

**Budgeting Implications
for ATI Legislation**
The Mexican Case

Alfonso Hernández-Valdez

ACCESS TO INFORMATION WORKING PAPER SERIES

Budgeting Implications for ATI Legislation:

The Mexican Case

Alfonso Hernández-Valdez

© 2009 The International Bank for Reconstruction and Development/The World Bank
1818 H Street, NW
Washington, DC 20433

All rights reserved.

The findings, interpretations, and conclusions expressed in this volume do not necessarily reflect the views of the Executive Directors of The World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work.

This paper has been commissioned by the Media, Information, and Governance Program at the World Bank Institute (WBI) and supported financially by the Communication for Governance and Accountability Program (CommGAP).

The WBI Media, Information, and Governance Program supports the World Bank's mission of poverty alleviation through promoting an open information environment conducive to good governance, and capacity building among practitioners to foster effective, independent, and unbiased reporting toward more open and inclusive governance.

CommGAP, a global program at the World Bank, promotes the use of communication in governance reform programs and supports the building of democratic public spheres. By applying innovative communication approaches that improve the quality of the public sphere—amplifying citizen voice; promoting free, independent, and plural media systems; helping government institutions communicate better with their citizens; and promoting an environment that enables and gives all actors rights, duties, and opportunities—the program aims to demonstrate the power of communication principles, processes, and structures in building effective states, promoting good and accountable governance, and hence achieving better development results.

Contents

| | |
|---|-----------|
| Acknowledgments | v |
| About the Author | vi |
| 1. Introduction | 1 |
| 2. Rationale for ATI Budgeting | 3 |
| 3. Elements of ATI Legislation | 5 |
| 4. A Budget Model for ATI Legislation | 7 |
| <i>Functions of an ATI Law</i> | <i>8</i> |
| <i>Agencies and Types of Budgets</i> | <i>10</i> |
| 5. Development of the Model: Data-Collecting Instruments | 13 |
| 6. Budgeting Implications: The Mexican Experience with ATI Legislation | 15 |
| <i>ATI Function.....</i> | <i>15</i> |
| <i>Proactive Transparency Function</i> | <i>21</i> |
| <i>Oversight Function.....</i> | <i>24</i> |
| <i>Negotiating the ATI Budget of an Oversight Body</i> | <i>28</i> |
| 7. Conclusion | 31 |
| References..... | 33 |

Acknowledgments

I would like to thank José Luis Marzal, Augusto Valencia, and the anonymous reviewers for their insightful comments, and Christel Rosales and Andrea Zarzosa for their support in obtaining most of the survey data. I would also like to thank Marcos Mendiburu and the team at the WBI Media, Information, and Governance Program for their contributions. Errors and views are solely the author's and do not necessarily reflect the official position of the World Bank.

About the Author

The author is a Research Professor in the Department of Socio-political and Law Studies at the Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO) in Guadalajara, Mexico. He has written numerous articles in the fields of transparency and accountability, local democracy, and public policy. He was formerly with the Federal Institute of Access to Public Information (IFAI), serving as General Director of Studies and Research.

1

Introduction

When it comes to policy implementation, policy makers and public officials focus on two critical factors. One is the ability of people to implement the policy within the organization—skills, commitment, willingness to cooperate—and the other is the policy’s structure and logical assumptions, that is, the connections being made between actions and intended outcomes (Weimer and Vining 1999). These two factors are reviewed before and during policy implementation, and they are often cited as the main causes of policy success or failure. However, a policy might fail because of factors not necessarily related to people or structure, but for other reasons, such as insufficient budget preparation.

This paper analyzes the budgeting implications of implementation of access to information (ATI) legislation in Mexico. Any policy process is characterized by adoption and implementation phases. In the case of ATI policies, the adoption phase generally ends with the approval of an ATI law, and thus budgeting is passed on entirely to the implementation phase. This paper addresses the components (that is, budgetary elements) that legislators and public officials should bear in mind, both when adopting and implementing an ATI law, but is not a study of projected costs. Using the Mexican case, it focuses on the issues that must be taken into account for planning budgetary needs before and after passing legislation.

Budgeting constitutes a key instrument to achieve policy goals. Policies are put at risk when they are insufficiently supported by an appropriate budget, and in many cases budgeting levels show the degree of government commitment to trying to achieve a particular policy objective such as implementing ATI legislation.

In Canada, for example, it has been shown that cutbacks to operating budgets in many federal agencies provoked delays in responding to information requests, which in turn increased the number of appeals being made to the Office of the Information Commissioner (Roberts 2006, 140, 155). As this and other cases demonstrate, the lack of budget support for implementation can often end up costing government more. In another case, a recent study suggests that the lack of resources

of the French Commission for Access to Administrative Documents (CADA) is one of the reasons that the French ATI law is not very well known among citizens (Open Society Justice Initiative 2006, 83). In this sense, analyzing budgeting implications for ATI legislation is an important dimension of ATI implementation, which could contribute to enhancing the exercise of the right of access to information.

Research for this paper is based on the Mexican experience with federal ATI legislation and the state-level ATI law in Jalisco.¹ The paper is divided into five sections, followed by a conclusions section. The first section deals with the rationale for developing an ATI budget, emphasizing the importance of looking after budgetary planning before legislation is passed. The second section reviews the general functions and characteristics of an ATI law, which lay the groundwork for budget preparation. A budget model for ATI legislation is presented in the third section, based on the functions of the law and the different types of agencies involved. The fourth section explains the instruments and cases used to collect data according to the model guidelines. Finally, the conclusion section presents the paper's overall findings, focusing on the budget structure resulting from the study of ATI legislation in Mexico. Moreover, this section examines a related subject: the negotiation process of an oversight body's budget, which generally involves the oversight body itself, as well as the executive and Congress.

1. Jalisco was the first state in Mexico to pass ATI legislation, and it currently has one of the most advanced laws in the country.

Rationale for ATI Budgeting

Why should any legislator or public official think seriously about ATI budgeting? In principle, an ATI law without appropriate budgetary planning jeopardizes its implementation. Many of the basic functions of the legislation could be compromised, such as inadequate enforcement of the law as a result of an insufficiently funded oversight body. In this sense, budgeting enhances the effective implementation of ATI legislation.

In many respects, budgeting for implementing ATI policies should be considered as an investment with clear social dividends. Although it is difficult to perform a cost-benefit analysis, it appears that the operating costs of an ATI law are lower than the amount of money spent on government publicity and communication (Roberts 2006, 150). According to ATI expert Maurice Frankel, The Central Office of Information spends an estimated 35.5 million pounds dealing with ATI requests across the central government and the wider public sector. The British Government spends approximately nine times this amount on communications campaigns alone.²

But as with any other policy being implemented, an ATI law may generate resistance. Although beneficial for society, disclosing public information could generate reluctance among public officials, as it facilitates public scrutiny. In general, public officials that follow rules and procedures should not feel threatened by greater access to public information, but any deviation from specified routines or from public expectations on particular issues—and consequently exposed through information legislation—can result in negative consequences at the job place or for their careers. For this reason, government hostility or adversarialism toward ATI legislation is not uncommon, as public officials may regard the law “as a threat which must be resisted or managed” (Roberts 2006, 129).

2. The Campaign for Freedom of Information, letter from Maurice Frankel, director, http://www.cfoi.org.uk/pdf/ashton_letter.pdf (accessed September 11, 2008).

For many reasons, adversarial attitudes toward ATI laws can make its implementation costly. In Great Britain, for example, the House of Commons has spent at least 17,000 pounds fighting ATI requests from the public for detailed breakdowns of members of Parliament's expenses.³ Moreover, public officials may unnecessarily delay information requests, or they may spend more time trying to justify withholding information rather than simply releasing it (Roberts 2006, 122).⁴ In turn, these attitudes may increase the number of appeals, driving up the operating costs of an oversight body.⁵ Although adversarialism may be difficult to eradicate, it should not stand in the way of carefully considering the necessary provisions for implementing ATI legislation. Among these provisions, budgeting implications should be a policy priority.

Few studies address the implementation of ATI legislation, not to mention its budgetary design. Two lines of research, however, can be identified. The first one has to do with the passage process of an ATI law.⁶ Many scholars and practitioners have been concerned with the issues surrounding this process, but problems and practical matters once legislation has been enacted have been less examined.⁷ This is not surprising. Because many ATI laws have been passed in spite of government reluctance and thanks to decisive support from local civil society and/or international organizations, research has centered on the critical issues behind the political economy of passage, such as key actors and incentives. As Florini (1999, 3) rightly points out, "transparency will rarely come about unless pressures can be brought to bear." A second line of research has focused on some of the institutions or processes that come about as a result of an ATI law, such as the creation of an oversight body (Sobel et al. 2006) or analysis of the evolution of information requests over time (Open Society Justice Initiative 2006).

