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Dynamic transparency: An audit of Mexico's freedom of information act

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IDB WORKING PAPER SERIES N° IDB-WP-836

Dynamic Transparency:

An Audit of Mexico's Freedom of Information Act

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Abstract*

Freedom of Information Acts (FOIAs) aim to provide a channeled exchange between citizens and public officials that, irrespective of the citizen's identity, results in the provision of timely, relevant, and often new information about policy. The authors of this paper evaluated Mexico's FOIA by submitting 307 information requests on behalf of an average male citizen to government entities in the years 2007, 2013, and 2015. In 2007, the authors also submitted the same requests to 87 comparable entities on behalf of a male citizen who signaled clout. For the most part, entities are not discriminating between regular and seemingly influential citizens. Entities are also answering more frequently and providing more information in 2015 compared to earlier years, but they are taking longer to answer, frequently charging fees, and often failing to provide quality information to questions they are legally bound to answer. Mexico's FOIA is a functional system demanding significant improvements.

JEL classifications: D73

Keywords: Transparency, Accountability, Freedom of Information Acts (FOIAs)

* The authors obtained the approval of Institutional Review Board of Columbia University for this study and declare no conflict of interest. Lagunes: pfl2106@columbia.edu. Pocasangre: omp2117@columbia.edu.

Practitioner Points

- Freedom of Information Acts (FOIAs) aim to promote the equitable provision of timely, relevant, and often new information about government.
- Given the prevalence of failed reforms in Latin America, the question is whether Mexico's FOIA has succeeded.
- Over an extended time period (eight years), Mexico's FOIA has witnessed an increase in the likelihood that information requests are answered and are answered with more information, irrespective of the identity of the person requesting the information.
- However, important gaps in enforcement of Mexico's FOIA remain.

1. Introduction

Corruption exists as an impediment to a well-functioning democracy and economy (Fisman and Svensson, 2007; Billger and Goel, 2009). In response, international organizations have launched efforts to curb corruption worldwide (Brademas and Heimann, 1998). Societies around the world have also responded by adopting anti-corruption strategies that empower citizens to hold public officials accountable. A number of these strategies are premised, even if implicitly, on the principal-agent model.

Public officials are agents who ostensibly act in the best interest of their principal—the citizenry. Citizens, however, have limited knowledge about the activities of public officials (Ferejohn, 1999). This lack of transparency enables officials to act in their own interest and against the public will (Rose-Ackerman, 1978). In light of this challenge, scholarship has shown that informing the public—by, for example, making them aware of officials' corruption—can promote electoral accountability (Ferraz and Finan, 2008; Chang et al. 2010; Banerjee et al. 2011; Winters and Weitz-Shapiro, 2012; Larreguy et al., 2015).¹ Studies focusing on non-elected officials obtain similar findings (Reinikka and Svensson, 2005; Banerjee et al., 2015). Thus, global calls for enhanced transparency, such as the one in Article 19 of the Universal Declaration of Human

¹ There are exceptions to this trend in the political economy literature (e.g., Chong et al., 2015).

Rights, now enjoy empirical support—a fact that has been used to recommend policies mandating government transparency, including Freedom of Information Acts (FOIAs).

FOIAs aim to achieve the equitable provision of timely, relevant, and often new information about government. The first country to enact a FOIA was Sweden in 1766 (Banisar, 2006). Centuries later, over 100 countries have legislated FOIAs (Ackerman and Sandoval-Ballesteros, 2006). In Latin America alone, more than half of the countries have adopted some form of FOIA (Right2Info, 2012).

After seven decades of single-party rule, Mexico enacted its FOIA in 2002. Human Rights Watch categorized this historic event as an “unambiguous achievement” (HRW, 2006). With help from a unique semi-autonomous government body with adjudicating powers known as the *Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos* (INAI, National Institute for Transparency, Access to Information, and Data Protection), Mexico’s FOIA promotes the public’s right to access information from the federal government. The law states that all government information is public (Art. 2) and that citizens have the right to seek the release of information that is not already available to them (Art. 40).² In an effort to reinforce these rights, in 2013, Mexico’s Congress reformed Article 6 of the Constitution. The article reads, “Every individual has the right to access a plurality of information in a timely manner” (authors’ translation; Estados Unidos Mexicanos 2016 [1917]).

A ratings agency found that the legal framework created for Mexico’s FOIA is among the 10 strongest in the world (AIE and CLD, 2011). Berliner and Erlich (2015) show that political parties turn to FOIA as a means of monitoring their opponents. Roberts (2006) explains how civil society has used well-targeted information requests to expand transparency’s reach and even influence the public debate. Nonetheless, there is insufficient evidence that FOIAs guarantee access to relevant information about policy in an effective and equitable manner—a necessary, if not sufficient, factor for enhancing accountability. The existence of a law, after all, does not ensure its enforcement. This issue runs deep in Latin America, where institutional weaknesses generate inconsistencies between policy goals and outcomes (Grindle, 2009). Despite numerous reforms to the judicial, tax, and public service systems, the region is still generally characterized by weak rule of law, low tax revenues, and inefficient bureaucracies (e.g., Dakolias 1996; Buscaglia and Ulen, 1997; Oszlak, 2001; Lora, 2007). In Mexico, the pre-2002 legislation supporting government

² Mexico’s FOIA is available via: <<http://inicio.ifai.org.mx/LFTAIPG/LFTAIPG.pdf>>.

transparency had come to be considered dead letter (Luna Pla, 2013). Given the risk of an enforcement gap, we set out to explore whether Mexico's FOIA joins the collection of failed Latin American policy initiatives or stands as a success. Our study joins an ongoing conversation about Mexico's FOIA (e.g., Merino, 2005; Cejudo and Zavala, 2011) by evaluating compliance with a statute that establishes a general right to information.

