014/sep/19/paraguay-freedom-information-law-transparency>

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passage. The Act officially came into force in September 2015, with the year in between to provide time for developing necessary regulations and tools, particularly technological, to make the law operational. Thus, at the time of its entry into force, the Unified Public Information Portal (the Portal), an online platform through which requests can be submitted and requests provided, had already been developed.

The advent of the Open Government Partnership further supported the advancement of the right to information in Paraguay. Paraguay joined the Open Government Partnership (OGP) in 2011. Included in its second National Action Plan (2014-2016) was the commitment to enact and effectively implement an access to public information law. In fact, the inclusion of this commitment was the relevant CSO's condition to participating in the OGP process. For the third National Action Plan (2016-2018), commitments were included calling for greater compliance with the legal obligations of transparency and progress in the use of information to facilitate access to other rights, such as health and education.

The implementation of the law and the increasingly pro-transparency discourse have facilitated the discovery of several cases of mismanagement of public money, which has resulted in the investigation and claims against some legislators and changes in the Office of the Comptroller-General and the National University of Asunción.<sup>14</sup>

## Provisions of the Access to Information Law

Law 5282/14 "Citizen Access to Public Information and Government Transparency" and its Decree Regulation 4064/15 apply to all state bodies, including the three branches of government,

oversight agencies, departmental and municipal governments, and public universities. Requests can be made without stating a reason or justification. Importantly, it includes the principle of maximum disclosure, by which it is presumed that all information held by the State is public, unless it is qualified as secret or reserved expressly by law (law 5282/14 does not list exceptions), and the burden of proof lies with the State. All requests are entirely free, not even the cost of reproduction can be charged to the requester of information.

Applicants who are denied information or aggrieved may seek reconsideration within the requested agency, where it exists, or go directly to the court for summary judgement using the free procedure for constitutional protections. The law establishes specific and minimum duties of proactive disclosure for all public institutions in general and for each of the powers of the State; the regulation mandates that these obligations must be met through agency websites. The preferred delivery of information is electronic and in open data format.

While non-compliance with the transparency obligations is considered serious misconduct, this law does not establish sanctions. The law does include fines for non-compliance with judicial decisions, but the procedure for the application of such fines is not clear. An oversight body was not created (i.e. there is no Information Commission), although the Ministry of Justice has powers of coordination to encourage effective implementation.

## Implementation

In terms of law 5282/14, all public institutions should be part of the Portal, which is the principal means through which requests are made and responses issued. The Portal is meant to include all the Executive Branch, the two chambers of the National Congress, and auditing and oversight bodies; except the General Comptroller of the

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<sup>14</sup> Tres años, muchos pendientes, August 15, 2016 in Diario ABC Color, <http://www.abc.com.py/especiales/fin-de-semana/tres-anos-muchos-pendientes-1508561.html>

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Republic which has its own online applications system, as well as the Judiciary. The Ministry of Justice is the agency responsible for encouraging and overseeing compliance with the mandate to engage the Portal. The deadline for every public agency/local government to join the Portal was March 2016. However, as of April 2017, only seven out of 17 departmental governments and twelve out of 255 municipal governments had joined the platform.

Training of public officials on the access to information law and its implementation has been concentrated at the central government level. The Ministry of Justice, in coordination with CSO such as members of the GIAI, was responsible for the first stage of training. The Ministry of Justice also has produced a manual for receiving and responding to requests, which contains guidelines for action and is a basic guide for public officials responsible for applying the law 5282/14.

Regarding resources for operationalizing the access to information law, while Article 31 of the law mandates that public institutions "must provide within its annual budget the resources necessary to implement the provisions," specific budget provisions for access to information implementation have not been made in most public institutions. Rather, in some cases, agencies have relied on support from the United States Agency for International Development (USAID) and entities such as the World Bank, the Inter-American Development Bank, and the European Union, among others, to advance implementation of the law.

## Compliance with the Access to Information Law

Following the Supreme Court's Vargas Telles decision, and in response to his request for access to salary and compensation information for officials in the Municipality of San Lorenzo, a bill related to the provision of information on the use of public

resources on the payment of civil servants' wages and other remunerations was introduced in Congress. This law 5189/14, approved before the access to public information act, contains provisions related to proactive disclosure and sanctions for failure to meet the transparency provisions. The main obligations of this active transparency law were subsumed in the Access to Information Law, but without the penalties or fines for non-compliance.

The Secretariat of Public Administration is responsible for enforcing law 5189/14 and regularly conducts monitoring on the degree of compliance with the law's proactive transparency provisions. While the Access to Public Information Act 5282/14 has a broader spectrum of proactive disclosure obligations, compliance with the law regarding transparency of public salaries and compensation is a reasonable indicator of the degree of compliance with the access to information obligations. In other words, if an agency is not in compliance with the more minimal requirements of 5189/14, then they certainly would not have met the additional obligations of the access to information act. According to a report by the Secretariat of Public Administration,<sup>16</sup> as of January 2017, only 17.1 percent of all the Paraguayan public institutions had fully met the obligations of the more limited law 5189/14, and most of those that had complied were at the central government level. The report stated that 71.6 percent of the agencies had partial compliance and the rest, largely local governments and the public universities, did not fulfill any of the proactive transparency obligations.

The legislature has shown high levels of compliance with all the obligations of proactive disclosure/active transparency and has made a strong investment in technology for this purpose. For example, as of the beginning of 2017, all legislative sessions are broadcast via internet, recorded, and searchable by topic to be viewed from anywhere. Moreover, the legislative information system allows

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<sup>15</sup> See: [www.informacionpublica.paraguay.gov.py](http://www.informacionpublica.paraguay.gov.py)

<sup>15</sup> [https://www.sfp.gov.py/sfp/archivos/documentos/Resumen\\_enero\\_2017\\_\\_p43jkzcn.pdf](https://www.sfp.gov.py/sfp/archivos/documentos/Resumen_enero_2017__p43jkzcn.pdf)

one to search the status of all draft laws and provides a quite complete legislative digest.

The Judiciary also has demonstrated a reasonable degree of compliance. It is progressively placing more information about the appeals court's rulings on the internet for public review and has published a significant number of Supreme Court judgements and supporting documents. Additionally, sometime in 2017, the Judiciary is expected to enact a specific regulatory provision to guide access to the information in the justice sector, both the administration of justice and its jurisdictional purview.

Regarding responsiveness to specific requests, according to statistics generated by the Portal, slightly more than 80 percent of requests have been answered.<sup>17</sup> However, by reviewing the responses by the public institutions, it is clear that many are unsatisfactory as they are vague or incomplete. Nevertheless, in less than two years of entry into force of the law, progress is visible at the central

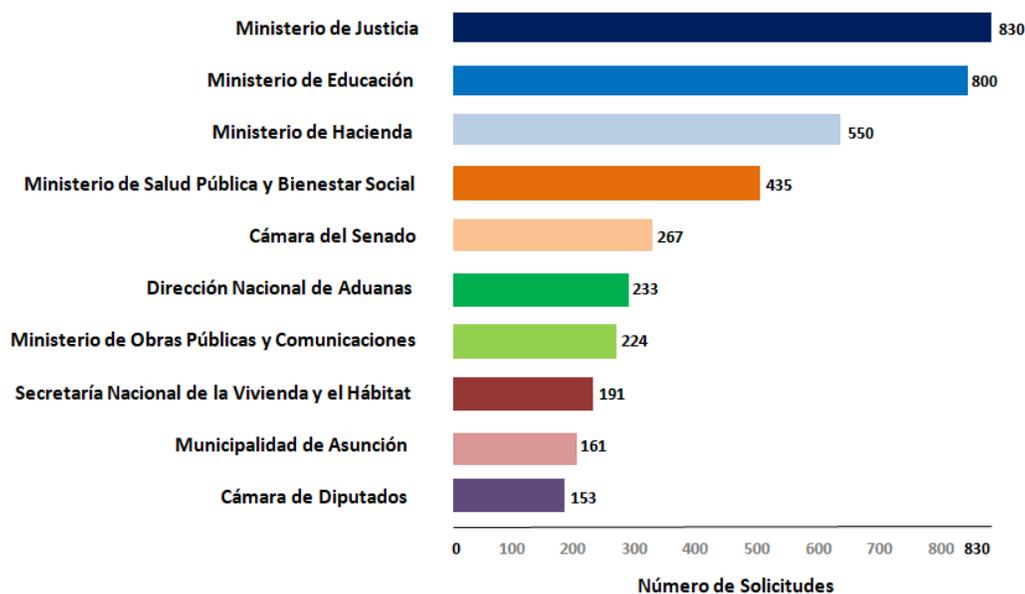
government level. The biggest challenge for both implementation and compliance lies in the departmental and municipal governments.