For effective implementation, however, all aspects of an ATI law should be considered, not only those related to passage or specific institutions and processes. In particular, it is important that those pushing for ATI legislation take on the budgeting issue early, so as to encourage an acknowledgment of its centrality by lawmakers and public officials—particularly those at finance ministries. Otherwise it is likely that the law will enter into effect but implementation will be seriously hampered by the lack of a supporting budget.

3. Heather Brooke, "My FOI Consultation Submission," posted March 14, 2007, Your Right to Know. <http://www.yrtk.org/2007/foi-consultation-submission/> (accessed September 11, 2008).

4. See also William Fisher, "The Price of Secrecy," posted Sept. 9, 2005, <http://billfisher.blogspot.com/2005/09/price-of-secrecy.html> (accessed April 3, 2008).

5. I thank staff members at the World Bank Institute for pointing out this line of reasoning.

6. For the Mexican case, see Escobedo (2002) and López-Ayllón (2004).

7. One exception is Roberts (2006). Also, two reports—one in Canada and the other in Great Britain—have examined a related topic, the costs of operating an ATI law (see Treasury Board Secretariat 2000; Frontier Economics 2006).

Elements of ATI Legislation

ATI legislation gives rise to a set of institutions. When ATI legislation is passed, entities, processes, and secondary laws are also created, including oversight bodies, information technology systems, and regulations. In this sense, an ATI regime can be understood as the set of all institutions—agencies, rules, norms, and procedures—that are created as a result of ATI legislation. As part of this regime, institutions such as information committees (*comites de informacion*) and information units (*unidades de enlace*) can be found within each agency in the executive branch, as is the case in Mexico,⁸ or official Web sites are created to publish extensive amounts of public information. Given that ATI laws have different goals, to fully understand their normative and budgeting implications, one may find it useful to first consider some basic characteristics of an ATI law and what its implementation involves.

The main goal of an ATI or freedom of information (FOI) law is to regulate access to public information.⁹ The right of access to information gives any individual the power to request access to public information, and it entails the corresponding obligation of bodies to release that information (López-Ayllón 2006, 241). Normatively speaking, it is part of the *right to information*, which is a fundamental human right. According to Article 19 of the United Nations' Universal Declaration of Human Rights, the right to information includes the freedom “to seek, receive and impart information and ideas through any media and regardless of frontiers.”¹⁰

8. Mexican ATI legislation—both at the federal and at state level—establishes that information committees within public agencies are responsible for classifying information as privileged or confidential.

9. ATI and FOI are often used interchangeably (Mendel 2003, iii).

10. Article 19 of the Declaration explicitly refers to the right to freedom of expression and not to the right to information. However, its most common interpretation is that the freedom to “seek, receive and impart information” is analogous to having a right to information, and thus this right is part of the more general right to freedom of expression stated in the text of the article. Such interpretation can be inferred from many official documents by the United Nations (UNDP 2004) and from Article 19, para. 2, of the International Covenant on Civil and Political Rights (ICCPR).

In general terms, it is possible to identify two functions within an ATI law: access-to-information requests and proactive dissemination of public information. Under the first function, the law grants the right of access to information held by public bodies in response to requests. Under the second function, it establishes the obligation of public bodies to publish official information, “even in the absence of a request” (Mendel 2003, v). Typically, ATI laws provide the necessary instruments to carry out both functions. Jonathan Fox (2007, 665) identifies the instruments of the first function as “demand-driven access,” simply referred to as ATI, and those of the second function as “proactive dissemination,” or simply “proactive transparency” as Florini (2007, 5) suggests. In general, the filing of electronic and paper requests to public agencies characterizes the majority of ATI instruments. On the other hand, proactive transparency is usually carried out through information technologies such as Web pages or online portals¹¹ containing data related to salaries, contracts, services, programs, public finances, budget, expenses, and so on.

Proactive transparency is an important aspect of an ATI law, and in many cases it represents the sole contact that an individual will have with government information, because he or she might not go through the process of filing a request. For example, the Federal Institute for Access to Public Information (IFAI) in Mexico recently provided a central location for users to find, in one Web site (officially known as the *Portal de Obligaciones de Transparencia*, or POT), all the public information that the executive branch agencies must publish according to Article 7 of the federal ATI law. The results are revealing. During the first semester of 2008 (January–June), there were 135 entries to POT for every information request filed with federal agencies.¹²

Other functions can also be attributed to ATI legislation, such as oversight (which will be analyzed in the following section). In general, the two functions already mentioned, ATI and prospective transparency, are the most commonly included in ATI laws.

11. Although this may often be the case, public information is also proactively published in print form as well. An example of such proactive publication would be public notice of a bidding or procurement process advertised in national newspapers.

12. IFAI recorded 50,605 information requests from January to June 2008. For the same period, POT recorded 6,820,004 entries. It is worth mentioning that IFAI considers an “entry” (consulta) as an access to detailed results found in a general search using POT (see <http://www.ifai.org.mx/Gobierno/#estadisticas>; accessed September 10, 2008).

4

A Budget Model for ATI Legislation

A budget is a basic instrument that aims to control the financial aspects of an organization's activities (Kubr 1997). Preparing a budget generally involves a process in which managers must consider the goals of the organization, the resources needed to achieve those goals, the production of pro forma statements reflecting projected incomes and cash flows, and a proper review of the whole process by top managers or officials (Wilkinson 1995). Hence, the key initial aspects of budget preparation refer to an understanding of what the organization plans to achieve (goals and functions), and the concepts that a budget should include in order to achieve it.

In this sense, budget implications for ATI legislation depend on several factors. The most important is the legislation itself. The law usually describes the process that individuals have to follow to obtain public information or to file an appeal in the event they are not satisfied with the response from the authorities. It also identifies the steps that government officials must follow to disclose information. In this regard, a long process may imply a large budget, since more people and resources may be involved to answer requests or handle an appeal. However, short processes may also present some problems, as they can result in incomplete or legally weak responses that may end up as appeals, and thus translate into additional operating costs for oversight bodies.

A related factor is whether the ATI regime considers the creation of an oversight body. The design and role of this agency has important budget implications. For example, an oversight body that enforces the law and promotes transparency in society at large will have different budgetary needs compared with a body that has enforcement functions only. Still another factor is the scope of the law, that is, whether it includes all branches of government or all organizations that use public resources.

Functions of an ATI Law

The more functions the law includes, the larger the budget needed to implement it. Thus, an ATI budget depends on the breadth of the law, that is, on the number of general functions that the law should perform. In this paper, an ATI law is considered to perform at least two general functions, plus a third less apparent one. First, it should grant the right to access public information upon request (ATI function). Second, it should identify the public information a government agency must publish (proactive transparency function). And third, it should provide the necessary mechanisms or institutions to supervise the implementation of the law (oversight function).

Additional functions may be considered. The promotion of a culture of transparency, for example, is a key function that not many ATI laws take into account.¹³ Moreover, some laws include the regulation of personal data as part of their functions. A proper management of archives and records may be a function with great potential benefits for implementing the right of access to information, but it is generally considered an activity that the public sector as a whole should embrace, not only under an ATI regime.¹⁴ In this sense, although the importance of these functions for the Mexican case are not disregarded,¹⁵ this paper concentrates on the three main functions just described (ATI, proactive transparency, and oversight), which in general reflect the most common features of a model ATI law (Mendel 2003).