In the years 2007, 2013, and 2015 we probed a random sample of 197 government entities at the federal level with a total of 307 information requests. Each information request contained the same 13 questions. Ten questions targeted technical information that, based on explicit legal requirements, should result in an answer. Three additional questions asked for personal information. The law does not compel, though it does encourage, officials to make public the information about their assets and potential conflicts of interest we requested through these personal questions. By providing officials the discretion to answer or not these final three questions we were able to better test their commitment to the principle of full disclosure.

All information requests were submitted on behalf of a regular male civilian with a common last name. In 2007, as part of an experiment, we submitted the same information request to a total of 87 distinct but comparable set of government entities on behalf of a male citizen who signaled political influence and wealth.

The results from the experiment reveal that entities are equally likely to provide an average citizen and a citizen that signals wealth and political connections with timely answers to government information requests, suggesting that the information request system is largely resistant to inequality of influence. However, we do find that entities charge the influential citizen for providing information more often than they charge the average citizen, which could indicate some sort of bias. The results also reveal progress in the manner in which entities respond to requests, with entities answering at a higher rate in 2015 (81.18 percent) than in 2013 and 2007 (71.82 percent and 70.91 percent, respectively). In our study, we code an information request as answered if entities provide some of the requested information—that is, as long as they at least attempt to answer one of the 13 questions. Conversely, we code an information request as not answered if entities respond to the entirety of the information request with a blanket denial, a sweeping excuse, or a request for payment without providing any information. Overall, we find that information requests are rarely ignored, which is to say they are virtually always acknowledged even if it is with a message communicating a denial.

Among the entities that attempt to answer our information requests, there is a weak tendency to provide quality information they are legally and explicitly bound to disclose. For instance, technical questions asking for copies of state contracts are, on average, ignored 62.12 percent of the time. Moreover, entities are more likely to charge a fee to provide information—31.76 percent of entities charged a fee in 2015, whereas 15.45 percent did so in 2007. This may represent a legal tactic to delay access. We also find that entities are taking longer to answer. In 2015 and 2013, they took an average of 33.91 and 34.43 days to answer, respectively, whereas in 2007, on average, they answered in 27.63 days. The data we collect suggests that the added delay is not explained by an effort to provide better quality information, but by the fact that the system is dealing with increasing FOIA requests.

Overall, our results show that Mexico's FOIA works. That being said, if the purpose of FOIA is to provide timely and relevant information irrespective of the requester's identity, then authorities in Mexico must focus on improving two main areas. First, they must improve the rate at which entities provide quality information in response to questions they are legally bound to answer. Second, they must review the growing reliance on fee charges as a potential obstacle to disclosure.

2. Theory

Transparency is the disclosure of information about the decisions made, actions taken, and processes followed by the members of an organization for the purpose of having the performance of said organization evaluated (Moser, 2001; Meijer, 2013; De Fine Licht et al., 2014).³ Beyond this definition, it is worth reviewing some of the concept's nuances. Transparency can take on different forms depending on what is emphasized. If the emphasis is on who is managing the information, then we must distinguish between *agent-controlled* versus *non-agent-controlled transparency*. *Agent-controlled transparency*, which encompasses FOIA and is of particular interest to us, refers to instances in which those being supervised manage the transparency (Lindstedt and Naurin, 2010). Because there is a risk that agents may deviate from official requirements, compliance is a particular challenge for this form of transparency.

³ As an alternative definition, Florini (2007) defines transparency as, "the degree to which information is available to outsiders that enables them to have informed voice in decisions and/or to assess the decisions made by insiders."

Information needs to be relevant and of interest to citizens and public officials (Kosack and Fung, 2014). In an effort to ensure that information is, in fact, relevant and reliable some have championed *targeted transparency*, understood as precise, standardized, and timely information requirements set by policymakers on public and private organizations (Fung, Graham and Weil, 2007). However, the universe of records is nearly boundless (Fenster, 2015). So, while *targeted transparency* is needed, we also hold that full commitment to the right to know requires supporting a form of transparency that is sufficiently flexible and expansive that it enables citizens to develop and submit information requests that keep pace with the dynamic policy context. There is plenty to be gained from an adaptable, if less targeted, form of transparency. Indeed, FOIA aims to provide a channeled exchange between citizens and public officials that, irrespective of the citizen's status or identity, results in the provision of timely, relevant, and often new information about policy.

Enacting FOIA and, then, achieving its enforcement are only the first of many steps in the causal chain towards accountability. There are other factors required for FOIAs to actually have an impact in reducing corruption. First, as discussed by Piotrowski and Van Ryzin (2007), citizen demand for transparency is needed. Second, access to quality of information is also a core requisite. Third, as highlighted by Cucciniello, Grimmelikhuijsen and Porumbesco (2017), citizens need forums that permit them to act on the information they are afforded. Our article hones in on the second of these three factors. Indeed, we aim to contribute to understanding the supply side of transparency by evaluating whether Mexico's FOIA system effectively provides quality information to citizens.

