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**Dynamic Transparency:  
An Audit of Mexico's Freedom of Information  
Act**

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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. We 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, 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. 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.

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## 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; Stiglitz 2002). 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).<sup>1</sup> 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 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 what we term *dynamic transparency*—succinctly defined as the equitable provision of timely, relevant, and often new information about policy.

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<sup>1</sup> There are exceptions to this trend in the political economy literature (de Figueiredo, Hidalgo and Kasahara 2013; Chong et al. 2015).

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 2013).

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).<sup>2</sup> 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 ten 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.<sup>3</sup> 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

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

<sup>3</sup> In their study, Berliner and Erlich (2015) focus on the speed at which Mexican states passed FOIA laws. States with greater political competition were faster at passing these laws. The reason for this, they argue, is that FOIA serves as a sort of insurance for those in power that allows them to have access to government information if they ever lose an election.

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 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.

We drew inspiration from Putnam’s *Making Democracy Work* (1993), while joining an ongoing conversation about Mexico’s FOIA (e.g., López-Ayllón 2004; Merino 2005; Cejudo and Zavala 2011). 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 fourteen questions, and was 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. 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%) than in 2013 and 2007 (71.82% and 70.91%, respectively). However, we find that the system demands improvement.

Among the entities that attempt to answer our information requests, there is a weak tendency to provide quality information they are legally bound to disclose. For instance, questions asking for copies of state contracts are, on average, ignored 62.12% of the time. Moreover, when such questions are addressed by entities, the information they provided could be judged as good or relevant only around half of the time.

Moreover, entities are more likely to charge a fee to provide information—31.76% of entities charged a fee in 2015, whereas 15.45% 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 they answered in an average of 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. Only then will Mexico achieve *dynamic transparency*.

## **FOIAs**

Transparency is a communicative act (Fenster 2015). It 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).<sup>4</sup> But 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 on the one hand the emphasis is on the flow of information, then transparency can be thought of as being *downward* or *upward*. While *downward transparency* ensures that authorities supply information to citizens, *upward transparency* facilitates state surveillance over the public (Fox 2007). 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. This is a critical issue that we revisit.

If we extend our conceptual mapping, we find that *agent-controlled transparency* is itself a divisible category. One of the concept's subcategories is *proactive*

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<sup>4</sup> 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."

*dissemination*, which may be understood as the process by which public institutions regularly—and without prodding—provide information about its activities and performance (Fox 2007). The other subcategory is known as *demand-driven access*, which represents the institutional commitment to respond to citizens’ requests for specific kinds of information that otherwise would be inaccessible (ibid.).

FOIAs, then, may be thought of as a disclosure mechanism that enables *downward* and *agent-controlled transparency*, while promoting *demand-driven access*. Importantly, FOIA has the potential of enabling other forms of transparency. For instance, FOIA may ensure the disclosure of information about the factors on which a decision was based (*transparency in rationale*), or it may guarantee the release of information about the deliberations, votes, and other actions that accompanied the decision-making (*transparency in process*) (Mansbridge 2009).<sup>5</sup> On the subject of quality, it is important to recognize that FOIA does not guarantee timely access to relevant information. This is where we revisit the difference between policy goals and policy enforcement.

Information needs to be relevant and of interest to citizens and public officials (Kosack and Fung 2014). On a continuum where, on one extreme, the information is, in fact, relevant and reliable there is *clear transparency* and, on the opposite extreme, there is *opaque transparency* (Fox 2007). In an effort to avoid *opaque transparency*, some have championed *targeted transparency*, understood as precise, standardized, and timely information requirements set by policymakers on public and private organizations (Fung et al. 2007). However, the universe of records is nearly boundless (Fenster 2015). So,

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<sup>5</sup> The concept of transparency in process shares similarities with the concept of transparency in retrospect (De Fine Licht et al. 2014).



while we recognize the virtues of *targeted transparency*, 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 frees citizens to develop and submit information requests that fit the needs of the time. There is plenty to be gained from a dynamic, if less targeted, form of transparency.

Following this logic, we introduce a new concept: *dynamic transparency*. This term is meant to assist the process of evaluating FOIA. 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. When such an exchange is achieved, then FOIA can be said to offer *dynamic transparency*.

Enacting FOIAs and, then, achieving *dynamic transparency* are only the first of many steps in the causal chain towards accountability.<sup>6</sup> Other factors are required for FOIAs to actually have an impact in reducing corruption—for instance, information will only heighten accountability if wrongdoers face punishment (Becker and Stigler 1974). But given these considerations, it is understandable that the empirical evidence on the effects of FOIAs and transparency is mixed, as discussed by Fox (2015).