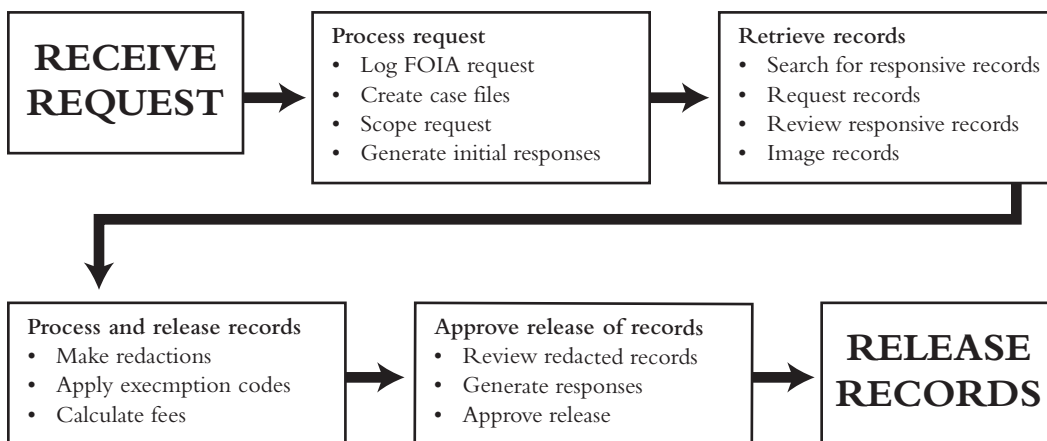
In exercising the ATI function, individuals typically follow certain steps to request and obtain information from public officials. Likewise, there are steps that officials follow to release public information. Although the process varies among laws, some activities are common to most of them. In general, for the ATI function of the law, the process starts when an individual files an information request before a public agency. This can be done in writing, in person, electronically, or by telephone. Once received, the request triggers several processes. First, the request is registered into a system, and a case file is started. Then, the request is sent to the appropriate staff within the agency to determine its scope and to establish whether the request is pertinent for that particular agency. If this is the case, public officials begin to examine and prepare the information. After that, they verify whether the information is public under the provisions of the law, that is, whether any exemptions apply. The next step is to draft a response and attach all the records and documents that fulfill the information request. In general, the response and the records are reviewed by an appropriate manager within the agency before they are sent to the requester. The process is completed when

13. Mexican legislation considers this function as part of the oversight function, as explained in subsequent sections of this paper.

14. Mexico has an Archives Directive that regulates the management of records within agencies of the executive branch at the federal level, and an electronic system (known as SICCA) that facilitates the organization and conservation of administrative records. However, although it is true that records management strengthens ATI, this issue has provoked a permanent conflict between IFAI and the National General Archives as to which agency should regulate—through an archives law—the administrative archives of the executive branch in the future.

15. Most Mexican ATI laws regulate the protection of personal data, as most other ATI laws around the world do, but this study focuses on ATI-related issues only.

Figure 4.1. The ATI Process According to GAO



Source: U.S. General Accounting Office (2007). Freedom of Information Act. Processing Trends Show Importance of Improvement Plans (GAO-07-441), p. 9. Washington: GAO.

the information is released to the requester. To illustrate this, the U.S. General Accounting Office (GAO) has designed a generic ATI process for U.S. agencies,¹⁶ presented in figure 4.1.

On the other hand, the *proactive transparency* function involves mandatory and permanent publication of complete, recent, and relevant information, generally by electronic means, about government agencies’ functions, public spending, outcomes, and so on (IFAI 2007b, 29). As stated earlier, governments have most often relied on information technologies to perform this function, which was mandated even for small governments such as municipalities after the constitutional amendment and the subsequent ATI regulation. The greatest challenge for the performance of proactive transparency policies may not be technological but may have to do with the ability of public administrations to produce quality, relevant information, an issue that points toward new avenues for further research.

Finally, the *oversight* function refers to the institutions supervising the implementation and compliance of the law. Considerable variation exists between ATI laws, but in general there are three models for filing appeals or complaints in the event that requesters disagree with the authorities’

16. The process is taken from the U.S. Freedom of Information Act but is very similar to many ATI processes around the world. For example, for the Mexican case see chapter 3 of the federal ATI law, and for the British case see Frontier Economics (2006, 18).

response to an information request. The first model involves appeals before an administrative court, the second is before an ombudsman, and the third is before a commission or a body created *ex professo* (specifically for this purpose) (Banisar 2006). Before resorting to any of these bodies, many laws ask the plaintiff to file an internal appeal first, which must be presented to the relevant public agency.

Agencies and Types of Budgets

Implementing the three functions of the law may involve different agencies. Usually, the oversight function is carried out by a single agency, which the law specifically creates or identifies for that purpose: the oversight body.¹⁷ The other two functions—access to information and proactive transparency—will usually apply to those public agencies included in the law, that is, to all mandated bodies.¹⁸

Moreover, each of the three functions of ATI legislation gives rise to two budgetary needs: a start-up budget and an operating budget.¹⁹ A start-up budget is necessary to prepare for implementation of the new law. With respect to the proactive transparency function, different information technologies may be required to set up a disclosure system, which may involve a Web site. Such resources are generally acquired during the first year, while no similar resources may be needed in subsequent years.

In contrast, an operating budget is needed to fully implement an ATI regime on a daily basis; these are recurrent costs. In the case of the ATI function, for example, the salary of the public officials responsible for handling information requests in any given public agency should be included in this budget.

In sum, planning for the budgetary needs of a new ATI law should consider three functions (ATI, proactive transparency, and oversight); two types of public agencies (an oversight body and mandated bodies); and two types of budget (start-up and operating). Policy makers and public officials responsible for implementing ATI legislation should consider start-up and operating budgets for the oversight body and for the rest of the mandated bodies.²⁰ Table 4.1 presents a budget model for ATI legislation summarizing these elements.

17. This is the case in Mexico, where the Federal Institute for Access to Public Information (IFAI) performs these oversight functions.

18. According to the Mexican federal ATI law, the oversight body is also a mandated body, as it has to perform both ATI and proactive transparency functions.

19. Both budgetary needs can be considered as part of a general budget process, in which the start-up component comes during the first year of operations.

20. Since the oversight body is the agency that monitors the practice of the law, its budget will have different concepts than the budget necessary to implement the other legal functions.

Table 4.1 A Budget Model for ATI Legislation

| Type of function | Type of budget | Agencies involved |
|-----------------------------|--|---------------------|
| Access to information (ATI) | <ul style="list-style-type: none">• Start-up• Operating | All mandated bodies |
| Proactive transparency | <ul style="list-style-type: none">• Start-up• Operating | |
| Oversight | <ul style="list-style-type: none">• Start-up• Operating | Oversight body |

Development of the Model: Data-Collecting Instruments

Research for this paper on budgetary planning was done in Mexico, at the federal and state levels of government. Besides the Mexican federal ATI law, the budgetary implications for ATI law implementation for Jalisco's ATI law (state law), which according to some authors is one of the best state ATI laws in Mexico (Guerrero and Ramírez 2006), were examined as well.

The federal law regulates access to information and protection of personal data for the three branches of government, the autonomous constitutional bodies, the federal administrative courts, and any other federal body. However, research was performed only in executive branch agencies and its oversight body, IFAI. The state law, on the other hand, regulates access to information and protection of personal data for all branches of government, but at the state level, including political parties and municipalities, among others. In this case, research focused on the local oversight body, the Institute of Transparency and Public Information of Jalisco (ITEI) and on a set of selected mandated bodies at the state level. It is important to note that, unlike IFAI, ITEI holds authority over all mandated bodies included under the state law.

Several instruments were used to examine budgetary needs of new ATI legislation (as presented in table 5.1). First, a set of three different *semistructured interviews* was conducted with different public officials at all levels of government.²¹ The interviews were aimed at understanding the concepts of the start-up budget for the three functions of an ATI law, examining the operating budget of the proactive transparency function, and revealing how negotiations and lobbying processes for ATI budgets take place, particularly with respect to oversight bodies.

21. Interviews were conducted during February and March 2008.

Table 5.1 Data-Collecting Instruments for Budgetary Planning of an ATI Law

| Type of function | Type of budget | Instrument |
|-----------------------------|---|--|
| Access to information (ATI) | <ul style="list-style-type: none"> • Start-up • Operating | <ul style="list-style-type: none"> • Interviews • Survey |
| Proactive transparency | <ul style="list-style-type: none"> • Start-up • Operating | <ul style="list-style-type: none"> • Interviews |
| Oversight | <ul style="list-style-type: none"> • Start-up • Operating | <ul style="list-style-type: none"> • Documents, interviews |

Second, a *general survey* was sent to all executive branch mandated bodies at the federal and state levels of government, to the municipalities of Jalisco, and to the rest of the mandated bodies in the state.²² The purpose of this survey was to understand the major budgetary concepts that mandated bodies should consider in order to operate an ATI law. The survey included two questionnaires. The first questionnaire asked for the budget concepts needed to support the daily operation of the law within mandated bodies, including responding to information requests and handling internal appeals.