Given the many dimensions to transparency, it is understandable that the empirical evidence on the effects of FOIAs and transparency is mixed (for a review see Cucciniello et al., 2017). Several studies have looked at the connection between FOIA and governance. For instance, both Cordis and Warren (2014) and Islam (2006) find positive effects of FOIA on governance in different settings in the United States and globally, respectively. However, it is difficult to expect FOIAs to have any impact on governance outcomes if such laws do not actually guarantee access to government information. Neuman and Calland (2007) identify common challenges to implementing FOIAs, such as setting up an infrastructure for effective record keeping and processing staff shortage. A country may have a FOIA, but if these challenges are pervasive, citizens will experience difficulties in obtaining public information.

The Mexican case is no exception to these challenges. While Mexico's FOIA is comprehensive on paper, it has encountered various obstacles in practice. For example, Fox, Haight and Palmer-Rubin (2010) identify some impediments by conducting a study using administrative data that tests the extent to which all Mexican government entities at the national level responded to information requests between 2003 and 2008. To the law's credit, they find that 74.6 percent of information requests are classified as answered, but their audit also reveals that many of these requests are erroneously coded as answered when they are, in fact, not answered. Bookman and Guerrero Amparán (2009) find that, in the same time period, entities increasingly claimed that information requested did not exist. In addition, their review of complaints filed at the INAI reveals that most people complain about receiving incomplete or incomprehensible replies or receiving a summary denial of their request. Finally, Doyle et al. (2008) review 1,000 information requests and their replies and find that about 76 percent of them are answered satisfactorily, but that the most complex requests are not answered as frequently, suggesting that there is a need for increasing the capacity of officials responding to requests.

This research provides a vantage point from which to further evaluate Mexico's FOIA. Our study seeks to contribute to our understanding of FOIAs by developing an original dataset from information requests that we submit ourselves. This approach allows us to control for seasonal effects and question type. This data can help determine whether citizens are able to obtain timely and relevant information through Mexico's FOIA.

In addition, our study incorporates an experiment in which we randomly vary the identity of the citizen sending the requests to test whether perceived political and economic clout triggers differential treatment. Differential treatment applied to the functioning of government is related to crony bias and capture, behaviors that involve the illegitimate use of power to benefit a special interest. This issue is important in Mexico, where socioeconomic inequality has been found to generate biases in how officials interact with the public (Fried et al., 2010). If perceived identity can impact the amount and type of information that citizens obtain in response to a FOIA, then a perverse form of accountability may ensue. Those with perceived influence may gain additional information, while the interests of the less privileged may be ignored.

Our study is not alone in exploring this concern. In Macedonia, the Open Society Justice Initiative (2006) finds that civilians requesting government information that signal to be members of a vulnerable racial, ethnic, religious or socio-economic group are routinely less likely to receive

compliant responses. In Brazil, Michener and Rodrigues (2015) carry out two experiments wherein they submit information requests under different identities. The authors find evidence of differential treatment among women—but not among men—when the requesters identify themselves as being affiliated with a research organization. In Uruguay, Piñeiro and Rossel (2015) conduct a similar field experiment where they find preferential treatment for male citizens who cite the relevant laws when submitting a FOIA request. Together, these studies provide grounds to question the requirement set by certain countries' FOIAs to self-identify when submitting an information request.

Scholars have also carried out FOIA experiments beyond so-called emerging markets. Worthy, John, and Vannoni (2017) test whether a formal FOIA request is more effective in obtaining information from local parish councils—the lowest administrative unit in the UK—than an informal ask. They find that FOIA requests are twice as effective as informal asks at securing a reply from a parish council.

3. Methods

Our study examines how Mexican government entities respond to information requests and whether the country's FOIA guarantees access to relevant information within the legal time frame, irrespective of the requester's perceived level of influence. We sent information requests containing 13 questions to government entities at the national level.

To generate the study's sample we considered only those entities active in INFOMEX, INAI's transparency portal, since the study's onset in 2007.⁴ Therefore, in our analysis we focus on data from the 197 entities that existed since 2007 and remained in existence during the remainder of the study.

Using data for 2015, Table 1 shows basic descriptive characteristics of the entities under consideration. The table shows that most entities in the study are located in Mexico City, which is to be expected as we queried federal entities. These entities tend to be directed by men whose career paths were usually drawn outside the entities they now run. The vast majority of entity

⁴ In 2007, there were 241 federal government entities active in INAI's transparency portal. The number of entities at the national level that can receive information requests through INFOMEX changes yearly. The fluctuation is due to the routine creation, elimination, and merging of entities. This means that 44 entities observed in 2007 were no longer in existence by 2015. Importantly, including these 44 entities in the analysis does not change our results in a meaningful way.

directors convey limited personal commitment to transparency, as evidenced by their choice to keep their asset declaration private. In fact, only about 27 percent of the entity directors published their asset declaration. The *Unidades de Enlace*—the liaison units responsible for responding to information requests for each entity—are also mostly directed by men who tend not to publish their asset declaration.