## Use of the Law

The only statistics that exist related to the use of the right to information law/number of requests comes from the Portal. As of mid-April 2017, 4,209 requests had been made, with 3,338 (almost 80 percent) corresponding to requests from the central agencies and Asuncion. There is no information regarding the number of requests made in person or using means outside of the Portal.

This chart reflects the number of requests made through the Unified Public Information Portal. There are three explanations for the pattern of requests to centralized agencies rather than local governments, as seen in the figure above. The first is that requests made from departments in the interior and municipal governments are not accounted for

**Figure 1. Top 10 Institutions with the highest number of requests until 2017<sup>18</sup>**



<sup>17</sup> <http://informacionpublica.paraguay.gov.py/portal/#!/estadisticas/tortas>

<sup>18</sup> This chart has been adapted from the data found at the Unified Public Information Portal website: <http://informacionpublica.paraguay.gov.py/portal/#!/estadisticas/multibar>

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because these local governments have not yet connected with the Portal. The second is that in many of these departments and municipalities there may be an absence of an access to information office, and therefore, there are few or no activities to disseminate or encourage use of the law. Finally, the third potential explanation is that without access to the online portal for making requests, interested persons would need to travel long distances to make requests for information in person at the agency. The time and costs may serve as deterrents to submitting requests for information to local governments.

Notably, internet access may not be a great constraint to the use of the Portal, as approximately 50 percent of the population has access via smartphones and this is expected to reach nearly 60 percent in 2017.<sup>19</sup> The use of the law by indigenous communities is unknown as there is no information on the matter; but it is likely to be very low as these communities live primarily in the country's interior, where their local governments have done less to implement the law or to connect with the Portal. Similarly, without statistics from the Portal, the background or profession of the requester is not known. However, there is a pervading perception that journalists are exercising their rights to information more frequently than other professions/people, and in more than one high-impact media story, it was a journalist's use of the access to information act that obligated the disclosure.

As of April 2017, there have been on average approximately eight applications per day through the Unified Access to Information Portal. However, this statistic does not include requests made directly to agencies that are not yet linked to the Portal. Overall, the Ministry of Justice receives the most requests. However, that statistic may be misleading as there is a provision in the regulatory decree that establishes that if a requester is unsure where to submit their application – or the relevant agency is not connected to the Portal – they may send their request to the Ministry of Justice for processing/

referral to the appropriate body.

## **Enforcement of the Access to Information Laws**

Within Title II of the Act, under the name of "enforcement authority," Article 6 states that "public agencies shall establish an Office of Access to Public Information, which will receive requests, as well as guide and assist the applicant." However, this is not the same as enforcement. In Paraguay, there is no guarantor or Information Commission to support compliance and receive complaints from aggrieved requesters.

In addition to lacking effective enforcement provisions, the law does not adequately establish responses for misconduct. The law seems to presume good faith and reasonableness of officials, with the existing sanctions only applied after the conclusion of an administrative inquiry – and most likely a judicial review. This means that it could take years before an official would be sanctioned for failing to comply with the law. Since the law's entry into force, there have been no known sanctions levied.

The Act contains some provisions which establish guidelines for appealing negative decisions, such as denials of information or any other perceived breach. Initially, however, the law was not sufficiently clear as to the appeal procedures to be followed. This loophole was addressed by the Supreme Court in September of 2015, establishing the procedure for channeling a claim to the judiciary using the process for violation of constitutional rights, which is a free and expeditious trial (one to three months), although a lawyer is still needed. Another advantage of using the same procedure as for a violation of constitutional rights is that when a trial judge rules in favor of the applicant's information, the sentence is immediate compliance, even if the public institution appeals the ruling. To date, there have been at least 15 cases taken to the courts, with the majority finding in favor of the applicant.

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<sup>19</sup> Penetración de internet en el país llega al 48%. April 16 2017, in Diario La Nación.  
<http://www.lanacion.com.py/2016/06/23/penetracion-de-internet-en-el-pais-llega-al-48/>

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# Focal Group

In July 2017, a focal group was convened in Asunción, Paraguay, comprised of seven key civil society activists with long experience working in the field of access to information. The participants of the focal group were selected by the local researcher, with Carter Center agreement, and represented CSOs that are actively working on the issue of access to information and that have experience in making requests. Participating in the focal group meeting were representatives from IDEA, Seeds for Democracy, Center for Judicial Studies and the Center for Environmental and Social Studies (CEAMSO), Technology and Community (TEDIC). The Public Policy Center of the Catholic University, Decidamos, Paraguayan Journalists Forum (FOPEP), and Fundación Libre were invited, but did not send representatives.

The focal group was charged with considering the IAT findings and reflecting on whether these results are consistent with their realities as requesters and access to information advocates. The meeting took place in the offices of IDEA, an organization that is part of the GIAI.

The meeting began with an open discussion regarding the state of access to information in Paraguay. The CSO representatives noted that, in general, the agencies have not been fully responsive to requests for information. The participants stated that sometimes it is necessary to use social networks or social media to put pressure on the agencies. Ultimately, the agencies will succumb and respond to their requests, although sometimes beyond the statutory time period. Such was the case with the Ministries of Health and Education, per the focal group representatives. The participants in the focal group also pointed out that there is room to improve the quality of the responses provided by the information offices and to ensure that the infor-

mation provided satisfies the applicant's request/information needs.

Following the open discussion, the indicators and findings across the eight ministries, agencies, and departments were shared with the participants. The facilitator posed several questions to lead the plenary discussion, including:

- Do these results reflect your experiences in gathering information from these public agencies?
- Do you know any specific cases that contradict these results (totally or partially)?
- In general, what is your experience/opinion regarding the implementation of the access to public information law in these ministries/agencies/departments?
- In your opinion, what other relevant factors should be considered?
- What do you consider to be priority areas for advancing implementation in the future?

The participants indicated that the IAT results reflected their experiences in requesting access to information and seeking proactively disclosed information from these agencies, and considered the findings to be consistent with their knowledge and realities. It was agreed that the ministries and agencies attempt to respond to requests, but that too often the officials lack knowledge and training or material resources are missing. For instance, it was noted that, in line with the results of the IAT, many of the access to information offices are lacking both sufficient funds and staffing, particularly in the interior of the country. However, there are exceptions. It was mentioned that one of these little-known exceptions is the Municipality of San Pedro de Ycuamandiyu, in the Department of San

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Pedro, where at the entrance of the office there is a large poster raising awareness about the existence of the access to information municipal office.

An important observation from focal group participants is that, with few exceptions, there is not much involvement of the highest authorities in the implementation of the right of access to information. Implementation is left to the mid-level officials, who often do not have the seniority to advance full and effective implementation.