The second questionnaire looked at the budgetary concepts related specifically to the operation of an ATI unit. Most Mexican ATI laws and many others around the world stipulate the creation of *liaison* or ATI units inside mandated bodies. Although their functions differ across countries—and from state to state in the Mexican case—they usually serve as the interface between individuals and the public administration. These units require budgetary resources to operate effectively.

Finally, several *official documents* from IFAI and ITEI were reviewed to understand the budget composition of an oversight body.

22. Survey questionnaires were sent during the months of March and April 2008. Responses were received in April–June 2008.

Budgeting Implications: The Mexican Experience with ATI Legislation

The Mexican budget system can be characterized as traditional line-item budgeting (World Bank 1997). Both federal and state governments organize their budgets around a legal instrument commonly known as *Clasificador por Objeto del Gasto* (Object of Expenditure Classification, or COG). The COG organizes expenditures in three categories: chapters, concepts or objects of expenditure, and specific line items. The current federal COG, for example, has nine chapters, 61 objects of expenditure, and hundreds of line items. Similarly, Jalisco's COG for 2008 has nine chapters, 50 objects of expenditure, and hundreds of line items.

From the data gathered through the instruments described in the previous section (a general survey, interviews, and review of official documents), a budgeting analysis of the three functions was conducted, starting with the ATI and proactive transparency functions and followed by the oversight function, which includes a special subsection analyzing the negotiations between the oversight body and the legislative and executive branches to approve the oversight body's budget.

ATI Function

To analyze the ATI budget, a general survey²³ was conducted among all executive branch mandated bodies, at both the federal and state levels of government, as well as among the municipalities of Jalisco and the rest of the mandated bodies in the state. Responses were obtained from federal agencies only.²⁴ There are approximately 240 federal agencies, and almost 80 questionnaires were processed.

23. Some questions from this survey were based on the Treasury Board Secretariat (2000).

24. The survey was sent to 223 mandated bodies in Jalisco, but these results were not taken into account for the study, since fewer than 10 responded. Of these, only the municipalities of Guadalajara and Tonalá, the state's Department of Pensions, the state's General Comptroller, and ITEI gave complete responses to the survey.

Table 6.1 Data Summary on Information Requests Received by Federal Mandated Bodies (Agencies), 2003–08

| Type of agency* | Historic no. of IRs received (five-year period) | Oversight bodies (agencies) | Number of IRs | | | |
|-----------------|---|-----------------------------|---------------|---------|-------------------|------------------|
| | | | Lowest | Highest | Average (in 2007) | Average (annual) |
| Small agency | 250 to 499 | 18 | 252 | 494 | 108.3 | 346.7 |
| Medium agency | 500 to 1,249 | 23 | 502 | 1,094 | 246.7 | 790.7 |
| Large agency | 1,250 and higher | 19 | 1,261 | 12,498 | 1,149.2 | 4,052.7 |
| Total | 250 and higher | 60 | 252 | 12,498 | 491.0 | 1,690.5 |

Source: IFAI (<http://www.ifai.org.mx/Gobierno/#estadisticas>).

* Agencies are classified according to volume of information requests received in a five-year period.

Agencies were classified according to the number of access-to-information requests (IRs) received since the federal law came into effect in mid-June 2003 until mid-May 2008 (roughly a five-year period). A first criterion was to create a category of *large* agencies, which were defined as those receiving at least one IR per working day, on average, for the five-year period, that is, roughly 1,250 IRs. In addition, those agencies receiving less than one IR per week, on average, during the five-year period, that is, less than 250 IRs, were excluded from the analysis. For the rest, two categories, small and medium agencies, were created, as shown in table 6.1.

It is worth mentioning that the federal executive branch in Mexico receives one of the highest numbers of ATI requests in the world. For fiscal year 2006, agencies logged more than 50,000 IRs, and for 2007 the number climbed to more than 80,000 (IFAI 2008, 14). Such figures may be explained in part by the System of Information Requests (*Sistema de Solicitudes de Información*; SISI), the electronic platform used for handling requests and submitting appeals to IFAI. For 2007, more than 97 percent of all requests were made via the Internet (IFAI 2008, 10). SISI began operations in June 2003, the same day on which the federal ATI law came into effect, making it easy to use the law (Sobel et al. 2006, 49).

Agencies were asked to indicate the objects of expenditure (or concepts) being affected as a result of ATI legislation. Many agencies were reluctant to respond to this question, since one of the transitory articles of the federal ATI law states: “The creation of the structures referred to in this provision should be supported with the allocated human, material and budget resources; therefore, they should not require additional expenses.”²⁵

25. Ley de Transparencia y Acceso a la Información Pública del Estado de México y Municipios. 2003. Toluca, México. Noviembre. Última Reforma: 24 julio 2008. Clause Three of the Transitory Clauses of the Mexican Federal Transparency and Access to Public Information Law. http://www.ifai.org.mx/descargar.php?r=/pdf/otras_instituciones/vinculacion/legislacion_estatal/&a=mexico.pdf.

Table 6.2 The ATI Budget of a Mandated Body

| Budget chapter | Object of expenditure (concept) | Line item |
|-------------------------------------|---|---|
| Personnel compensation and benefits | <ul style="list-style-type: none"> • Wages for permanent personnel • Wages for non-permanent personnel • Personnel benefits | <i>No specific mention of a particular line item for this budget chapter</i> |
| Supplies and materials | <ul style="list-style-type: none"> • General administration supplies • Fuels* | <ul style="list-style-type: none"> • Office materials and supplies • Printing and reproduction materials • Information technology supplies and materials • Fuels for land, aerial, and sea vehicles devoted to public programs* |
| General services | <ul style="list-style-type: none"> • Postal and utility services • Rental payments* • Advisory, assistance, and research services • Operation and maintenance of facilities and equipment • Printing, publication, and communication services* | <ul style="list-style-type: none"> • Postal service • Telephone service • Electricity • Rental payments of machinery and equipment* • Training <p><i>No specific mention of a particular line item for this concept</i></p> <p><i>No specific mention of a particular line item for this concept</i></p> |
| Assets | <ul style="list-style-type: none"> • Machinery, industrial, electronic, and communication equipment • Land, buildings, and structures* | <ul style="list-style-type: none"> • Information technology hardware and software • Public works by contract (improvement of buildings)* |

Source: Information from survey sent to federal agencies

* Large agencies only.

This reluctance notwithstanding, it was possible to collect information—coming from over one-third of the sample—related to the budget implications of ATI legislation. Results are presented in table 6.2, arranged with respect to budget chapters of the federal COG. In some cases, agencies stated not only the concept but also the specific line item that may have been affected as a result of responding to information requests and handling appeals since 2003. Thus, the table reflects the concepts and line items most commonly cited by agencies. In particular, three line items were specifically identified by large agencies only: fuel for vehicles, rental payments for machinery and equipment, and public works by contract, especially for improving existing offices and buildings.

In interviews with federal public servants, they confirmed the budget structure of table 6.2 and stressed three additional points. First, the most important concept as it pertains to an ATI budget has to do with personnel. Regardless of agency type, all interviewees agreed that an agency must

Table 6.3 Average Time Spent Responding to Information Requests and Appeals

| Type of agency | Single information request (hours) | Single appeal (hours) |
|-------------------------|------------------------------------|-----------------------|
| Small agency | 18.0 | 17.4 |
| Medium agency | 20.2 | 19.0 |
| Large agency | 43.6 | 39.2 |
| Average across agencies | 27.2 | 25.1 |

Source: Author's own calculations based on survey sent to federal agencies.

devote different types of personnel to respond to information requests and appeals. Second, most budget concepts—excluding personnel—are affected to a minimum extent as a result of ATI implementation, especially in small and medium agencies. Only public servants at large agencies mentioned the acquisition of assets—such as computer equipment—as an aspect that may be important in implementing and exercising the right of access to information. But for most agencies, implementing an ATI law is possible by diverting existing assets, and as such, is a matter of people, not equipment. Third, differences in start-up and operating budgets are important for large agencies only, which should plan the personnel they will need if they expect to receive a large number of requests from the very first year of operations.

The survey included several questions to examine personnel needs for dealing with information requests and appeals. Table 6.3 presents the time public servants spend, on average, to respond to a single information request and a single appeal. Although differences between small and medium agencies were not substantial, both types of agencies spent considerably less time responding to information requests and appeals than large agencies. On average, public servants at large agencies devote 43.6 hours to respond to an information request and 39.2 hours to handle an appeal. One aspect of the table that stands out is that all types of agencies spend slightly more time responding to an information request than to an appeal.