Table 1. Descriptive Characteristics of the Probed Government Entities (as of 2015)

Variable	Mean
Entities located in Mexico City	74.75%
Entities' average number of employees	7,422.32
Entities with a male Director	85.42%
Directors' average monthly salary (in 2015 Mex\$)	102,851.6
Directors whose career is mostly in government	85.26%
Directors whose career developed in the entity they now head	22.22%
Directors who made their asset declaration public	26.88%
<i>Unidades de Enlace</i> with a male Chief Administrator	65.79%
Chief Administrators of <i>Unidades de Enlace</i> who made their asset declaration public	17.51%
Average monthly salary of the Chief Administrators of <i>Unidades de Enlace</i> (in 2015 Mex\$)	53,167.28
<i>Unidades de Enlace</i> that are located in the same building as the entity they represent	84.54%
Data is for 2015 and was obtained from the following sources: • INAI. "Consulta la Información del Gobierno Federal". Online, 2015. ">Portal de Obligaciones de Transparencia . May 25 2016. < ">http://portaltransparencia.gob.mx/buscador/search/search.do?> • SFP. "Búsqueda". Online, 2015. Registro de Servidores Públicos . May 25 2016. < http://servidorespublicos.gob.mx/ >	

Following our study's design, in 2007, we randomly assigned government entities into one of two groups. We labeled the first *Group A* and the second *Group B*. Statistically, both are comparable as demonstrated by standard balance tests.⁵ As we explain below, having two groups made it possible to conduct a long-term, system-wide test on transparency without risking detection. It also allowed for a field experiment to test for differential treatment.

⁵ Balance tests available upon request.

For the study’s execution, in January of 2007 and 2013, we submitted identical information requests to the 110 entities in *Group A*. In January of 2015, we sent the same information request to the 87 entities in *Group B*. This approach allowed us to gather three measurements on the provision of information—two from the same sample of government entities and one from a comparable sample (see Table 2).

Table 2. Study Timeline

	Group A	Group B
January 2007	Average ID n=110	Influential ID n=87
January 2013	Average ID n=110	
January 2015		Average ID n=87
The three cells in light gray represent the instances when we assumed an average identity to submit information requests. The one unshaded cell under <i>Group B</i> is part of the 2007 field experiment testing for preferential treatment for the individual we identified as having political influence and wealth.		

Gathering two measures from the same entities risked raising government officials’ suspicion about our research intentions, so we waited six years between the first two interventions.⁶ The random assignment of entities into one of two groups ensured that the relatively short interlude between the 2013 and 2015 measurements would not pose a threat to our study’s internal validity. By submitting the 2015 information requests to a distinct group of entities, we avoided interacting with the same set of government officials.

To recap, the measurement strategy described above involved submitting the same information request to government entities under equivalent conditions over an eight-year period and at three points in time: soon after Vicente Fox and Felipe Calderón (both from the National Action Party, *PAN*) had concluded their presidential administrations, and midway through the administration of Enrique Peña Nieto of the Institutional Revolutionary Party (*PRI*). One of the conditions that we standardized across the years was the identity of the person submitting the requests. The same average male civilian with a common name submitted all information requests in our measurement study.

⁶ We are confident that the vast number of information requests processed by each government entity over the course of six years, and the likelihood of staff turnover across these same entities during the interim period contributed to keeping our research efforts from being exposed.

Regarding the embedded field experiment, in 2007, we submitted information requests to entities in *Group A* on behalf of an average male civilian and we submitted information requests to entities in *Group B* on behalf of a seemingly influential male civilian. The latter male civilian shared the compound last name of an influential contemporary Mexican politician. He also signaled wealth by introducing himself in the information request as someone who owned a consulting company with offices around the world. To make the claim of ownership credible, we created a website for the consulting firm. The influential citizen provided an e-mail address with the consulting firm's name and contact information that placed him in a coveted neighborhood in Mexico City. Overall, we are confident that the public officials were exposed to the identities. While Mexico's FOIA system is supposed to be identity-blind, we rarely see instances in which the identity of the individual is blacked out from requests. When answering requests, offices usually address the requester by name and attach a copy of the original request, which includes the paragraph in which the citizen introduces himself. Moreover, some replies were sent directly to the citizen's email address.

The information request contained 13 questions in order to gauge varying levels of responsiveness among entities. The Appendix provides the full list of questions. It also references the specific laws that justify each one of those questions. In other words, all the questions have some legal basis for being included in the information request.

The first 10 questions asked for technical information that Mexico's FOIA explicitly states should be public. For instance, question two asked for a copy of a subset of service contracts held with private sector firms; question six asked for a copy of the government entity's payroll sheet; and question 10 for a copy of the entity director's résumé.

The remaining three questions asked for personal information that a government committed to FOIA's full disclosure provision could choose to make public, such as how much the director earned in his previous job or whether the entity director has family members in government. These questions ask for information that, while private in nature, is important for promoting accountability, particularly in a context where embezzlement, nepotism, and patronage remain common. In fact, the government encourages officials to publish much of this information through websites such as the Registry of Public Servants. Since these questions provide officials the discretion to answer, they serve to test their commitment to transparency. Still, the results we

present below should be interpreted keeping in mind that officials did not have a legal obligation to disclose the information requested in the three personal questions.

For the analysis, we tallied the number of information requests entities answered. We then looked at how long government entities took to reply; how much information they released; and whether entities charged fees in exchange for answering information requests. Next, we looked at how many questions in an information request an entity answers and the quality of an entity's answers to these questions. Finally, we tested for differential treatment based on economic and political influence.