All the CSO representatives present recognized the value of the IAT as an objective reference to validate their diagnosis. Although, it was mentioned that the results for ANDE in records management came as a pleasant surprise.

Participants stressed that there is the need to consider the sustainability of the access to public information regime in Paraguay, in the event of a decrease in international cooperation or support. To date the international community, in particular USAID, has funded many of the implementation efforts. The focal group members suggested that to ensure sustainability and maximum impact, there should be an emphasis on fully implementing the proactive disclosure provisions and increased investments in efforts to optimize records management in the future.



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# Aggregated Paraguay 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 Ministry and Agency Findings**

<b>Fundamental Functions: Leadership</b>																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
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: RED	B	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A
2	How often does an agency official with authority over policy participate in meetings with public officials responsible for ATI activities?	Finding: RED	C	Finding: RED	C	Finding: GREEN	A	Finding: RED	C	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	C
<b>Fundamental Functions: Rules</b>																	
3	Has the agency created or adopted specific guidelines on ATI?	Finding: GREEN	A	Finding: RED	B	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A
4	How often are ATI guidelines reviewed by an agency official with authority over policy?	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D	Finding: N/A	D
5	How often are ATI guidelines revised by an agency official with authority over policy?	Finding: RED	B	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: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A
7	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: RED	B	Finding: RED	B	Finding: GREEN	A
8	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: RED	B	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: GREEN	A
9	Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: RED	C	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B

Fundamental Functions: Procedures																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
10	Does the agency's public outreach specifically include a component regarding ATI?	Finding: RED	B	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	B	Finding: GREEN	A
11	Does the agency specifically provide information on how to make a request and to find proactively published information?	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	B	Finding: RED	B

Fundamental Functions: Resources																	
12	Has one or more public official been made responsible for ATI functions and duties?	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	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: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	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	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	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	A	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	D	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B
16	Does the public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI?	Finding: YELLOW	B	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	C	Finding: GREEN	A	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A
17	Are all public officials made aware of basic ATI principles?	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	D	Finding: RED	D
18	Are training materials related to ATI created and maintained for future reference by public officials?	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: YELLOW	B	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: YELLOW	B
19	Does the public official(s) 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	Finding: GREEN	A	Finding: GREEN	A
20	Has the agency created a space, physical or virtual, to make requests, review documents, and share proactively published information?	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	C	Finding: YELLOW	B	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: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: RED	B

Fundamental Functions: Monitoring																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
22	Does the agency monitor its ATI functions and duties?	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: GREEN	A	Finding: RED	C
23	Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: RED	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	B	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: RED	B	Finding: GREEN	A	Finding: GREEN	A

Fundamental Functions: Wildcard																	
25	In your expert opinion, in practice does the agency effectively fulfill its fundamental functions related to access to information?	Finding: GREEN	A	Finding: YELLOW	B	Finding: YELLOW	B	Finding: RED	C	Finding: GREEN	A	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A

<b>Receive and Respond to Requests: Rules</b>																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
26	Does the agency have written guidelines for receiving requests?	Finding: GREEN	A	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A								
27	Does the agency have written guidelines for processing requests?	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	C	Finding: GREEN	A	Finding: GREEN	A	Finding: YELLOW	B	Finding: YELLOW	B	Finding: YELLOW	B
28	Does the agency have written guidelines for responding (release or deny) to requests?	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: YELLOW	B	Finding: YELLOW	B	Finding: GREEN	A
29	Does the agency have written guidelines for internal review?	Finding: GREEN	A														
<b>Receive and Respond to Requests: Procedures</b>																	
30	Does the agency have a procedure for logging and tracking requests and responses?	Finding: YELLOW	B	Finding: YELLOW	B	Finding: RED	C	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A	Finding: GREEN	A
31	Does the agency have a procedure for processing a request?	Finding: RED	C	Finding: GREEN	A	Finding: RED	C	Finding: YELLOW	B	Finding: YELLOW	B	Finding: RED	C	Finding: RED	C	Finding: GREEN	A
32	Does the agency have a procedure for transferring requests to other agencies?	Finding: GREEN	A														
33	Does the agency have a procedure for issuing and serving responses?	Finding: RED	C	Finding: GREEN	A												
<b>Receive and Respond to Requests: Monitoring</b>																	
34	Does the agency regularly capture statistics related to receiving and responding to requests?	Finding: YELLOW	B	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: YELLOW	B	Finding: RED	C	Finding: RED	C
<b>Receive and Respond to Requests: Wildcard</b>																	
35	In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?	Finding: GREEN	A	Finding: GREEN	A	Finding: YELLOW	B	Finding: YELLOW	B	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A

<b>Proactive Disclosure: Rules</b>																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
36	Does the agency have written guidelines for proactive disclosure?	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: RED	 C	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: GREEN	 A
<b>Proactive Disclosure: Procedures</b>																	
37	Does the agency have a procedure for proactive disclosure?	Finding: YELLOW	 B	Finding: GREEN	 A	Finding: YELLOW	 B	Finding: RED	 C	Finding: GREEN	 A	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B
<b>Proactive Disclosure: Resources</b>																	
38	Has one or more public official been appointed responsible for proactive disclosure functions and duties?	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: RED	 C	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B
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	 A	Finding: GREEN	 A	Finding: RED	 D	Finding: RED	 D	Finding: GREEN	 A	Finding: RED	 D	Finding: GREEN	 A	Finding: RED	 D
40	Is the public official(s) responsible for proactive disclosure trained to comply with their duties?	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C
<b>Proactive Disclosure: Monitoring</b>																	
41	Does the agency capture statistics related to proactive disclosure on an annual basis?	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B	Finding: RED	 B
42	Does the agency regularly monitor its proactive disclosure?	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C	Finding: RED	 C
<b>Proactive Disclosure: Wildcard</b>																	
43	In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: RED	 C	Finding: RED	 C	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B	Finding: YELLOW	 B

Records Management: Leadership																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
44	How often does an agency official with authority over policy participate in meetings with public officials responsible for records management?	Finding: GREEN	A	Finding: RED	C	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C
45	Has the agency created or adopted a records management policy for managing paper-based and digital information?	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: GREEN	A

Records Management: Rules																	
46	Does the agency have written guidelines for records management, regardless of format (including digital records, maps etc.)?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: RED	C	Finding: YELLOW	B	Finding: YELLOW	B
47	Does the agency have written guidelines for security classification of documents?	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C
48	Does the agency have a document(s) that establishes instructions/guidelines for implementation and/or operations for records management?	Finding: GREEN	A	Finding: RED	B	Finding: RED	B	Finding: RED	B	Finding: GREEN	A	Finding: RED	B	Finding: GREEN	A	Finding: RED	B

Records Management: Procedures																	
49	Does the agency have a procedure for security classification of documents?	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C
50	Does the agency have a procedure to manage its paper records?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B
51	Does the agency have a procedure to manage its digital records?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B
52	Does the agency have a procedure to retrieve and access paper records?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: GREEN	A	Finding: YELLOW	B	Finding: RED	C	Finding: GREEN	A
53	Does the agency have a procedure to retrieve and access digital records?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B	Finding: RED	C	Finding: RED	C	Finding: RED	C

Records Management: Resources																	
#	Indicator question:	ANDE		Educacion		Encarnacion		ESSAP		Hacienda		Justicia		Luque		Salud	
54	Has one or more public official been appointed responsible for records management?	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: GREEN	A
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: GREEN	A	Finding: GREEN	A	Finding: GREEN	A	Finding: RED	D	Finding: GREEN	A	Finding: RED	D	Finding: GREEN	A	Finding: RED	D
56	Does the public official(s) appointed/tasked responsible for records management and his/her staff receive specialized training on records management?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B
57	Are all public officials made aware of basic records management procedures?	Finding: GREEN	A	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: RED	D	Finding: RED	D
58	Has the agency created space and facilities for storing paper and digital records?	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A	Finding: RED	C	Finding: GREEN	A	Finding: YELLOW	B	Finding: GREEN	A	Finding: YELLOW	B

Records Management: Monitoring																	
59	Does the agency regularly monitor its records management functions and duties?	Finding: GREEN	A	Finding: RED	C												

Records Management: Wildcard																	
60	In your expert opinion, in practice does the agency effectively fulfill its function related to records management?	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: RED	C	Finding: GREEN	A	Finding: RED	C	Finding: RED	C	Finding: YELLOW	B

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# General Findings and Recommendations

In September of 2014, Paraguay became the 100th country in the world to have an access to information law and a year later in 2015, the law went into full effect. Nearly two years since the Access to Public Information and Transparency Law took effect, full and effective implementation remains a challenge. Though the government has made many advances, across all eight ministries, agencies, and municipalities assessed, there remains room to improve.