In addition, the survey also included questions that reveal the percentage of single information requests and single appeals being dealt with by four different levels of personnel, that is, the number and type of personnel involved in answering one request, classified by salary.²⁶ As shown in table 6.4, approximately half of the responses to an information request or to an appeal is the responsibil-

26. Levels of personnel were defined as follows: *rank-and-file personnel* refers to public servants with monthly salaries equivalent (before taxes) to US\$1,000 or less; *trusted personnel* (in Spanish, *personal de confianza*, which generally means non-unionized personnel) are those with salaries of US\$1,001–5,000; *managerial personnel* have salaries of US\$5,001–10,000; and *senior personnel* have salaries above US\$10,000 (at an exchange rate of approximately 10 Mexican pesos per dollar during March–April 2008).

Table 6.4 Proportion of an Information Request and an Appeal Handled by Different Levels of Personnel (percent)

| Level of personnel (according to salary range) | Single information request | | | | Single appeal | | | |
|---|----------------------------|---------------|--------------|------------------|---------------|---------------|--------------|------------------|
| | Small agency | Medium agency | Large agency | Overall agencies | Small agency | Medium agency | Large agency | Overall agencies |
| Rank-and-file | 34.6 | 35.3 | 27.6 | 32.7 | 23.8 | 24.6 | 16.8 | 21.8 |
| Trusted | 48.5 | 45.4 | 51.2 | 48.2 | 58.7 | 54.9 | 49.0 | 54.1 |
| Managerial | 16.1 | 14.7 | 16.8 | 15.8 | 17.5 | 15.5 | 24.7 | 19.1 |
| Senior | 0.7 | 4.5 | 4.4 | 3.3 | 0.0 | 5.0 | 9.5 | 5.0 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

Source: Author's own calculations based on survey sent to federal agencies.

ity of trusted personnel (*personal de confianza*), regardless of agency type. Rank-and-file personnel are involved in these processes too, and in small and medium agencies they typically handle more than one-third of the process for an average request.

Also, managerial and senior personnel working at large agencies get involved more often in appeals than is the case in other types of agencies. In particular, managerial officials deal with one-quarter of a single appeal, compared with 17.5 percent and 15.5 percent at small and medium agencies, respectively. This situation may reflect the increasing importance of involving agencies' top management in the normative and administrative aspects of appeal responses.

The above information reveals that, proportionally speaking, few personnel may be needed to implement ATI legislation, even if a high volume of information requests exists.²⁷ According to table 6.1, small agencies received an average of 108 IRs during 2007; that number, multiplied by the 18 hours it takes to respond to each IR (see table 6.3), gives a total of 1,944 hours. Assuming that a full-time public servant works 40 hours a week during 50 weeks of the year (2,000 hours a year), it takes roughly one full-time public servant to respond to all information requests received during 2007 (see table 6.5). For medium agencies, that number rises to 2.5 full-time personnel, and for large agencies it rises to 25. This last figure may underestimate personnel needed, given that the majority of large agencies—in terms of IRs received—have thousands of employees, and that those responsible for handling requests are scattered throughout the agencies. The numbers of employees charged with handling requests in medium and small agencies are similarly proportional. For example, of the 20 agencies that received the largest number of IRs during 2007, only

27. This paper concentrates on information requests, since the proportion of appeals to requests is less than 5 percent for the period 2003–06 (IFAI 2007a, 19).

Table 6.5 Average Number of Full-Time Public Servants Needed for ATI Implementation in Mandated Bodies

| Type of agency | No. of full-time servants |
|------------------|---------------------------|
| Small agency | 1.0 |
| Medium agency | 2.5 |
| Large agency | 25.1 |
| Overall agencies | 6.7 |

Source: Author's own calculations based on survey sent to federal agencies.

The Mexican Ministry of Education, for example, received almost 6,000 IRs in 2007 alone (IFAI 2008, 12). In comparison, all federal agencies in Australia received roughly 4,000 IRs during fiscal year 2004–05,²⁹ and public authorities in the Netherlands receive around 1,000 requests each year (Banisar 2006).

Finally, the survey also sought to define the average number of public servants working in ATI liaison units (*unidades de enlace*). These units are important for the Mexican ATI regime, since they are responsible for receiving, processing, and assigning information requests within agencies, delivering requested information, and performing any other actions needed to help individuals search for information within an agency. In many cases, people working at liaison units are also responsible for searching for information and responding directly to all information requests (this is especially true in small and medium agencies). Table 6.6 shows that in liaison units of small and medium agencies, 2.7 and 3.7 public servants, respectively, work to respond to requests, compared with 9.3 in large agencies. However, taking into account the percentage of time that public servants (allocated by salary grade) devote to the liaison unit, the numbers of public servants needed decrease to 0.8, 1.6, and 6.0 for small, medium, and large agencies, respectively.

In sum, according to data from Mexican federal agencies, staff who are preparing an ATI budget should consider the concepts included in table 6.2. Particular attention must be paid to personnel responding to information requests and working in liaison units (where such units exist). According to the previous analysis, agencies should be able to implement ATI legislation with existing personnel, unless very large numbers of information requests are expected to be received during a particular year. In that case, depending on the number of requests received, agencies should consider reassigning personnel from their normal activities so they can focus on handling requests.

two employed fewer than 2,000 people: IFAI and the Office of the Presidency of the Republic.²⁸ Moreover, according to data in table 6.4, nearly 79 percent of single information requests sent to large agencies are responded to by rank-and-file and trusted personnel, representing 20 of the 25 full-time public servants needed to implement ATI legislation.

To put things into perspective, some large federal agencies in Mexico receive more information requests during a year than many countries.

28. See IFAI (2008, 12) and information request number 0000600027207 at <http://buscador.ifai.org.mx/buscador/bienvenido.do>, which contains the total number of permanent personnel of all federal agencies of the executive branch. According to these data, IFAI can be considered an outlier, since it employs few people (less than 200) but was ranked 16th in terms of agencies receiving the most IRs during 2007.

29. Excluding requests related to the protection of personal data.

Table 6.6 Average Number of Full-Time Public Servants Working in Liaison Units*

| Level of personnel (percentage of time) | Small agency | Medium agency | Large agency | Overall agencies |
|--|---------------|---------------|---------------|------------------|
| Rank-and-file | 0.7 (31.9) | 0.8 (45.2) | 3.0 (66.1) | 1.5 (47.5) |
| Trusted | 1.6 (31.3) | 1.9 (59.8) | 4.3 (76.8) | 2.5 (56.3) |
| Managerial | 0.4 (7.9) | 0.7 (13.5) | 1.3 (40.4) | 0.8 (20.3) |
| Senior | 0.1 (0.2) | 0.3 (8.7) | 0.7 (26.9) | 0.3 (11.7) |
| Total (absolute) | 2.7 | 3.7 | 9.3 | 5.1 |
| Total (proportional) | 0.8 | 1.6 | 6.0 | 2.3 |

Source: Author's own calculations based on survey sent to federal agencies.

* Numbers in parentheses show the proportion of time (in percentage) devoted to the liaison unit for each level of personnel.

Proactive Transparency Function

As stated earlier, the proactive transparency function has to do with the release of relevant and accurate information about government agencies' functions without having first received an explicit request to do so. Proactive transparency should be a responsibility of the whole agency, in which a collective and positive attitude toward information disclosure should be imbued in all public officials. In practice, in Mexico the proactive transparency function has relied on electronic means to deliver public information. To understand what budget concepts should be considered to implement the proactive transparency function, Information Technology (IT) managers at several mandated bodies, both at federal and state levels of government, were interviewed. The main goal of the interviews was to identify the elements necessary for an agency to publish public information online, that is, the items or services needed to design and manage a Web page.³⁰

It is worth mentioning that disclosing relevant or mandated public information is not the only function of an agency's Web site. The Web site generally serves other purposes as well, including

30. For the federal level, IFAI concentrates in one Internet site (POT, the *Portal de Obligaciones de Transparencia*) access to all the public information that agencies of the executive branch must publish according to Article 7 of the federal ATI law. However, interviews with federal government officials were based on their pre-POT experience. Although concentrating all public information in one Internet site may be a good practice, it may not be feasible in the short run, once ATI legislation has been passed. Planning of POT began in late-2005, and it was implemented in February 2007, with pilot tests running well into mid-2007. In addition, the total cost of the project was estimated to be US\$0.4 million (interview with José Luis Marzal, director of Coordination and Oversight with the Federal Public Administration at IFAI).

as a virtual press room to release general—and not always relevant—information. Furthermore, an official Web site represents one essential communication link of a public agency with the citizenry. More and more government agencies cannot afford to ignore the importance of having this link. Thus, data from the interviews reflect the necessary budgetary elements to include on an agency's Web site, the main purpose of which is not only to implement the proactive transparency function but also to be electronically present on the Internet. This may have important implications for ATI budgeting, since costing of the proactive transparency function can be shared within the agency. After all, disclosing public information is not the only task of IT areas.