4. Results

4.1 Summary

Table 3 summarizes the main outcomes.⁷ Our first finding is that entities respond to information requests between 71 percent and 81 percent of the time. These coefficients are in the range observed by Doyle et al. (2008) and Fox, Haight and Palmer-Rubin (2010), and they suggest that most people submitting a FOIA request in Mexico are receiving an answer of some sort.

As a next step, we distinguish between information requests that are responded with at least a notification of denial and those that are actually answered (regardless of the answer quality). While entities are responding with an answer more often in 2015 relative to both 2007 and 2013, they are also taking longer to answer. Entities take about 34 calendar days to answer in 2013 and 2015 relative to about 27 in 2007. Since entities that reply with a denial respond faster than those that provide an answer, it may be that entities are taking longer to reply in order to provide more and better information. In fact, we observe that the average number of pages provided in the answered information requests increases from about 18 pages in 2007 to 30 and 38 pages in 2013 and 2015, respectively. However, the main reason why entities are taking longer to answer is probably that, with the passage of time, they have been receiving significantly more information requests.

⁷ Except where indicated, we use an OLS regression model to estimate differences across the three years.

Table 3. Main Findings

	Means			Differences		
	2007	2013	2015	2007 vs. 2013	2007 vs. 2015	2013 vs. 2015
Time to Respond, with or without an Answer (in Days)	24.72	31.94	31.88	7.22*** (2.28)	7.16*** (2.15)	-.05 (2.38)
Time to Answer (in Days)	27.63	34.43	33.91	6.80*** (2.48)	6.28*** (2.29)	-.52 (2.58)
Charged a Fee^{†§}	15.45%	21.82%	31.76%	6.37 (.05)	16.31*** (.06)	9.94 (.06)
Answered the Information Request (All)[†]	70.91%	71.82%	81.18%	.91 (.06)	10.24* (.06)	9.33* (.05)
Average Pages Provided[‡]	17.84	30.01	37.83	12.17 (7.68)	19.99* (11.27)	7.82 (12.58)
No. of Questions Answered (out of 13)[‡]	6.29	6.38	6.70	.09 (.58)	.41 (.61)	.32 (.62)
Answer Rates[‡]						
Q2 – Copy of Contracts	30.00%	42.72%	40.91%	12.73	.11	-.02
Q6 – Copy of Payroll	62.72%	61.82%	50.00%	-.01	-.13*	-.12*
Q10 – Director’s Résumé	43.64%	50.00%	37.50%	.06	-.06	-.12*
No. of Technical Questions Answered (out of 10)[‡]	5.95	5.99	6.17	.04 (.56)	.22 (.55)	.19 (.55)
No. of Personal Questions Answered (out of 3)[‡]	.35	.39	.48	-.04 (.10)	.13 (.11)	.09 (.11)

This table reflects the means for the main outcome variables and the differences between these across the three years of interest. The analysis for 2007 and 2013 is based on the same number of government entities (n=110), whereas the analysis for 2015 is based on a smaller sample (n=87).
Standard errors in parenthesis. *** p<0.01, ** p<0.05, * p<0.1.
[†] Output reported was calculated using Logit.
[§] “Charged a Fee” refers to questions in a request and not to requests as a whole. The variable takes a value of 1 whenever an entity charges a fee, including when it charges a fee for particular questions in a request. Stated differently, “Answered the Information Request” and “Charged a Fee” do not share the same denominator.
[‡] These results are derived from a subsample of information requests: those that were answered. Considering the observed and unobserved variation across subsamples, the cross-year comparison for these particular outcome variables must not be treated as conclusive.

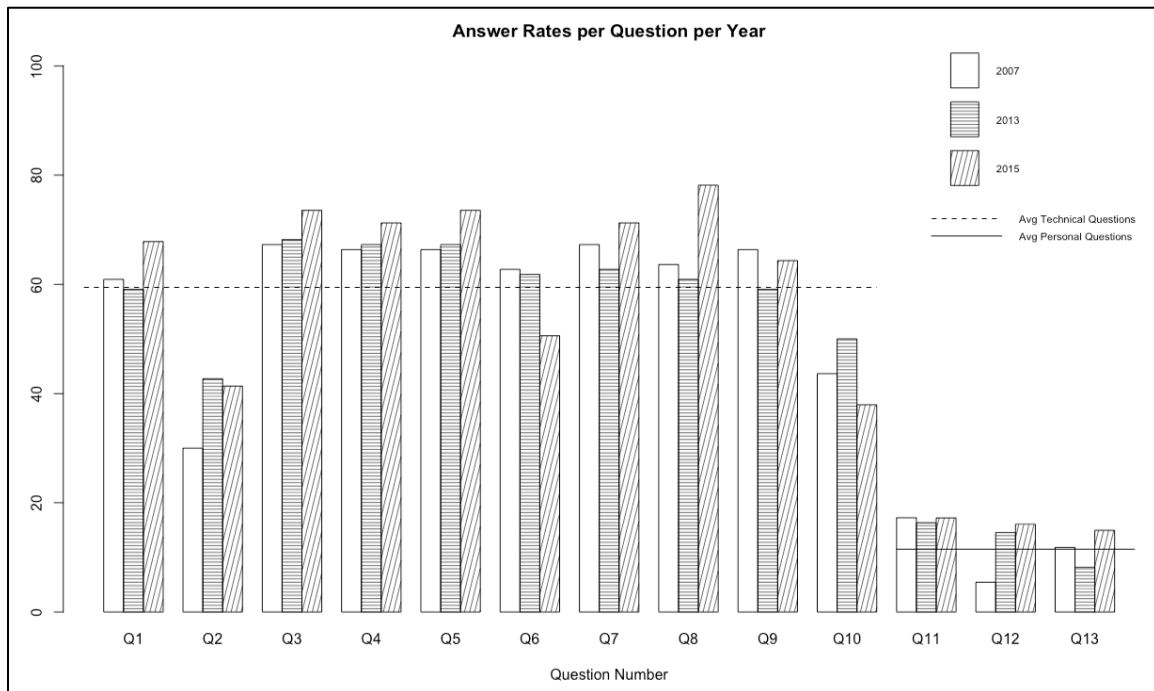
Examining the data in more detail, we do not observe significant changes in the number of total, technical, or personal questions answered. This finding suggests that the overall year-to-year increase in pages provided is due to entities disclosing more information per question rather than answering more questions.