## Fundamental Functions

In terms of fundamental government functions, the eight agencies assessed have made strides to implement the access to information law. Many of the agencies include the values of transparency and freedom of information in their strategic plans, thus demonstrating the priority placed on the issue. Moreover, by adopting the decree of the Ministry of Justice that defines policies and guidelines for access to information, these agencies have shown a commitment to implementing this law. The signs of positive leadership, as well as the presence of information officers within these agencies, are indicators that these agencies are making progress. In seven out of eight of the agencies assessed there is clear leadership and commitment to advancing implementation of the access to information law. Moreover, the leadership and enthusiasm of the information officers was seen as playing a critical role in the agencies where there has been progress.

One of the findings from the assessment relates to a lack of procedures for raising public awareness of the law. While each agency has a duty to make the public aware that information is available and how to request/find information, including use of the Portal, it would be useful if the Ministry of Justice, as

the agency mandated to support implementation and operationalization of the law, could undertake additional awareness campaigns. As of the date of preparation of this report, most of the agencies have not disseminated the responsible information officer's name and contact information, thus limiting the public's ability to contact the agent in charge of assisting with a public information request. Additionally, in some agencies a need for more staff as well as for more support and training was identified. Throughout the agencies, there have been scant efforts to sensitize the public officials within the agency, beyond the specific access to information officers, of the basic principles of access to information. Moreover, although the law provides for budgetary allocations, the agencies had not identified specific resources to be allocated for effective implementation.

Lastly, the findings indicate that the agencies have not sufficiently monitored their efforts or progress, nor have they issued annual reports that detail the monitoring results and recommendations. While some of the agencies conduct performance evaluations of the designated staff responsible for access to information, there is no obvious monitoring of the agency's overall performance or internal audits conducted.

## Receiving and Responding to Requests

In November 2015, the Ministry of Justice issued Decree 4064/15 to regulate the access to information law. The Decree provides general policy and guidelines for all public entities related to their access to information functions. The eight agencies assessed in the IAT have largely adopted this

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centrally-issued decree and are using it to guide their operationalization of the law. However, many of the assessed entities still need to develop specific procedures to put these general guidelines into full effect. Some practices for fulfilling their access to information functions have begun to develop, but these new procedures are often not captured in writing.

Overall, receiving and responding to requests is a strength throughout the assessed agencies. Most of the agencies have in place procedures for receiving requests, tracking, and responding to applications for information. Yet, these procedures are largely dependent on the use of the Portal. The Portal is used to make requests online, transfer requests, and receive the agency's response. There were fewer clear procedures for receiving and responding to requests when received through means other than the online Portal. While the agency is mandated to manually input requests into the Portal when received through other means, these procedures were lacking.

The use of the Portal for tracking responses and transfers is a great step forward, but should be closely monitored. Problematically, the Portal does not always work, which creates an accessibility issue, and there are few instructions for properly engaging/using the Portal.

Finally, it is important that agencies put a greater focus on the quality of their responses to requests.

## **Proactive Disclosure**

The IAT assessment demonstrates that while there has certainly been an increase in proactive disclosure, this remains one of the areas of least progress. While some of the agencies have guidelines for proactive disclosure and have informally assigned proactive disclosure tasks and responsibilities to staff, the guidelines lack key components for proper proactive disclosure of information, and the agencies need to develop clear

and detailed procedures to properly implement this function. The agencies should consider identifying and tasking a specific person or officers responsible for proactive disclosure and conduct specialized trainings for those individuals. Additionally, agencies should consider proactively disclosing documents in other ways, beyond just posting it on their websites.

## **Records Management**

Records management is the backbone of any transparency regime. As such, developing clear policies and guidelines for managing paper and digital records is a priority. In the agencies assessed, many had designated staff responsible for records-management duties, but they lacked specialized training and support to fulfill their responsibilities. Almost none of the agencies has developed or adopted guidelines and procedures for paper or digital records management. Some of the agencies assessed stated that they are in the process of developing the guidelines and procedures, but they remained unfinalized and unimplemented.

To properly handle records and documents, these agencies need to develop or finalize their guidelines and procedures, particularly related to digital records and to the security classification of documents. Key records management staff should receive specialized training, and all staff should receive basic records sensitization training.

Based on the work of the researcher, both through interviews and primary data sources, as well as their knowledge of the reality in which the access to information law is being implemented and the comments from the civil society representatives during the focal group, our principal findings and general recommendations, in addition to those outlined above and the specific recommendations for agencies below, are:

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1. The successful implementation and operationalization of an access to information law requires not only political will, but also sufficient resources.<sup>20</sup> It is imperative that the Paraguayan State and public institutions allocate, in practice, the resources necessary to implement the provisions established in the Access to Public Information Law.
  2. Records are the backbone of an access to information regime and good records management allows the system to flourish. As neither Law 5282/14 nor its Regulatory Decree 4064/15 contain legal provisions related to records management, it is essential to develop and disseminate such rules as soon as possible. Considering the access to information law and the existing general archives law, in the short-term the Ministry of Justice in coordination with the National Archives might consider seeking a regulation established by Executive Decree, which could be instituted to begin developing a more modern records management system.
  3. It is fundamental and a priority to strengthen the Ministry of Justice's Directorate of Access to Information. With its limited budget and small staff, the Directorate faces significant challenges to reasonably fulfilling its coordination role among all the public institutions. Moreover, it would be beneficial to include the ministry with responsibility for the implementation of the access to information law as a member of the National Transparency Team,<sup>21</sup> an institutional group conformed to promote government transparency. Its inclusion will allow for better coordination and improved implementation of the access to information law across a spectrum of government entities. In the medium term, additional coordination efforts should be explored, including the potential for a specific agency responsible for oversight and/or an Information Commission tasked with oversight and compliance.
  4. It is essential for public agencies to develop and formalize internal procedures for right of access to information implementation. Law 5282/14 and Decree 4064/15 establish the basic rights, obligations, procedures for the citizen requests, and deadlines. However, each institution needs to design specific procedures that inform and support implementation and operationalization of the law, including establishing responsible officials and actions, timelines, and internal procedures/standard operating procedures for receiving and responding to requests and for fulfilling its active transparency obligations. While the agency officials have demonstrated a disposition 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 each 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 agency as well as externally for the public. If agency 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 make constructive efforts to meet the law's mandate, to proactively disclosure information that they hold/manage, to protect and retain

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<sup>20</sup> The prioritization of this policy is the measure by which senior officials in the government express their support for the right to information. 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).