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 US 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)

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<sup>6</sup> Roberts (2016) pinpoints eight steps, starting with the need for government documents to prove reliable in recording malfeasance.

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 in paper, it has encountered various obstacles in practice. Fox, Haight and Palmer-Rubin (2010) and Fox and Haight (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. Importantly, they also audit the quality of responses to 350 information requests by the five federal entities with the highest number of requests between 2003 and 2005. To the law's credit, they find that 74.6% of information requests are classified as answered. But because the process of classifying information requests is handled by the same entities that provide the information, the authors find that the statistics are inflated: many requests are shown as answered when they are not. The authors' audit exposes additional concerns, such as entities frequently claiming that the information requested does not exist.<sup>7</sup> Their work, which includes an evaluation of the INAI's unique adjudication system, also finds that the semi-autonomous institute tends to rule in favor of individuals requesting information and against entities denying said information.

The work by Fox and coauthors provides a vantage point from which to further evaluate Mexico's FOIA. Their study, however, does not control for variation in the

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<sup>7</sup> Other studies of Mexico's FOIA, also relying on administrative data, reveal similar patterns as those shown by Fox and coauthors. For instance, Bookman and Guerrero (2009) find that entities increasingly claimed between 2003 and 2008 that information requested did not exist. Similar to Fox and coauthors, Doyle et al. (2008) show that requests are answered satisfactorily about 76% of the time.

characteristics of the information requests (such as the complexity or sensitivity of the information requested) or the characteristics of the people submitting requests. Furthermore, the audit component, though thorough, is limited to the five government entities that received the most requests between 2003 and 2005. These entities are also some of the largest government entities, such as the Social Security Institute and the Ministry of Public Education. Their size and prominence may affect how they respond to requests. Finally, the audit focuses on the three years following the enactment of the law, but compliance could change with time.

Our study adds to this discussion about FOIAs. Controlling for key variables, such as seasonal effects and question type, we develop a dataset from information requests that we submitted ourselves. This dataset 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.

Researchers have also carried out FOIA experiments beyond so-called emerging markets. Worthy, John, and Vannoni (2015) test whether a formal FOIA request is more effective in obtaining information from local parish councils—the lowest administrative unit in the United Kingdom—than an informal ask. They find that FOIA requests are twice as effective as informal asks at securing a reply from a parish council. In the US, Lewis and Wood (2012) find that entities designed to be the most responsive to elected officials are the least likely to reply to a FOIA request when compared to insulated entities, like the Federal Reserve.<sup>8</sup>

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<sup>8</sup> To reference another relevant study, Cuiller (2010) conducts experiments to determine what tactics are most effective at ensuring compliance through FOIA requests.

## Study Description

Our study examines how Mexican government entities respond to information requests and whether the country's FOIA achieves *dynamic transparency* by guaranteeing access to relevant information within the legal time frame, irrespective of the requester's perceived level of influence. We sent information requests containing fourteen 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.<sup>9</sup> 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 directors convey limited personal commitment to transparency, as evidenced by their choice to keep their asset declaration private. In fact, only about 27% 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.

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<sup>9</sup> 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.

**Table 1.**

Descriptive Characteristics of the Probed Government Entities (as of 2015)

<b>Variable</b>	<b>Mean</b>
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: <ul style="list-style-type: none"><li>• INAI. "Consulta la Información del Gobierno Federal". Online, 2015. <a href="http://portaltransparencia.gob.mx/buscador/search/search.do?">Portal de Obligaciones de Transparencia</a>. May 25 2016.</li><li>• SFP. "Búsqueda". Online, 2015. <a href="http://servidorespublicos.gob.mx/">Registro de Servidores Públicos</a>. May 25 2016.</li></ul>	

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.<sup>10</sup> 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.

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<sup>10</sup> 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

	<b>Group A</b>	<b>Group B</b>
January <b>2007</b>	Average ID n=110	Influential ID n=87
January <b>2013</b>	Average ID n=110	
January <b>2015</b>		Average ID n=87
The three cells in light grey 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.<sup>11</sup> 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.

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<sup>11</sup> 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.

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 Calderon (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 (*PR*I). 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.

Regarding the embedded field experiment in 2007, while the average male civilian submitted information requests to entities in *Group A*, we submitted information requests to entities in *Group B* on behalf of a seemingly influential male civilian. This 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. 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 fourteen questions, a sufficiently large number for gauging entities' varying levels of responsiveness (see the Appendix for the list of the questions). The first ten questions asked for technical information that Mexico's FOIA 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 ten for a copy of the entity director's résumé.