One concern that emerges from the results in Table 3 is the upward trend in fee charges: the rate of fee charges doubles between 2007 and 2015.⁸ Based on Article 141 of Mexico's FOIA, entities are legally entitled to charge requesters a fee in exchange for covering the costs of reproducing the information requested. That being said, since a sizeable amount of the information requested is, by law, already available online, and since several of the entities queried willingly provided the information for free, it is suspicious that some government entities charge a fee at all. Making a payment in exchange for the promised information is a burdensome process. It requires downloading and filling out a form, personally taking the form to a particular bank, paying the amount requested, and then waiting for the payment notification to reach the entity. Charging a fee may be a strategy to discourage citizens from pursuing a request. This is a hypothesis that we attempt to test.

We notice that entities charging fees are promising a seemingly excessive number of pages, which raises the question of whether these fees are a barrier to information. Admittedly, we cannot answer this question conclusively. This is because, having used pseudonyms instead of real names, we are unable to follow up with the payment requests in order to check whether agencies would indeed deliver as many pages as they promised. Nonetheless, while recognizing that often these fees are used to cover printing costs, we find circumstantial evidence to suggest that the fee charges can be, at the very least, arbitrary. Mainly, one port operator provided 144 pages of scanned contracts without charging a fee. Meanwhile, a comparable port operator asked for a payment to deliver 111 pages. Both entities are nearly equal in size in terms of their annual budgets and personnel. Looking at another case, among research and educational organizations, one provided 796 pages free of charge, while another charged a fee to deliver 500 pages. Thus, taken together, the fee charges appear to serve as a pretext to obstruct access.

⁸ This trend shares similarities with the one Roberts (1999) detects in Ontario, Canada.

Figure 1.



We now focus on the questions in the information requests. Figure 1 shows the yearly answer rate for each of the questions in the information requests. A key takeaway is the different rate at which government entities answered the first 10 questions versus the last three. To an extent, this was to be expected. Compared to the first 10 questions, the last three asked for personal information, thus placing officials in a position where they could legally choose not to answer. By law, however, they were required to answer the first 10 questions—and yet they answered these questions at an average rate of around 60 percent. No question was answered at a rate of 100 percent.

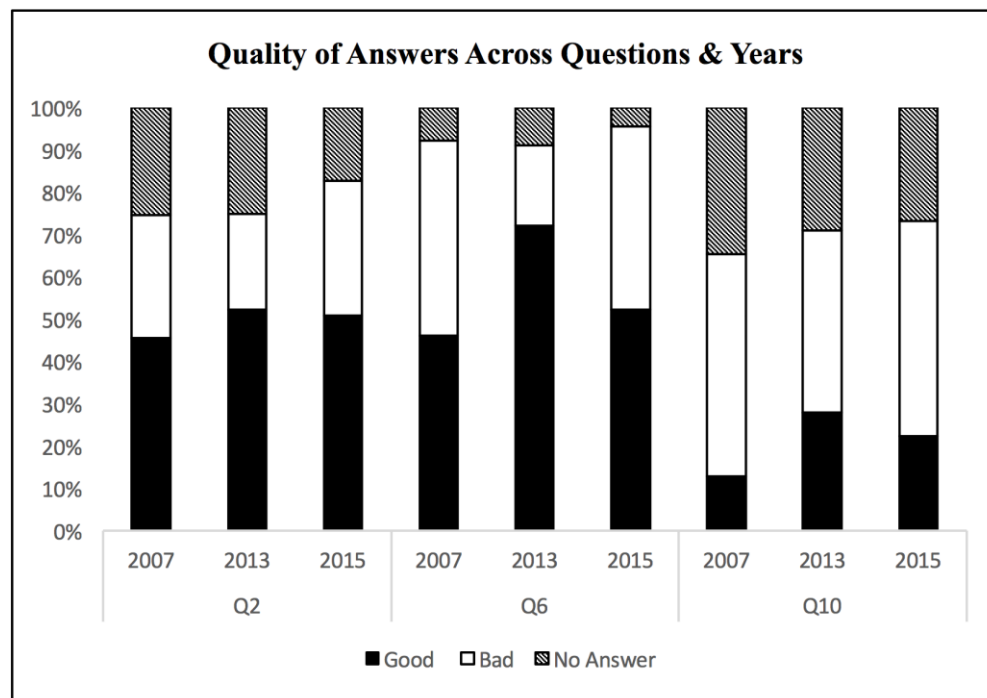
Regarding quality, we focus on questions two, six, and 10, as there was enough variation in the answers provided to allow us to rate them as good or bad. Question two asks for a copy of contracts signed for consulting services, and question six asks for a copy of the entity’s payroll sheet. The law explicitly requires that the information pertaining to these two questions be published regularly on entities’ websites. As to question 10, it asks for a copy of the entity director’s résumé.