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<sup>21</sup> The ENT was created through Executive Decree with the objective to increase transparency and combat corruption. The National Transparency Team is comprised of the institutions that constitute the National Economic Team (EEN) and the National Anti-Corruption Secretariat (SENAC). The ENT brings together the economic sector of Paraguay and the Executive branch to fight against corruption through social and economic development initiatives. [http://www.senac.gov.py/archivos/documentos/a%20plan%20Nacional\\_4s3cxq3n.pdf](http://www.senac.gov.py/archivos/documentos/a%20plan%20Nacional_4s3cxq3n.pdf)

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records, and/or to support the information officers when documents are requested. Similarly, the agencies 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, led by the Ministry of Justice, would be beneficial in raising general awareness, each agency also should undertake public and internal awareness activities.

6. Sufficient training and support should be provided to the professionals responsible for receiving and responding to requests, proactive disclosure, and records management. For those public officials principally responsible for access to information and/or records management, ongoing specialized training should be provided.
7. Based on the mandate in Article 90 of the Civil Service Law 1626/00 and the provisions that regulate this law, the agency's access to information offices and operationalization efforts should be analyzed and evaluated periodically, such as annually. Monitoring of the implementation of the right to information law will allow for improvements and sharing lessons learned across agencies. Moreover, annual reports complete with statistics related to receiving and responding to requests and proactive disclosure should be developed and shared with the public to allow citizens to better gauge the agency's advancements and to advocate for any necessary changes in the implementation or execution of the access to information law.
8. Noting that the implementation and operationalization of the access to information law depends largely on the Portal, the National Secretariat of Information and Communication Technologies (SENATICs) should be strengthened to ensure that relevant professionals are dedicated to the operation, maintenance, and constant upkeep and updating of the Portal. This recommendation is in line with the finding from the World Bank's Open Data Readiness

Assessment (ODRA), which notes that SENATICs has a limited operational capacity and requires more resources to fulfill its functions effectively. Furthermore, it is necessary that the Ministry of Justice's Directorate of Access to Information can automatically access the statistics generated by the Portal, with the aim of facilitating the Ministry's monitoring functions. At present, statistics can be downloaded manually from the Portal. In addition, the Portal is being used only for receiving and responding to requests. The use of the Portal should be extended to meet its statutory obligations to proactively disclose information. Finally, the Portal should function on all search engines and include clear instructions to facilitate the requesters' use of the online tool.

# Ministry and Agency Specific Findings and Recommendations

This section presents the IAT findings by ministry/agency followed by specific recommendations.

## Ministry of Education

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Ministry 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 Ministry 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 Ministry.

**Table 2. IAT Findings for Ministry 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 

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## Recommendations for the Ministry of Education

**T**he Ministry of Education has received significant support from international cooperation in advancing the right of access to information. This ministry receives most of the requests for information, and has staff members who are dedicated and trained to uphold their access to information obligations. The access to information officials have proven themselves to be committed to the principle of maximum disclosure, but they often use informal mechanisms rather than clear guidelines and procedures to carry out their tasks.

In addition, while one or more public official has formally been appointed responsible for access to information functions and duties, the person's name has not been made known to the public and so cannot easily be contacted for support or questions. Moreover, other Ministry of Education staff, who are not part of the agency's access to information unit, are not made aware of basic principles of access to information.

As with the other agencies evaluated, the only form of monitoring undertaken by the agency relates to individual public official's performance. Neither the agency nor the internal oversight body/auditors review efforts to implement and fulfill the access to information functions and obligations. Statistics related to receiving and responding to requests are not captured, and an annual report with recommendations is not produced.

The Ministry of Education has some inconsistencies regarding proactive disclosure. On the one hand, it is one of the leading agencies in terms of amount of information published and disclosed. On the other hand, it fails to meet the minimum obligations of proactive disclosure as established by law, lacks clear guidelines, and has an insufficient number of trained staff to fulfill its obligations.

USAID's support to the ministry has played a vital role in its success at sharing information proactively, however, without established and institutionalized guidelines and procedures, these advances may not be sustainable when the funding ends. Therefore, dedicated resources should be identified and made available to assure continued implementation and operationalization efforts.

Records managers have been appointed in the Ministry of Education, but they have not been trained nor have other agency officials been made aware of basic records management principles. The Ministry of Education has not prioritized the management of records, neither does it have guidelines for managing paper and digital documents, or formalized standard operating procedures, including for security classification, creation and organization of records, retention, or retrieval.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
	Function	Component
<b>Immediate</b>		
◇ Increase leadership engagement, including meeting with designated information officers periodically and discussing values and principles of access to information as well as related to records management	Fundamental Functions	Leadership
◇ Share name and contact information of designated information officer	Fundamental Functions	Resources
◇ Provide information on how persons can make requests for information, including through the Portal, and how to find proactively disclosed information	Fundamental Functions	Procedures
◇ Raise awareness among all Ministry of Education staff about the basic principles of access to information	Fundamental Functions	Resources
◇ Expand guidelines for proactive disclosure to include the development of a publication scheme	Proactive Disclosure	Rules
◇ Explicitly and formally assign responsibility for proactive disclosure to an officer and provide specific and sufficient training to assure that he or she is fully able to fulfill this responsibility	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
<b>Intermediate</b>		
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Plans and instructions for implementing a records management system</li> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records, including indexes/registries and circulation logs</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Expand infrastructure to assure sufficient and appropriate space for paper and digital records	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## Ministry of Finance

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Ministry 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 Ministry 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 Ministry.

**Table 3. IAT Findings for Ministry of Finance**

	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 ● ● ● ● ●

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## Recommendations for the Ministry of Finance

**T**he Ministry of Finance exhibited some of the best results in terms of implementation and operationalization of the Access to Information law. In the areas of leadership, general guidelines for operationalizing the law, and raising public awareness about the right to information and how to access it, the Ministry of Finance excelled. Importantly, the Ministry of Finance was one of the few agencies assessed that had allocated specific resources to the application of the law. It also has institutionalized transparency obligations in its organizational structure and manual of duties. This may help to explain its progress in advancing implementation.

The ministry has appointed responsible officers. However, at the time of this assessment, their names and contact information were not available on the Ministry of Finance website. This information needs to be made available to the general public. Regarding specific guidelines for responding to requests, the ministry lacked details on the processing of requests, as well as reaching a decision on whether to respond to or deny a request.

Moreover, as with the other agencies evaluated, the Ministry of Finance lacks internal monitoring mechanisms that evaluate the functions and obligations of their access to information implementation and operationalization, which could serve as periodic evaluations to optimize the impact of their efforts. The monitoring should include agency oversight and annual reporting, including access to information in the periodic audits that are conducted, and capturing of statistics, beyond those from the online platform, related to the number of requests, responses, time period, reasons for denial, and proactive publication of documents.

To date, the Ministry of Finance has made progress in the proactive disclosure of information, making many documents available to the public.

However, this obligation could be fulfilled more systematically, bolstering the procedures for the disclosure and updating of information. These procedures could be strengthened by developing written guidelines that include: a publication scheme; provisions for updating and maintaining this scheme; guidance for clearly identifying/listing the types of documents to be proactively disclosed; and how the documents will be disclosed.

The ministry has certain regulations and procedures for the management of paper records, and, to a lesser extent, digital records. As such, the provisions should include clear procedures for digital records, as well as the classification of confidential documents and specialized training for records managers. It is also important to highlight the awareness of basic records-management principles by all agency staff.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
Immediate	Function	Component
◇ Increase leadership engagement related to records management	Records Management	Leadership
◇ Share name and contact information of designated information officer	Fundamental Functions	Resources
◇ Expand guidelines and procedures for receiving, processing, and responding to requests	Receiving and Responding to Requests	Rules and Procedures
◇ Explicitly and formally assign responsibility for proactive disclosure to an officer and provide specific and sufficient training to assure that he or she is fully able to fulfill this responsibility	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
Intermediate	Function	Component
◇ Formalize guidelines and procedures for proactive disclosure, including: <ul style="list-style-type: none"> <li>◆ Updating publication scheme</li> <li>◆ Identifying classes of documents for proactive disclosure</li> <li>◆ Disclosure of documents</li> </ul>	Proactive Disclosure	Rules and Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Security classification of records</li> <li>◆ Processes for managing, retrieving and accessing digital records</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## Ministry of Health

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Ministry 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 Ministry 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 Ministry.