Results from the interviews are presented in table 6.7 according to agency type. In general, most agencies should consider eight different items or services to create and launch a Web site: domain registration, hosting service, Internet access, Web site administration, security mechanism, scanners (for large agencies only), an alternative power source or generator (for large agencies only), and human resources (personnel). The table lists each of these items or services for small and medium agencies, as well as for large agencies.

In particular, IT managers at small and medium agencies consider that administering a Web site can be done with existing personnel within the agency. These activities include searching for, organizing, and uploading public information on a regular basis. However, for large agencies, interviewees felt that at least one public servant in addition to those already working in IT areas may be needed to implement the proactive transparency function, especially if a large volume of information has to be periodically updated. The IT manager at IFAI actually suggested that in some special cases—very large agencies—two people may be necessary, one for searching and organizing the data and the other for scanning and uploading them.

Table 6.8 displays the information from table 6.7 according to budget concepts and line items that may be affected as a result of Web site implementation. In budgetary terms, developing a Web site is a matter of one line item (telecommunication services) for small and medium agencies and five line items for large agencies: telecommunication services, information technology hardware and software, industrial machinery and equipment, wages for regular personnel, and operation and maintenance of IT hardware and software.³¹

Interviewees in small and medium agencies responded that start-up (that is, first year of operations) and operating budgets for the proactive transparency function are very similar. In general, a contract is signed with a single company that charges a monthly fee for a hosting plan and Internet access. The only difference between the start-up and operating budget in small and medium agencies is that the domain registration is done during the first year of operations. Start-up budgets at

31. Disclosing official information can also be managed without using electronic means. Mexican agencies do not often use nonelectronic means, but when they do, they can make nonelectronic information available through the ATI units, which absorb the costs of administering the information. In this sense, if ATI units exist, there is no need to consider additional budgetary elements to manage nonelectronic public information.

Table 6.7 Items or Services Needed to Manage a Web-based Proactive Transparency Function (as well as Web site)

| Item or service | Small and medium agency | Large agency |
|--------------------------|--|--|
| Domain registration | An agency's domain name must be registered with a company known as "domain name registrars." | As in small and medium agencies, large agency Web sites need a domain name, which must be registered before a company. |
| Hosting service | <p>Hosting service may be arranged with a Web hosting company (an Internet service provider). The plan requires a monthly fee and includes the following:</p> <ul style="list-style-type: none"> • Disk storage capacity • Data transfer capacity • E-mail accounts • Internet Protocol (IP) address. <p>Some companies offer an exclusive IP address for each domain, but others include the domain within an existing IP address. Web hosting services also may offer the domain registration and security services.</p> | Large agencies may need a server, a specific computer to handle a large volume of information. Storage capacity, data transfer, and e-mail are determined according to server capabilities. IP addresses are generally established with the Internet service provider. |
| Internet access | Access must be arranged with an Internet service provider (some hosting plans include this service). Access providers supply any hardware or software that may be needed, and they charge a monthly fee for the service (prices vary according to bandwidth, which determines transmission speed to the Internet). | Access must be arranged with an Internet service provider. For servers, a dedicated link with its own IP address (or addresses) is highly recommended, although it is more expensive than a simple connection to the Internet. |
| Web site administration | Some hosting plans include software (or "templates") for Web site design and management. Design of small Web pages can be carried out with existing free software. | <p>Different types of software may be needed:</p> <ul style="list-style-type: none"> • File manager • Site builder (Web site design) • Server manager |
| Security mechanism | Security is included in the hosting plan. | A security device must be purchased. It includes hardware and software. |
| Scanners | Not required. | At least two scanners may be required. |
| Alternative power source | Not required. | An alternative power source may be necessary. |
| Human resources | Implementation can be done with existing personnel. | In some cases implementation can be done with existing personnel. However, agencies should consider wages for one additional public servant. |

Source: Interviews conducted by the author.

Table 6.8 Budget Concepts and Line Items for Mounting a Proactive Transparency Web Page

| Budget concept (and line item) | Web site items or services required (small/medium agency) | Web site items or services required (large agency) |
|---|---|--|
| Postal and utility services (telecommunication services) | <ul style="list-style-type: none"> • Domain registration • Hosting service or plan • Internet access | <ul style="list-style-type: none"> • Domain registration • Internet access |
| Machinery; industrial, electronic, and communication equipment (information technology hardware and software) | May not apply | <ul style="list-style-type: none"> • Hosting service: server • Web site administration (software) • Security device • Scanners |
| Machinery; industrial, electronic, and communication equipment (industrial machinery and equipment) | May not apply | <ul style="list-style-type: none"> • Alternative power source |
| Wages for permanent personnel | May not apply | <ul style="list-style-type: none"> • Human resources |
| Operation and maintenance of facilities and equipment (operation and maintenance of IT hardware and software) | May not apply | Applies for the operating budget and generally is done by a third party |

Source: Table 5.7 and Federal COG.

large agencies, on the other hand, may be larger than operating budgets for subsequent years. The main object of expenditure is information technology hardware and software, since servers, scanners and security devices must be acquired at the beginning of a large agency's website operations.

Oversight Function

To understand the budget of an oversight body, this paper examined the budgets of the Institute of Transparency and Public Information of Jalisco (ITEI) from 2005, when the agency began operations, to 2007. ITEI started with a very low budget (equivalent to less than US\$300,000 for fiscal year 2005), and it gradually requested more resources as it became clear that they were needed for ITEI to perform all of its duties. In this sense, ITEI's experience is different from that of IFAI, which started operations in 2003 with the highest budget of any national ATI oversight body.³²

32. IFAI's budget exceeded US\$20 million for fiscal year 2003.

Table 6.9 Budget Distribution of an Oversight Body, 2005–07 (percent)

| Budget chapters and objects of expenditure | 2005 (start-up) | 2006 | 2007 |
|--|--------------------|-------------|-------------|
| Personnel compensation and benefits | 64.4 | 65.2 | 61.3 |
| Wages for permanent personnel | 43.0 | 40.7 | 40.1 |
| Wages for nonpermanent personnel | 6.3 | 6.7 | 3.0 |
| Personnel benefits | | | |
| Supplies and materials | 5.3 | 4.0 | 4.1 |
| General administration supplies | 2.7 | 1.2 | 2.0 |
| Provisions | 0.3 | 0.1 | 0.2 |
| Raw materials and production materials | 0.3 | 0.3 | 1.0 |
| Construction and repair materials | 0.8 | 1.3 | 0.9 |
| Chemicals and medical supplies | 0.1 | 0.1 | 0.0 |
| Fuels | 1.2 | 1.0 | 0.7 |
| Clothing and clothing supplies | 0.0 | 0.0 | 0.3 |
| General services | 15.6 | 19.5 | 26.3 |
| Postal and utility services | 2.5 | 1.5 | 2.2 |
| Rental payments | 4.3 | 3.6 | 3.8 |
| Advisory, assistance, and research services | 0.7 | 0.7 | 0.6 |
| Transportation of goods, commercial and banking services | 1.7 | 1.0 | 1.1 |
| Operation and maintenance of facilities and equipment | 1.3 | 2.9 | 2.3 |
| Printing, publication, and communication services | 2.4 | 8.0 | 10.0 |
| Travel and transportation of persons | 1.8 | 1.0 | 0.9 |
| Official and representation services | 0.7 | 0.7 | 5.4 |
| Transfers, subsidies, and grants | 2.0 | 0.6 | 1.5 |
| Contingency reserves | 2.0 | 0.6 | 1.5 |
| Assets | 12.8 | 10.7 | 6.8 |
| Furniture and general administration equipment | 7.4 | 1.6 | 1.8 |
| Machinery, industrial, electronic, and communication equipment | 5.4 | 6.1 | 3.0 |
| Vehicles and transportation equipment | 0.0 | 3.0 | 1.9 |
| Land, buildings, and structures | 0.0 | 0.0 | 0.0 |

Source: ITEI's authorized budgets for 2005, 2006, and 2007.