We rate a response as good if the entity provides relevant information—i.e., a direct answer regarding the information requested or detailed instructions on how to find the answer online. We

rate a response as poor if the entity charges a fee, simply says that the information is public, or makes the information available only if the requester agrees to visit their offices. We add a separate category for entities that do not address the question.

Contingent on an information request being answered, Figure 2 summarizes the changes we observe in quality of the information. We observe no change in quality for question two—nearly half of the answers are coded as good. For question six, we see an increase in good answers in 2013, but by 2015 it returns to the 2007 level with only 45 percent to 50 percent of answers coded as good. Finally, for question 10, we see low levels of good answers across the three years.

Figure 2.



Taken together, the results reflected in Figures 1 and 2 dampen some of the encouraging findings we described earlier. Specifically, more entities are clearly answering information requests, but their answer rate and the quality of their answers disappoint.

4.2 Experimental Results

As to the experiment on differential treatment, of the 197 entities receiving information requests, 110 were randomly assigned to *Average ID* and 87 were assigned to *Influential ID*. The only systematic difference between the two was the identity of the person making the requests. Those

in *Average ID* received information requests from a regular male civilian with a common last name. Those in *Influential ID* received the information requests from someone that signaled having political connections and wealth.

The results show that, on average, the *Average ID* receives a similar treatment compared to the *Influential ID* (see Table 4). In other words, for the most part, the INAI's system guarantees equal treatment regardless of people's perceived socioeconomic and political status. Both identities are treated equally in terms of response time, with the average ID receiving a response in 25 days and the influential one in 27 days. Moreover, both experience an equal rate of information requests answered: 70.91 percent for the Average ID and 70.11 percent for the Influential ID.

Table 4. Testing for Differential Treatment in the 2007 Experiment

	Group A (Average ID)	Group B (Influential ID)	Difference (P-values)
Time to Respond, with or without an Answer (in Calendar Days)	24.72	27.40	-2.68 (.24)
Answered the Information Request	70.91%	70.11%	.79 (.90)
Charged a Fee ^{†§}	15.45%	26.44%	-10.98* (.06)
Average Pages Provided	17.84	17.89	-.05 (0.98)
No. of Questions Responded	6.29	5.91	.38 (.54)
<p>Calculations based on simple OLS regression, except where indicated. Robust standard errors in parenthesis. *** p<0.01, ** p<0.05, * p<0.1.</p> <p>§ “Charged a Fee” refers to questions in an information request and not to requests as a whole. That is, the variable takes a value of 1 whenever an entity charges a fee, including when an entity charges a fee for particular questions in an information request.</p> <p>This table reflects the means for the main outcome variables across the two experimental groups. The analysis is for 2007 only.</p>			

The study did uncover some differential treatment based on perceived influence. Mainly, the *Influential ID* is more frequently charged a fee in exchange for printed information (an average of about 600 pages). Cognizant of the effort it takes to pay a government fee, officials may be taxing the influential requester as a way to “stick it to the boss” by imposing an additional barrier to obtaining access to information. Alternatively, officials may be charging the influential requestor more frequently in an attempt to provide more and better information. If this is the case, then the average citizen is negatively affected as he is not given the chance to pay for better information and ends up with lower-quality information. Since we used pseudonyms to submit the requests, we cannot pay the fees to collect and analyze the promised information. In other words, we are not in a position to determine the fee charges imposed on the *Influential ID*. What we can say is that, whatever is motivating the differential treatment, it undercuts the promise that the FOIA system works equally for all.

5. Discussion

Accountability is a two-pronged concept involving answerability and enforcement (Schedler, 1999). Our study is an eight-year-long empirical test that hones in on one of these two qualities—specifically, we hone in on answerability, which may be understood as officials’ proven ability to inform and justify their actions. Even as Mexico’s FOIA has a proven record of helping uncover significant cases of corruption (e.g., Monterrosa, 2008; Barstow and Xanic von Bertrand, 2012), our specific research question is not whether this particular disclosure mechanism has had a direct impact on the country’s governance problem. Instead, we ask whether Mexico’s FOIA has improved answerability by guaranteeing the equitable provision of timely, relevant, and often new information about policy.

As a means to evaluate Mexico’s celebrated FOIA we submitted 307 information requests on behalf of an average male citizen to government entities on three occasions over the course of eight years. During the first probe, in 2007, we also submitted the same requests to 87 comparable entities on behalf of a male citizen who signaled economic and political clout. Encouragingly, entities are not discriminating between the regular and the seemingly influential citizens, other than by charging the influential citizen more frequently for providing information. Entities are also answering more frequently and providing more information in 2015, when the final probe was conducted, compared to earlier years.