**Table 4. IAT Findings for Ministry 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 ●

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## Recommendations for the Ministry of Health

**T**he Ministry of Health, like the Ministry of Education, is notable as one of the agencies with the greatest support and international cooperation to advance implementation of the right of access to information. Its relatively good performance may be tied, at least in part, to the focused assistance from external actors. The Ministry is one of the largest public institutions and receives some of the most requests. Even considering its large size and minimal staffing dedicated to the right of access to information, the Ministry of Health performs admirably. However, to sustain the implementation gains, additional staffing and increased support and awareness from the agency leadership and colleagues, as well as a dedicated budget allocation, will be important.

For the most part, the Ministry of Health has created guidelines and procedures for receiving and responding to requests. Regarding processing the requests, the internal procedures could be improved by developing clear timeframes for each step and coordination within the agency.

As with the other institutions assessed, the Ministry lacks internal oversight mechanisms to evaluate the functions and obligations involved in the implementation and operationalization of access to information, which might be useful as periodic evaluations to help optimize the impact of its efforts. Positively, the specific officers tasked with access to information functions are evaluated based on their ATI work. Nevertheless, oversight needs to include supervision of the institution and annual reporting, including access to the information in the periodic audits conducted, and capturing of statistics related to the number of requests received, responses, deadlines, reasons for denial, and proactive publication of records that go beyond those available on the online platform.

The main weaknesses in the Ministry of Health's implementation and operationalization of the law relate to proactive disclosure and records

management. With the support of international donors, such as USAID and specialized applications such as Akuerapp, the Ministry of Health shares a great quantity of information proactively. But these efforts lack systematization, and potentially sustainability, as there are only informal procedures used to support proactive disclosure processes and no specially trained and dedicated staff. The agency has not formalized procedures for creating and maintaining the publication scheme or for specifying other necessary steps, timelines, and persons responsible for proactive disclosure, such as placing documents in the public realm or keeping them current.

While the Ministry of Health was one of the few agencies assessed that had developed some norms relating to records management and had dedicated records management staff, it still lacked guidelines for security classification, standard operating procedures—particularly related to digital records management—and general staff that are aware of basic records management principles. Moreover, the storage facilities were not sufficient to ensure proper organization and preservation of documents.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
	Function	Component
<b>Immediate</b>		
◇ Increase leadership engagement, including meeting with designated information officers periodically and discussing values and principles of access to information and records management	Fundamental Functions, Records Management	Leadership
◇ Allocate a specific budget amount for implementation and operationalization of the law	Fundamental Functions	Resources
◇ Increase staffing to adequately fulfill access to information responsibilities and duties	Fundamental Functions	Resources
◇ Raise awareness among all staff of Ministry of Health about the basic principles of access to information	Fundamental Functions	Resources
◇ Explicitly and formally assign responsibility for proactive disclosure to an officer and provide specific and sufficient training to assure that he or she is fully able to fulfill this responsibility	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
<b>Intermediate</b>		
◇ Clearly establish steps and timelines for processing requests	Receiving and Responding to Requests	Rules
◇ Formalize procedures for proactive disclosure, including: <ul style="list-style-type: none"> <li>◆ Creation and updating of a publication scheme</li> <li>◆ Identifying classes of documents for proactive disclosure</li> <li>◆ Disclosure of documents</li> </ul>	Proactive Disclosure	Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Plans and instructions for implementing a records management system</li> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records, including indexes/registries and circulation logs</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Expand infrastructure to assure sufficient and appropriate space for paper and digital records	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## Ministry of Justice

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Ministry 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 Ministry 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 Ministry.

**Table 5. IAT Findings for Ministry of Justice**

	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 

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## Recommendations for the Ministry of Justice

**A**s the coordinating body for implementation, the Ministry of Justice has the most obligations in terms of the access to information law. Unlike the other large service-related agencies though, the Ministry of Justice does not receive much international cooperation or support to implement the law. Moreover, this ministry has had a number of key personnel changes over the past years. Only recently has the Ministry engaged officials who have begun to improve the institution's performance in the area of access to information. The Ministry of Justice has made strides in raising awareness of access to information principles amongst its staff and the general population; however, there are not enough staff nor sufficient resources to meet the agency's access to information obligations. Notably, the agency responsible for the government's overall access to information implementation itself lacks instructions to guide its own implementation efforts.

Requests for information often are directed to the Ministry of Justice, even when they are not the appropriate agency. For requests not responded to in a timely manner or for agencies that are not part of the Portal, the Ministry of Justice is tasked with processing these additional requests. This makes the need for guidelines and procedures even greater. Yet, this Ministry lacks sufficient guidelines for processing and responding to requests, including timelines, transfers, and determining the release of information.

The Ministry of Justice has not met many of the basic requirements for effective implementation of their proactive disclosure obligations. The agency does not have formally designated and trained staff and there are no guidelines or procedures for developing a publication scheme.

Like the other agencies evaluated, the Ministry of Justice lacks internal monitoring mechanisms to

evaluate its own functions and obligations for access to information. As the main oversight body, it is essential that the Ministry of Justice serve as a model for developing robust and functional systems to denote agency and individual access to information officer performance, specifically with regard to agency oversight mechanisms, annual reporting, periodic audits, and the capturing of statistics.

Finally, in the areas of records management, only in having formally assigned a records manager did the agency meet good practice. For all indicators related to leadership, guidelines, and procedures, the Ministry has not advanced in its management of paper or digital records.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignation of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
	Function	Component
<b>Immediate</b>		
◇ Allocate a specific budget amount for implementation and operationalization of the law	Fundamental Functions	Resources
◇ Increase leadership engagement and policy declarations related to records management	Records Management	Leadership
◇ Develop and disseminate plans/instructions for implementing and operationalizing the access to information law	Fundamental Functions	Rules
◇ Increase staffing to adequately fulfill access to information responsibilities and duties	Fundamental Functions	Resources
◇ Formalize procedures for logging, tracking and processing requests	Receiving and Responding to Requests	Procedures
◇ Expand guidelines for processing and responding to requests to include steps for coordination within the agency and processes for determining release of documents	Receiving and Responding to Requests	Rules
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Performance evaluation for designated information officer(s) specific to their access to information functions</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
<b>Intermediate</b>	<b>Function</b>	<b>Component</b>
◇ Formalize guidelines and procedures for developing and updating publication scheme	Proactive Disclosure	Rules and Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Plans and instructions for implementing a records management system</li> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Expand infrastructure to assure sufficient and appropriate space for paper and digital records	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## Municipality of Encarnación

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Municipality 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 Municipality 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 Municipality.

**Table 6. IAT Findings for Municipality of Encarnación**

	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 

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## Recommendations for Municipality of Encarnación

**T**he Municipality of Encarnación is the capital of the Department of Itapúa and is the third largest city in Paraguay. While Encarnación has just begun its efforts to implement Law 5282/14, it has demonstrated important political commitment to operationalizing the access to information law, including leadership engagement, inclusion of transparency principles in their strategic planning, and use of the Portal. The information officer has been formally designated and has a good understanding of the access to information law, but the officer's name and contact information has not been made known to the public, he lacks an office, and there has been no public outreach. Positively, the municipality has undertaken some efforts to raise awareness internally among its staff of the access to information law and its basic principles.