The first column in table 6.9 shows ITEI's budget structure during the three-year period 2005–07. The budget is divided into five chapters and approximately 23 objects of expenditure.³³ Four chapters belong to current expenditure (personnel compensation and benefits; supplies and materials; general services; and transfers, subsidies, and grants) and one chapter belongs to capital expenditure (assets).

33. Many objects of expenditure related to personnel payments and benefits were placed under one object of expenditure: personnel benefits.

Several budget implications can be drawn from the information in table 6.9. First, as it relates to budget distribution, the personnel compensation and benefits chapter had by far the largest budget over the three-year period, ranging from 64.4 percent of the total budget in 2005 to 61.3 percent in 2007. This trend is also observed at IFAI, where more than 60 percent of the 2005 and 2006 budgets went to personnel compensation (IFAI 2006, 88; IFAI 2007a, 86). In both cases most of the expenses allocated to personnel compensation were devoted to attending to appeals and administrative matters. However, IFAI also assigns a considerable percentage of its personnel budget to promoting a culture of transparency and establishing institutional relations with civil society organizations, academic institutions, and other public ATI agencies, both in Mexico and abroad.³⁴

Second, the start-up budget (2005) generally requires proportionally more resources devoted to assets than is the case in subsequent years. In 2005, 12.8 percent of the budget was allocated to this chapter, compared with 6.8 percent in 2007. This is to be expected, since many expenses related to equipment are generally executed at the beginning of the body's operations.

Regarding assets, a particular aspect that should be noted is the importance of investing in IT equipment during the first years of operations. In the case of Jalisco, hardware and software acquisitions must be listed within the object of expenditure "Machinery, industrial, electronic and communication equipment," which in ITEI's case represented 5.4 percent and 6.1 percent of the total budget for 2005 and 2006, respectively, decreasing to 3.0 percent in 2007. According to ITEI's financial manager, much of this object of expenditure has been assigned to the purchase of computers and two servers, which during 2007 hosted Infomex, an electronic platform managed by ITEI that enables individuals to make information requests and appeals to mandated bodies using the Internet.

The use of such electronic platforms represents a key policy decision for any oversight body, and one that should be planned beforehand during budget preparation. Infomex was born out of its federal counterpart, SISI, the System of Information Requests that is administered by IFAI.³⁵ Because of SISI's success as an electronic system for handling information requests at the federal level, ITEI began implementing Infomex in November 2007. A recent report confirms that ITEI's decision was a good one. Before Infomex existed, during 2006 and 2007 the monthly average of information requests logged by mandated bodies was 57.5 and 77.9, respectively.³⁶ For the first five months of 2008, with Infomex fully implemented, the monthly average rose to 226.8 requests, an increase of almost 200 percent compared with the previous year (CGPP 2008, 30). Although several

34. Two out of eight General Directorates at IFAI perform these activities: the General Directorate of Social Communication and the General Directorate of Institutional Relations.

35. As a matter of fact, IFAI developed and launched Infomex as an electronic platform that could be adopted by most Mexican states. IFAI replaced SISI with Infomex on December 1, 2008.

36. It must be noted that the total number of information requests logged in 2007 takes into account those presented through Infomex during the months of November and December of that year.

factors may explain this increase, it is reasonable to assert that implementing Infomex considerably helped the public exercise the right of access to information in Jalisco.

And third, the general services chapter increased from 15.6 percent of the budget in 2005 to 26.3 percent in 2007. The main reason was the conspicuous increase in resources allocated to the concept for “Printing, publication and communication services,” which grew from 2.4 percent of the budget in 2005 to 10.0 percent in 2007. According to ITEI’s financial manager, this concept was quickly becoming one of the most important objects of expenditure of ITEI’s budget, owing to the institute’s obligation to promote the law and a culture of transparency in Jalisco’s society at large. Also, she stressed that such promoting activities should be accompanied by effective training services. Although training has not been a top priority of ITEI—its underlying budget concept, “Advisory, assistance and research services,” has remained below 1.0 percent for the three years—it is expected to see an important increase in the future.

The need for budgeting to promote a culture of transparency is worth emphasizing. In spite of the importance of promoting transparency, not all ATI legislation explicitly refers to this function. However, in Mexico most oversight bodies include it as part of their official duties (ITEI and IFAI among them). Typically, in budget terms, promoting a culture of transparency involves undertaking two activities: on the one hand is raising awareness about the right to information among citizens, and on the other is training public officials so they understand the ATI law and its appropriate enforcement.

IFAI’s experience in this area is particularly salient. Every year since it began operations in 2003, the institute has organized “National Transparency Week.” This is a public event at which experts from all over the country—and sometimes from abroad—come together to discuss different topics regarding ATI legislation, transparency, and accountability. In addition, IFAI facilitates workshops for the media and civil society organizations to generate capacity to put the right of access to information to use. Also, the institute has a permanent advertising campaign, and it publishes several documents related to the Federal ATI law and transparency.

With regard to training, IFAI periodically offers workshops and seminars for federal public servants on many ATI-related topics, such as the handling of information requests, classification criteria for privileged and confidential information, protection of personal data, and so on. Recently, IFAI developed an e-learning platform, “e-FAI,” which has turned into a cost-effective instrument to train public officials on these issues. In fact, whereas 762 public officials attended on-site training courses in 2007, more than 13,000 were trained using this distance-learning system during the same year (IFAI 2008, 57).

In sum, a budget plan for an oversight body should consider personnel as the main object of expenditure, and it should take into account the start-up cost, including the acquisition of different assets, especially if information technologies are to be used. Also, the budget plan must consider

various duties that the oversight body should perform. These duties have prompted ITEI to invest in printing and publication services, and it will have to plan ahead for training as part of a strategy for promoting a culture of transparency in Jalisco.

Negotiating the ATI Budget of an Oversight Body

An important aspect with respect to the oversight function—and which frequently becomes apparent only after legislation has been enacted—has to do with the negotiations taking place between the oversight body, the government, and Congress regarding budget approval. Sometimes the oversight body may plan for a budget according to its projected necessities, only to find out that other factors not related to budgeting criteria may prevail. Some of these important issues were revealed in interviews with public officials from both ITEI and IFAI.

Jalisco's ATI law states that ITEI is an autonomous public body with legal status and its own resources, which is bound only to the state's Constitution (Article 36). The law also mentions that ITEI must possess the human, material, and economic resources needed for the performance of its duties, as allocated in its annual budget (Article 37). In general, the budgetary process starts internally, when ITEI's board approves a budget plan for the institute and sends it for revision to the state government's Ministry of Finance. This gives the Ministry of Finance considerable leeway in determining the final budget it will present to Jalisco's Congress, since it has powers to reallocate financial resources among agencies if the governor of the state deems it necessary—as is usually the case.

In the opinion of ITEI's president, Augusto Valencia, this practice compromises ITEI's budget autonomy, since state authorities work as a filter before the budget reaches Congress, where political negotiations rather than technical reasoning often prevail. In fact, although ITEI should be able to present its budgetary needs directly to Congress, without first consulting the state government, in practice it is forced to negotiate the budget plan with state authorities. The underlying reason is that leaders of Congress³⁷ tend not to acknowledge ITEI as a sufficiently powerful agency to negotiate its own budget. In this respect, neglecting ITEI's autonomy could be perceived as part of a congressional strategy to undermine the institute's legitimacy and its ability to stand behind its resolutions in the future. In fact, in some recent appeals, ITEI has accused members of Congress of opacity and has issued strong resolutions against Congress's responses to several of the information requests made.

At the federal level the situation is institutionally weaker, since budget autonomy is normative not as strong as in the case of Jalisco's ITEI. Although Article 33 of the federal ATI law states that IFAI has operational, budget, and decision-making autonomy, the same article also establishes that the institute belongs to the Federal Public Administration, and as such it reports to the executive

37. That is, members of the Congress's Budget Commission, which is composed of representatives of all parties.

branch. This presents a dilemma, as the Public Administration is precisely the power that IFAI is supposed to oversee on ATI compliance and the protection of personal data. In this sense, the fact that the institute was not created as an autonomous constitutional body restricts its capacity to effectively exercise its purported budget autonomy.

Moreover, the federal government recently issued a directive that forbids any federal agency to negotiate a budget before the Chamber of Deputies.³⁸ IFAI's executive secretary, Ángel Trinidad, asserts that the practical consequence of this agreement is that the Ministry of Finance controls the entire process of budget approval. This means that IFAI has to go to the ministry to negotiate a budget plan that will then be presented before the Chamber of Deputies.