The remaining four questions asked for personal information that a government committed to FOIA's full disclosure provision could choose to make public, such as whether the entity director has family members in government or how much the director earned in his previous job.<sup>12</sup> These questions ask for information that, while private in nature, is important for promoting accountability, particularly in a context where embezzlement, nepotism, patronage, and backroom deals remain common. Notably, some government entities *did* answer all fourteen questions, confirming that the selected questions were valid measurement tools.

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

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<sup>12</sup> Question fourteen, to look at another example, asked for the entity director's personal email address. Faced with this question, officials had legitimate reasons *not* to provide an answer. We considered this scenario when designing the study. Indeed, we meant to combine easier and harder questions as a means to give us detailed measures of commitment to transparency. We also accounted for the risk that officials have become reliant on personal email as a means to keep confidential certain communications about government/public affairs. This is an issue highlighted by one of the experts we interviewed in Mexico. Our interviewee explained how, as a government official, he himself would negotiate a public matter through the exchange of private emails. Then, once he and his colleagues reached a final decision, they would generate a public record of the official exchange by switching over to their institutional emails.

they released; and whether entities charged fees in exchange for answering information requests. Next, we examined data for the questions in the information requests. For instance, 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.

## **Main Results**

Table 3 summarizes the main outcomes.<sup>13</sup> Our first finding is that entities respond to information requests between 71 and 81% of the time. These coefficients are in the range observed by Fox and coauthors.

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.

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<sup>13</sup> 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
<b>Time to Respond, with or without an Answer (in Days)</b>	24.72	31.94	31.88	7.22*** (2.28)	7.16*** (2.15)	-0.05 (2.38)
<b>Time to Answer (in Days)</b>	27.63	34.43	33.91	6.80*** (2.48)	6.28*** (2.29)	-.52 (2.58)
<b>Charged a Fee<sup>†§</sup></b>	15.45%	21.82%	31.76%	6.37 (.05)	16.31*** (.06)	9.94 (.06)
<b>Answered the Information Request<sup>†</sup></b>	70.91%	71.82%	81.18%	0.91 (.06)	10.24* (.06)	9.33* (.05)
<b>Average Pages Provided<sup>‡</sup></b>	17.84	30.01	37.83	12.17 (7.68)	19.99* (11.27)	7.82 (12.58)
<b>No. of Questions Answered (out of 14)<sup>‡</sup></b>	6.40	6.41	6.68	0.01 (.62)	0.27 (.60)	0.27 (.61)
<b>Answer Rates<sup>‡</sup></b>						
<b>Q2 – Copy of Contracts</b>	30.00%	42.72%	40.91%	12.73	0.11	-0.02
<b>Q6 – Copy of Payroll</b>	62.72%	61.82%	50.00%	-0.01	-0.13*	-0.12*
<b>Q10 – Director’s Résumé</b>	43.64%	50.00%	37.50%	0.06	-0.06	-0.12*
<b>No. of Technical Questions Answered (out of 10)<sup>‡</sup></b>	5.95	5.99	6.17	0.04 (.56)	0.22 (.55)	0.19 (.55)
<b>No. of Personal Questions Answered (out of 4)<sup>‡</sup></b>	0.45	0.42	0.51	-0.04 (.12)	.05 (.12)	.09 (.12)

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).

Robust 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 has two implications. First, it 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. Second, the fact that government entities that answer an information request tend to answer a similar number of questions implies that the main barrier to obtaining information is the will of government officials to address a request. If government officials choose to answer an information request, then they tend to be as transparent as their peers.

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.<sup>14</sup> 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 impede access to information or at least to discourage citizens

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<sup>14</sup> This trend shares similarities with the one Roberts (1999) detects in Ontario, Canada.

from pursuing a request. This is a hypothesis that, while we are unable to test conclusively, we still attempt to address.<sup>15</sup>

We notice that entities charging fees are promising a seemingly excessive number of pages. Even dropping five extreme outliers, entities that charge a fee promise to deliver an average of 408 pages. It is worth noting that government entities that did not charge a fee provide an average of about 33 pages. Since entities can reasonably reply to our requests with fewer than 50 pages, we restate our concern: fee charges in exchange for government information may serve as a pretext to obstruct access. To further examine this hypothesis, we turn to different disclosure practices among similar government entities in our study's sample. For instance, one port operator provided 144 pages of scanned contracts without charging a fee. Meanwhile, a similar port operator asked for a payment to deliver 111 pages. Both entities are of a similar size in terms of their annual budgets and personnel. Why, then, does the entity promising fewer documents charge a fee while its counterpart delivers more pages for free? Faced with this question, we suggest that the practice of charging fees is suspicious.