While the Encarnación information officer does respond to requests, the systems are not fully standardized or institutionalized. The municipality has adopted some guidelines and the use of the Portal for receiving and responding to some requests, but lacks internal guidelines for processing requests, such as assisting requesters. There are no formal procedures for logging and tracking requests, identifying who in the agency holds the information, searching for documents, and/or determining release, redaction, or denial.

There is no staff appointed to fulfill the municipality's obligations related to proactive disclosure, and there are no guidelines or procedures for developing and maintaining a publication scheme. As such, Encarnación does not fulfill the minimum obligations of proactive disclosure mandated by the access to information law.

Like the other public entities assessed, Encarnación lacks systems for monitoring the agency and information officer's performance. There are no

efforts to capture statistics related to the number of requests received and the responses, proactive disclosure, or records management nor to issue annual reports and recommendations. Additionally, while records managers have been appointed, they have not received sufficient training to meet their obligations, and neither guidelines nor operating procedures exist to allow advancement in the records management system.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
Immediate	Function	Component
◇ Allocate a specific budget amount for implementation and operationalization of the law	Fundamental Functions	Resources
◇ Make all guidelines related to access to information available on the website and in municipality offices	Fundamental Functions	Rules
◇ Share name and contact information of designated information officer	Fundamental Functions	Resources
◇ Provide information on how persons can make requests for information, including through the Portal, and to find proactively disclosed information	Fundamental Functions	Procedures
◇ Identify/create a space for making requests and seeking proactively disclosed information	Fundamental Functions	Resources
◇ Explicitly and formally assign responsibility for proactive disclosure to an officer and provide specific and sufficient training to assure that he or she is fully able to fulfill this responsibility	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Performance evaluation for designated information officer(s) specific to their access to information functions</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
Intermediate	Function	Component
◇ Develop and institute guidelines and operating procedures for: <ul style="list-style-type: none"> <li>◆ Receiving and processing requests, including determining release</li> <li>◆ Tracking requests</li> <li>◆ Responding to requests</li> </ul>	Receiving and Responding to Requests	Procedures
◇ Expand guidelines and procedures for proactive disclosure to include the development of a publication scheme	Proactive Disclosure	Rules and Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Plans and instructions for implementing a records management system</li> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records, including indexes/registries and circulation logs</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## Municipality of Luque

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the Municipality 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 Municipality 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 Municipality.

**Table 7. IAT Findings for Municipality of Luque**

	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 ●

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## Recommendations for the Municipality of Luque

**T**he Municipality of Luque, located 13 kilometers from the capital city Asunción in the Department of Central, has made important advances in implementing the access to information law. For example, they have included principles of transparency in their strategic planning, engaged the leadership, and formally appointed an information officer with sufficient time and authority to fulfill his/her access to information obligations. However, there have been no budget allocation or public outreach efforts.

Notably, Luque has developed some mechanisms to monitor the agency and information officer's performance, but this monitoring has not extended to capturing statistics related to receiving and responding to requests or proactive disclosure.

Regarding receiving requests, Luque has adopted guidelines and is engaging the Portal. For processing and responding to requests, the municipality should consider written guidelines and procedures that include coordination within the agency, timeframes, and transfers, as well as identifying who in the agency holds the information, how to conduct a search for information, and the specifics for determining release of the information or issuing a denial.

As with the majority of public authorities assessed, Luque lacks implementation and operationalization of guidelines and procedures related to proactive disclosure and records management. While Luque has informally appointed staff responsible for proactive disclosure and fulfills a number of its statutory obligations, the municipality should consider creating a publication scheme, establishing written procedures for placing documents in public realm, and updating and adding document(s) for proactive disclosure.

Lastly, records management guidelines and procedures have not advanced sufficiently within

this Municipality. Positively in Luque, records managers have been formally designated, though not trained, appropriate infrastructure exists, and there have been efforts to develop an implementation plan for improved paper and digital records management. However, the leadership has not been sufficiently engaged and procedures for security classification, management and organization of records, and retrieval of documents have not been established.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
Immediate	Function	Component
◇ Allocate a specific budget amount for implementation and operationalization of the law	Fundamental Functions	Resources
◇ Increase leadership engagement and policy declarations related to records management	Records m Management	Leadership
◇ Develop and disseminate plans/instructions for implementing and operationalizing the access to information law	Fundamental Functions	Rules
◇ Assure sufficient time/staff and training for responsible information officers to fulfill duties related to receiving and responding to requests and proactive disclosure	Fundamental Functions	Resources
◇ Raise awareness among all Luque staff of the basic principles of access to information	Fundamental Functions	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
Intermediate	Function	Component
◇ Expand and formalize guidelines for processing and responding to requests	Receiving and Responding to Requests	Rules
◇ Formalize guidelines and procedures for developing and updating publication scheme	Proactive Disclosure	Rules and Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

## National Electricity Administration (ANDE)

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the agency 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 agency 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 agency.

**Table 8. IAT Findings for National Electricity Administration (ANDE)**

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
<b>Leadership (directs)</b>	Engagement  Strategic Planning 			Engagement  Policy 
<b>Rules (guide)</b>	Guidelines     Instructions/plans    	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review 	Guidelines 	Guidelines   Instructions/plans 
<b>Procedures (order)</b>	Public awareness raising  	Procedures for receiving/processing   Procedures for transfer/responding  	Procedures for proactive disclosure 	Classification  Manage Records   Retrieve Records  
<b>Resources (enable)</b>	Staffing     Training    Infrastructure   Budget 		Staffing   Training 	Staffing   Training   Infrastructure 
<b>Monitoring (adjust)</b>	Internal oversight   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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## Recommendations for the National Electricity Administration (ANDE)

**A**lthough the state-owned electricity company has not formally incorporated access to information in its institutional policies, ANDE has the resources necessary to more fully and effectively implement the law. ANDE has developed a series of guidelines and instructions for implementation of the law, and has been one of the leading public institutions with regard to responsiveness. They have a team with support from the agency's legal counsel and have formally appointed staff with sufficient time and authority to be responsible for access to information. As with the other public agencies, the name and contact information for the designated officer has not been made known to the public nor has there been public awareness raising about the right of access to information, how to make a request to the agency, and/or where to find information.

ANDE has created written guidelines for receiving and responding to requests and for internal review of decisions. But these guidelines have not resulted in the development of specific operating procedures, such as the tracking and logging of requests from receipt to determination, identifying who holds the information, and deciding on release or the means by which the agency will respond to requests. Internal procedures should be improved to assure consistency, to avoid arbitrariness in processing and responding to requests, and to optimize implementation efforts.

The agency has not developed systems for monitoring its performance or that of its designated officers. There is no internal oversight undertaken or auditing to identify challenges and provide recommendations for improvement. Notably, ANDE does capture some statistics related to requests, though the agency should supplement their monitoring with information related to how long it

took to process and respond to the request and reasons for denial, where appropriate.