Despite these obstacles, in each year since its inception in 2003, IFAI has enjoyed considerable resources. One reason for IFAI's budgetary success was the political commitment taken on by former president Vicente Fox with regard to ATI and transparency during his administration, from 2000 to 2006 (Darbishire 2006, 267). Such commitment has helped to consolidate IFAI's role as a legitimate player in the field of ATI within the Mexican Federal Public Administration, despite its limited capacity to exercise its budget autonomy.

These two cases illustrate that the budget approval process of oversight bodies in Mexico is heavily controlled by federal and state governments and is under the close supervision of finance ministries. This situation deserves the attention of ATI stakeholders. Although these oversight bodies enjoy so-called budget autonomy, current procedures do not guarantee that they will always receive the resources they need to perform their duties. In the case of IFAI, it is true that it has experienced a continuous and unprecedented funding of all its activities, but there is no institutional guarantee that it will not be affected in the future.

38. *Diario Oficial de la Federación*, August 22, 2005.

Conclusion

Through an examination of the Mexican case, it is possible to show the wide range of budgetary elements needed to support an effective operation of ATI legislation. In fact, lessons from Mexico illustrate that not only objects of expenditure and line items should be accounted for when preparing an appropriate budget. Political considerations also matter, such as negotiations between ATI bodies, government officials, and legislators regarding the operating budget of an oversight body.

In particular, public officials should take into account that a proper implementation of ATI legislation requires three budgetary elements: a budget for implementing the ATI function, such as responding to information requests and handling internal appeals within mandated bodies; a budget to set up proactive transparency Web sites in all mandated bodies; and a budget for an oversight body.

Results show that the most important object of expenditure regarding the ATI and oversight functions is personnel. Basically, an ATI law needs people in order to operate. Interestingly, it does not need that many, even in large agencies with a high demand of information requests. Regarding proactive transparency, interviews with public officials and data from public agencies show the relative ease with which Web sites can be set up and operated.

Concerns are still raised regarding the costs of operating an ATI regime, both in Mexico and abroad. Typically, the critics overlook the fact that these costs are truly negligible if compared with other costs, such as publicizing government's activities or promoting legislators' achievements. Moreover, they often fail to consider that a lack of budgetary support of ATI may ultimately translate into higher costs for government. Instead, various stakeholders involved in the formulation and adoption of an ATI law should address, with serious consideration, the budgetary elements needed to implement ATI legislation in order to facilitate its daily operation.

References

- Banisar, David. 2006. *Freedom of Information around the World: A Global Survey of Access to Government Records Laws*. London: Privacy International. http://www.freedominfo.org/documents/global_survey2006.pdf.
- CGPP (Coordinación General de Políticas Públicas del Gobierno del Estado de Jalisco). 2008. *Infomex—Jalisco. Reporte de usuarios del sistema, solicitudes de información, respuestas y recursos de revisión*. Guadalajara: CGPP.
- Darbishire, Helen. 2006. "El derecho a la información en América Latina." In *Anuario de derechos humanos 2006*. Santiago de Chile: Centro de Derechos Humanos, Facultad de Derecho de la Universidad de Chile.
- Escobedo, Juan Francisco. 2002. "Movilización de opinión pública en México: el caso del Grupo Oaxaca y de la Ley Federal de Acceso a la Información Pública." Paper presented at *Primer Congreso Latinoamericano de Ciencia Política*, Salamanca, Spain, July.
- . 1999. "Does the Invisible Hand Need a Transparent Glove? The Politics of Transparency." Manuscript presented at the *Annual World Bank Conference on Development Economics*, Washington, DC, April.
- Florini, Ann. 2007. "Introduction: The Battle Over Transparency." In *The Right to Know: Transparency for an Open World*, ed. Ann Florini. New York: Columbia University Press.
- Fox, Jonathan. 2007. "The Uncertain Relationship between Transparency and Accountability." *Development in Practice* 17 (4–5): 663–71.
- Frontier Economics. 2006. *Independent Review of the Impact of the Freedom of Information Act*. Report prepared for the Department for Constitutional Affairs. London: Frontier Economics, Ltd.
- Guerrero, Eduardo, and Leticia Ramírez. 2006. "La transparencia en México en el ámbito subnacional: una evaluación comparada de las leyes estatales." In *Democracia, transparencia y constitución. Propuestas para un debate necesario*, ed. Sergio López-Ayllón. Mexico City: IJ-UNAM and IFAI.
- IFAI (Instituto Federal de Acceso a la Información Pública). 2006. *Tercer Informe de Labores al H. Congreso de la Unión 2005*. Mexico City: IFAI.
- . 2007a. *Cuarto Informe de Labores al H. Congreso de la Unión 2006*. Mexico City: IFAI.
- . 2007b. *Reforma al 6° constitucional que establece el derecho de acceso a la información pública como un derecho fundamental de los mexicanos*. Mexico City: IFAI (June).
- . 2008. *Quinto Informe de Labores al H. Congreso de la Unión 2007*. Mexico City: IFAI.
- Kubr, Milan, ed. 1997. *Management Consulting: A Guide to the Profession*. 3rd ed. Geneva: International Labour Organization.

- López-Ayllón, Sergio. 2004. "La creación de la Ley de Acceso a la Información en México: una perspectiva desde el Ejecutivo federal." In *Transparentar al Estado: la experiencia mexicana de acceso a la información*, ed. Hugo Concha Cantú, Sergio López-Ayllón, and Lucy Tacher Epelstein. Mexico City: IJJ-UNAM.
- . 2006. "La constitucionalización del derecho de acceso a la información: una propuesta para el debate." In *Democracia, transparencia y constitución. Propuestas para un debate necesario*, ed. Sergio López-Ayllón. Mexico City: IJJ-UNAM and IFAI.
- Mendel, Toby. 2003. *Freedom of Information: A Comparative Legal Survey*. New Delhi: UNESCO.
- Open Society Justice Initiative. 2006. *Transparencia y silencio. Encuesta sobre leyes y prácticas del acceso a la información en catorce países*. New York: Open Society Institute.
- Roberts, Alasdair. 2006. "Two Challenges in the Administration of the Access to Information Act." In *Research Studies Volume 2: The Public Service and Transparency*, ed. Commission of Inquiry into the Sponsorship Program and Advertising Activities, 115–62. Ottawa: Government of Canada.
- Sobel, David L., Bethany A. Davis Noll, Benjamín Fernández Bogado, TCC Group, and Monroe E. Price. 2006. *The Federal Institute for Access to Information in Mexico and a Culture of Transparency*. Philadelphia: Annenberg School for Communication, University of Pennsylvania.
- Treasury Board Secretariat. 2000. *Review of the Costs Associated with Administering Access to Information and Privacy (ATIP) Legislation*. Ottawa: Treasury Board Secretariat.
- UNDP (United Nations Development Programme). 2004. *Right to Information. Practical Guidance Note*. New York: Bureau for Development Policy–UNDP.
- Weimer, David L., and Aidan R. Vining. 1999. *Policy Analysis. Concepts and Practices*. 3rd ed. Upper Saddle River, NJ: Prentice Hall.
- Wilkinson, Joseph W. 1995. "Financial Planning and Control." In *Handbook of Management Consulting Services*, ed. Sam W. Barcus III and Joseph W. Wilkinson. 2nd ed. New York: McGraw-Hill.
- World Bank. 1997. *Public Expenditure Management Handbook*. Washington, DC: World Bank.

Mission of World Bank Institute

The World Bank Institute (WBI) collaborates with the World Bank's client countries to advance their development goals through learning. To that end, WBI designs and delivers customized programs that create opportunities for development stakeholders to acquire, share, and apply global and local knowledge and experiences.

Aligned with the World Bank's regional operations and working with other development agencies and institutes, WBI offers global and regional activities, including courses and seminars. In addition to capacity constraints at the country level, WBI learning events also focus on regional and global public goods.

WBI works with policy makers, civil servants, technical experts, business and community leaders, civil society stakeholders, and other learning institutions. It helps foster the analytical, technical, and professional networking skills that support effective socioeconomic programs and public policy formulation on human development, poverty reduction and economic management, sustainable development, and finance and private sector development.

For further information:

WBI
The World Bank
1818 H Street, NW
Washington, DC 20433
Fax: 202-522-1492

Visit us on the World Wide Web at: <http://www.worldbank.org/wbi>