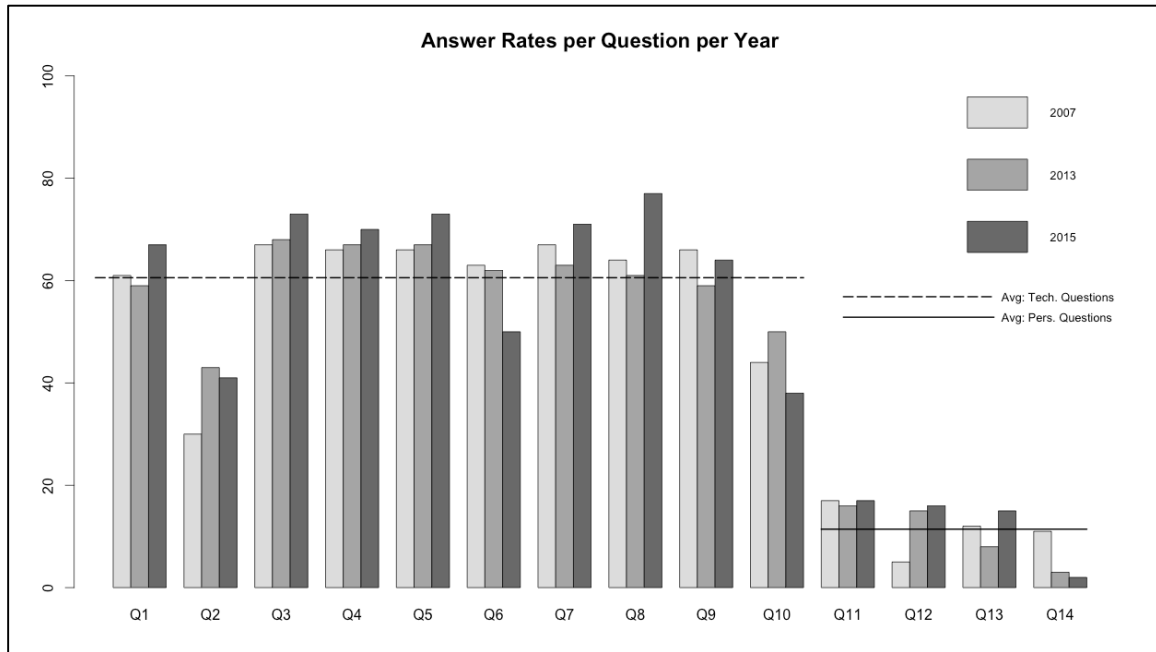
We now focus on the questions in the information requests. Figure 1 shows the yearly answer rate for each of the questions in the information requests. A key takeaway is the different rate at which government entities answered the first ten questions versus the last four questions. To an extent, this was to be expected. Compared to the first ten questions, the last four 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

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<sup>15</sup> As a reminder, all information requests in our study were submitted using pseudonyms. The disadvantage to this approach is that, according to INAI (2016), information for which there is a fee may only be obtained in person or sent by mail. In either case, the information would only be accessed when the requestor's real identity was revealed at the time of submitting the information request.

answer the first ten questions—and yet they answered these questions at an average rate of around 60%. No question was answered at a rate of 100%.