In terms of records management, ANDE is the only institution assessed that has specific guidelines and procedures for management of paper and digital documents, as well as highly-trained personnel. It has developed instructions for records management implementation, created infrastructure, and made all its staff aware of basic records management principles. The only area of records management in need of additional focus relates to guidelines and procedures for security classification; for all the other indicators, ANDE has demonstrated good practice.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
Immediate	Function	Component
◇ Increase leadership engagement, including: <ul style="list-style-type: none"> <li>◆ High-level official meeting with information officers periodically and speaking about the right of access to information in staff meetings</li> <li>◆ Including transparency and access to information in strategic documents and as a principle policy of ANDE</li> </ul>	Fundamental Functions	Leadership
◇ Allocate a specific budget amount for implementation and operationalization of the law, in order to assure continuity and institutionalization of implementation advances	Fundamental Functions	Resources
◇ Share name and contact information of designated information officer	Fundamental Functions	Resources
◇ Engage in public outreach regarding the right to information and how to make requests, including through the Portal, and to find proactively disclosed information	Fundamental Functions	Procedures
◇ Raise awareness among all ANDE staff about the basic principles of access to information	Fundamental Functions	Resources
◇ Identify and train staff for proactive disclosure	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Performance evaluation for designated information officer(s) specific to their access to information functions</li> <li>◆ Agency review of access to information operationalization</li> <li>◆ Supplement existing system to capture statistics by including additional details related to timeliness and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
Intermediate	Function	Component
◇ Develop and implement operating procedures for: <ul style="list-style-type: none"> <li>◆ Tracking requests</li> <li>◆ Receiving and processing requests</li> <li>◆ Responding to requests</li> <li>◆ Proactive disclosure</li> </ul>	Receiving and Responding to Requests, Proactive Disclosure	Procedures
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring
◇ Develop and institute guidelines and procedures for security classification of records	Records Management	Rules

## Sanitation Services Enterprise of Paraguay (ESSAP)

The findings below indicate the extent and quality of implementation of access to information legislation, where green means the agency 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 agency 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 agency.

**Table 9. IAT Findings for Sanitation Services Enterprise of Paraguay (ESSAP)**

	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 ●

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## Recommendations for Sanitation Services Enterprise of Paraguay (ESSAP)

**E**SSAP, the state-owned enterprise for sanitation, lacked leadership and implementation of some of the most basic fundamental functions. ESSAP is one of the agencies with the most requests in the Portal to which no response has been provided. While an information officer has been designated, there is only one staff member and he works part-time. Moreover, there was insufficient training to meet his obligations and no public notification of the name and contact information of the officer or of the basic principles of the right to information. Though the agency had developed instructions for implementation, these had not been shared within the agency and did not necessarily reflect the agency's policy. To date, ESSAP had made no efforts to inform its staff about the right of access to information and the basic principles of the law.

Positively, the agency has adopted a Ministry of Justice manual to guide its efforts related to receiving and responding to requests but has not developed agency specific procedures for receiving and processing requests. For example, ESSAP had no formal process to guide the agents when requests came through any other means than the Portal or the process for placing the request into the Portal, or a procedure to identify who within the agency holds the information requested.

ESSAP's implementation and operationalization of its proactive disclosure and records management obligations are particularly weak. The agency has informally tasked one of its officials with proactive publication but had made no progress on developing guidelines or procedures for advancing on its proactive disclosure obligations.

Similarly, while a records manager had been named, the state-owned enterprise had not begun efforts toward management of its paper or digital

records. There are no procedures for implementing a records-management system, guidelines for security classification, steps for creating a record, methods for organizing and storing records, or plans for retention. Staff have not received any training on basic records management principles, and even the infrastructure for storing paper and digital records is insufficient.

The chart below provides a series of recommended actions for advancing implementation and operationalization of the right of access to information in the short- and medium-term. The assignment of a suggested time period for action reflects both the urgency as well as a recognition of the amount of time it will take to fully implement these recommendations. In some cases, less urgent actions were placed in the immediate section as they could be accomplished more quickly.

Recommended Actions	IAT Dimension	
Immediate	Function	Component
◇ Increase leadership engagement, including meeting with designated information officers periodically and discussing values and principles of access to information and records management	Fundamental Functions, Records Management	Leadership
◇ Allocate a specific budget amount for implementation and operationalization of the law	Fundamental Functions	Resources
◇ Make all guidelines related to access to information available on ESSAP's website and in central offices	Fundamental Functions	Rules
◇ Review implementation/operationalization plans to assure consistency with agency access to information policy and internally disseminate the instructions	Fundamental Functions	Rules
◇ Provide information on how persons can make requests for information, including through the Portal, and to find proactively disclosed information	Fundamental Functions	Procedures
◇ Raise awareness among all ESSAP staff of the basic principles of access to information	Fundamental Functions	Rules
◇ Increase the time allocated by the designated information officer to his access to information duties and/or increase staff and assure all receive requisite training	Fundamental Functions	Resources
◇ Explicitly and formally assign responsibility for proactive disclosure to an officer and provide specific and sufficient training to assure that he or she is fully able to uphold this responsibility	Proactive Disclosure	Resources
◇ Develop and implement monitoring systems, including at a minimum: <ul style="list-style-type: none"> <li>◆ Agency review of access to information operationalization</li> <li>◆ Performance evaluation for designated information officer(s) specific to their access to information functions</li> <li>◆ Capturing statistics related to requests, including number of requests received, timeliness, and disposition of the request</li> <li>◆ Proactive disclosure advances, such as types of documents shared proactively, how often updated etc.</li> </ul>	Fundamental Functions, Receiving and Responding to Requests, and Proactive Disclosure	Monitoring
Intermediate	Function	Component
◇ Expand and perfect procedures for receiving and processing requests for information	Receiving and Responding to Requests	Procedures
◇ Develop/adopt and implement guidelines and procedures for proactive disclosure, including: <ul style="list-style-type: none"> <li>◆ Creation and updating of a publication scheme</li> <li>◆ Identifying classes of documents for proactive disclosure</li> <li>◆ Disclosure of documents</li> </ul>	Proactive Disclosure	Rules and Procedures
◇ Develop and implement guidelines and procedures for records management, including: <ul style="list-style-type: none"> <li>◆ Plans and instructions for implementing a records management system</li> <li>◆ Creation, organization, storage and retention of paper and digital records</li> <li>◆ Security classification of records</li> <li>◆ Processes for retrieving and accessing paper and digital records, including indexes/registries and circulation logs</li> </ul>	Records Management	Rules and Procedures
◇ Provide specialized training for records managers	Records Management	Resources
◇ Provide basic records management awareness for all staff	Records Management	Resources
◇ Draft an annual report to share with the public of implementation efforts, number of requests and disposition, proactive disclosure, and strategic plans for following year	Fundamental Functions	Monitoring

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# 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, we 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. 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 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

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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 (professionalized 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 the 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

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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



For more information on the complete methodology of the IAT, please visit:

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

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

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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.

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# 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

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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

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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

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## 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?
- The agency has created or adopted a procedure to manage paper records that includes **all** of the following:
    - creation;
    - organization/aggregation of files (non-security related classification);
    - survey and inventory;
    - indexes and circulation logs;
    - access permission;
    - and retention and disposal
  - The agency has created or adopted a procedure to manage paper records but it does not include all of the above
  - 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?
- The agency has created or adopted a procedure to manage digital records that includes **all** of the following:
    - creation, including structured metadata;
    - organization/aggregation of files (non-security related classification);
    - survey and inventory; organization;
    - security rights and access permissions;
    - and retention/preservation and disposal
  - The agency has created or adopted a procedure to manage digital records but it does not include all of the above
  - 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?
- The agency has created or adopted a procedure to retrieve and access paper records, which includes **all** of the following:
    - Indexes or registries;
    - scheme to physically locate records;
    - and a log that tracks circulation and retrieval
  - The agency has created or adopted a procedure to retrieve and access paper records, but does not include all of the above
  - 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?
- The agency has created or adopted a procedure to retrieve and access digital records that includes **all** of the following:
    - an organization (non-security classification) structure;
    - naming conventions for records in shared drives;
    - and location of systems holding digital records
  - The agency has created or adopted a procedure to retrieve and access digital records but does not include all of the above
  - 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?
- One or more public official(s) has been appointed with records management functions and duties
  - One or more public official(s) has been informally tasked with records management functions and duties
  - 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?
- 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
  - 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
  - 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
  - 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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