Our generally positive results may speak to the active role that civil society has played in promoting transparency in Mexico. Various people and groups outside of government played an influential role in designing Mexico's FOIA. Newspapers have dedicated valuable front-page real estate to FOIA-related affairs, thus keeping transparency high on the national agenda. Journalists have used FOIA to uncover various forms of corruption. Academics and think tanks are constantly monitoring the INAI's administrative data on information service provision. Non-governmental organizations, such as *Fundar*, are vigilant and willing to lobby against provisions that could weaken Mexico's FOIA.

Still, given the remaining deficiencies, there is more work to be done. One result that stands out from our audit is the increase in the time it takes for entities to answer information requests. When the transparency law was initially passed, it was expected that entities would improve their archival practices and their management of information in order to handle information requests better. That entities are taking longer to reply suggests that the government should invest in improving the management of information and should provide entities with greater resources to be able to keep up with additional transparency requirements. To address the possibility that the slower response times may be strategic, the government should require that entities respond as soon as possible to requests that ask about information that is already public, not relevant to the entity, or that require clarification. Without such a requirement entities might wait until the last possible day to reject an information request.

Two other results are that technical questions often go unanswered and that the quality of the information provided has not improved over eight years. Even as entities are responding to more information requests and supplying more pages, there is a growing tendency to charge a fee. Moreover, entities are not necessarily responding to questions that ask for basic documents, including: copies of contracts held with private companies, up-to-date payroll sheets, and officials' résumés. Also, much of what entities provide is hard to understand or is not exactly what the citizen requests. Measuring quality is challenging because it requires a detailed reading of the responses, but to the extent that the INAI is aware of the concerns we have raised it should pressure government entities to improve their compliance. Drawing media attention to these issues may have the required disciplinary effect.

As a note to close this discussion, it is worth restating the fact that solving Mexico's accountability deficit requires more than access to government information. Full adherence to

FOIA would likely help unearth additional corruption. However, one sure way of breeding cynicism in a population is to not penalize corruption once it is made transparent.

6. Conclusion

Freedom of Information Acts (FOIAs) are policies aimed to guarantee the equitable provision of timely, relevant, and often new information about government. In 2002, Mexico enacted its FOIA; however, given the fate of other major reforms in the country and the neighboring region, there exists the risk that this policy could result in failure.

Faced with the possibility of an implementation gap, our empirical study shows that, if today, in Mexico, an individual submits an information request similar to ours, that person will probably have to wait approximately a month before receiving a response. But the requestor—regardless of his status in society—will likely receive 38 pages that answer most of his technical questions. However, that same person will likely not get information about the name and salaries of everyone working for the government entity, although the law clearly dictates that this is public information. Similarly, even though the entity director is a public servant who people should be empowered to evaluate, the requestor should not expect to gain access to the director's CV or asset declaration. In terms of the quality of the information provided, the requestor should also expect mixed results. Thus, overall, Mexico's FOIA system works, but significant improvements are necessary.

Appendix

This table provides the translation of each question and references the specific laws that could determine whether or not an answer is provided.

No.	Question Content	Pertinent Laws (other than Art. 6 of the Constitution)*
1	Provide the name of any companies that have provided this entity with administrative advice on matters such as: auditing, internal regulations, the structure of decision-making, optimization of human capital, and contracts.	LFTAIPG Arts. 2, 3.II, 7.IX, 7.XIII, 40, 42
2	Provide a copy of the contracts held by this entity between 2003 and 2006 with companies that provide administrative advice.	LFTAIPG Arts. 3.V, 7.IX, 7.XIII, 40, 42
3	The year in which the entity was certified by ISO.	LFTAIPG Arts. 3.III, 40, 42
4	The name of the consulting company that helped this entity obtain its ISO certification.	LFTAIPG Arts. 3.V, 7.IX, 7.XIII, 40, 42
5	The version of the ISO certificate this entity currently holds.	LFTAIPG Arts. 3.V, 7.X, 40, 42
6	Copy of the entity's personnel with titles and salaries.	LFTAIPG Arts. 3.V, 7.I, 7.IV, 40, 42
7	A description of the current system used in this entity for reviewing the work of its personnel.	LFTAIPG Arts. 3.III, 7.VI, 40, 42
8	The number of employees that work in this entity that were hired via the federal government's professional career service and the number of employees that were hired outside of this system.	
9	Information on whether the head of this entity is the individual responsible for hiring external services.	
10	Copy of the CV for the head of this particular entity.	LFTAIPG Arts. 3.II, 3.V, 13, 18.II, 20.II, 21, 40, 42; LFRASP Art. 40
11	The monthly salary that the head of this entity used to receive in his/her previous job.	LFTAIPG Arts. 3.II, 3.V, 18.II, 20.II, 21, 40, 42; LFRASP Art. 40
12	Document reporting the property and wealth of the head of this particular entity.	
13	Number and name of family members of the head of this particular entity that work in government.	LFTAIPG Arts. 3.II, 3.V, 18.II, 20.II, 21, 40, 42; LFRASP Art. 8.XI, 8.XII
* <i>LFTAIPG</i> stands for the 2006 "Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental." <i>LFRASP</i> stands for "Ley Federal de Responsabilidades Administrativas de los Servidores Públicos." <i>LFDA</i> stands for "Ley Federal de Archivos."		

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