**Figure 1.**

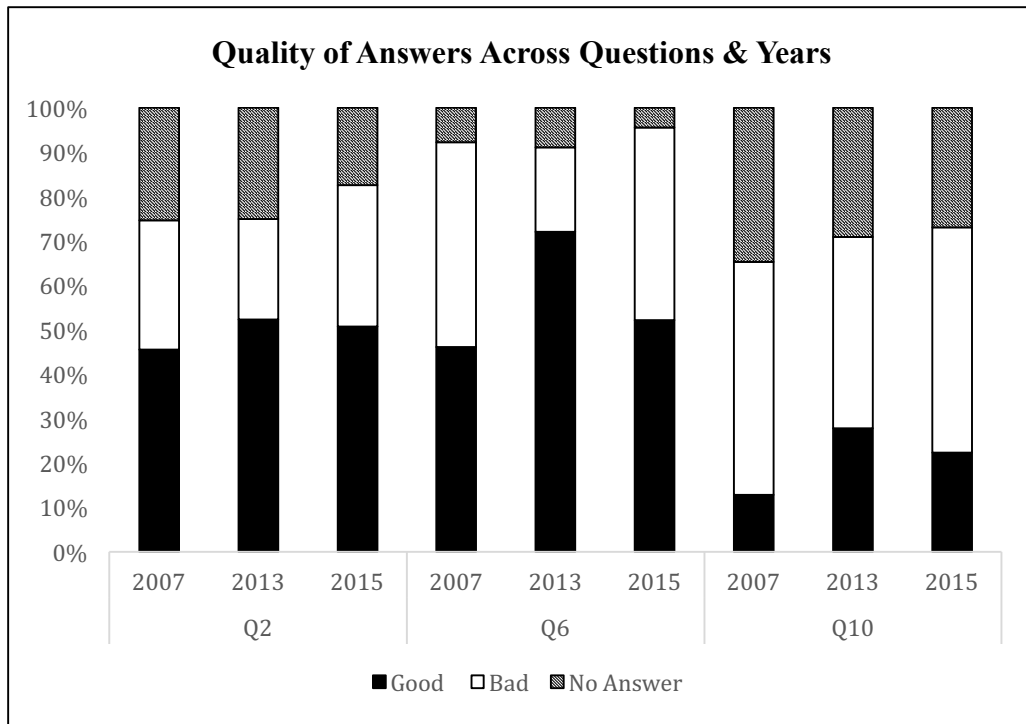


Regarding quality, we focus on questions two, six, and ten, as there was enough variation in the answers provided, allowing us to rate them as good or bad. Question two asks for a copy of contracts signed for consulting services, and question six asks for a copy of the entity’s payroll sheet. The law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

**Figure 2.**



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 a rise in good answers in 2013, but by 2015 it returns to the 2007 level with only 45 to 50% of answers coded as good. Finally, for question ten, we see low levels of good answers across the three years.

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.

## **Experimental Results**

As to the experiment on differential treatment, of the 197 divisions 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 have a statistically indistinguishable rate of information requests answered: 70.91% for the Average ID and 70.11% for the Influential ID.

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). Admittedly, this result is puzzling. 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." Since we used pseudonyms to submit the requests, we are not able to pay the fees to collect and analyze the promised



information (see footnote 10). With the available information, we are unable to interpret this result conclusively.

**Table 4.**

Testing for Differential Treatment in the 2007 Experiment

	<b>Group A (Average ID)</b>	<b>Group B (Influential ID)</b>	<b>Difference (P-values)</b>
Time to Respond, with or without an Answer (in Calendar Days)	24.72	27.40	-2.68 (0.24)
Answered the Information Request	70.91%	70.11%	0.79 (0.90)
Charged a Fee <sup>‡§</sup>	15.45%	26.44%	-10.98* (0.06)
Average Pages Provided	17.84	17.89	-0.05 (0.98)
No. of Questions Responded	6.4	5.98	0.42 (0.51)
<p>Calculations based on simple OLS regression, except where indicated. Robust standard errors in parenthesis. *** p&lt;0.01, ** p&lt;0.05, * p&lt;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. Thus, “Answered the Information Request” and “Charged a Fee” do not share the same denominator.</p> <p>This table reflects the means for the main outcome variables across the two experimental groups. The analysis is for 2007 only.</p>			

## Conclusion

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 systemic impact on the country's governance problem. Instead, we ask whether Mexico's FOIA has ensured answerability to the point of achieving *dynamic transparency*, the equitable provision of timely, relevant, and often new information about policy.

Faced with the risk of an implementation gap, our study shows that, if today, in Mexico, you submit an information request similar to ours, you will probably have to wait approximately a month before receiving a response. But you will likely receive 38 pages that answer most of your technical questions, regardless of your perceived level influence. However, you 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 you should be empowered to evaluate, do not expect to receive his CV or asset declaration in response to your FOIA. In terms of the quality of the information provided, expect mixed results. Thus, overall, Mexico's FOIA system works, but for it to achieve *dynamic transparency* we provide the following recommendations.

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.

On a final note, it is worth restating the fact that solving Mexico's accountability deficit requires more than *dynamic transparency*. 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.

## 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.	
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.	LFTAIPG Arts. 3.III, 7.VI, 40, 42
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.	
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
14	Personal email address (not an institutional one) of the head of this entity.	LFTAIPG Arts. 3.II, 3.III, 3.V, 7.III, 20.II, 21, 40, 42; LFDA Art. 4.II
<p>* <i>LFTAIPG</i> stands for "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."</p>		

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