

LOCAL TRANSPARENCY IN BRAZIL

Evaluating Compliance with the Access to Information
Law in the States and Largest Cities

Editor

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Introduction and Executive Summary

How transparent are state and municipal governments in Brazil? And do they spend taxpayer money in a way that conveys respect for the rights and interests of citizens? This reports looks into these questions on the eve of 2016 municipal elections in a country where the rule of law, accountability, and transparency are in flux (ALSTON et al., 2016; MICHENER, 2015b; MICHENER; PEREIRA, 2016; PEREIRA; MELO, 2013; PRAÇA; TAYLOR, 2014).

This transformation – an upsurge of commitments to transparency, greater coordination and enforcement among accountability institutions – has been occurring primarily at the federal level. Yet what of the local level? Life's daily needs are more local than federal, and local government in Brazil is generally regarded as lacking the administrative capacity and legal partiality of federal institutions.

Despite the importance and deficiencies of local governance, systematic subnational evaluations of transparency are comparatively rare (exceptions include GRIMMELIKHUIJSEN; WELCH, 2012; JOAQUIM FILIPE FERRAZ ESTEVES

DE ARAUJO; FRANCISCA TEJEDO-ROMERO, 2016; MANOHARAN, 2011; SOL, 2013). In Brazil, very little academic research exists, with most of it being localized at the state-level (exceptions include FIGUEIREDO; GAZONI, 2016; LUNKES et al., 2015; MATOS et al., 2013; STAROSCKY et al., 2014). Initiatives to measure transparency are frequently intended more to appeal to the media rather than to produce in-depth research.

While local transparency has been measured through several indexes – one at the state level by the *Ministerio Publico* and another at the municipal level by the *Controladoria Geral da Uniao* (now the *Ministerio de Transparência, Fiscalização e Controle*) – the current report offers a depth of insight and methodological rigor that sets it apart.

The current report begins by measuring transparency for the sake of gauging whether local governance is a ‘public affair’ as the word ‘republic’ (*res publica*) suggests, as the Brazilian constitution exhorts, and as the Law 12.527/2011 on Access to Public Information (ATI law) instructs. It features analyses of active and passive transparency, citizen information platforms, and regulating decrees. The remainder of the report examines critical administrative and public policies, principally at the subnational level, as well as analyzing active and passive transparency,

the provision of open data, and even the responses that public officials provide when they receive telephone calls regarding unanswered requests. Individual chapters gauge the sort of information local governments will provide about how they police, monitor, and collect data about their citizens, spend money to advertise their causes, remunerate their employees, and how the federal government and their local non-profit partners account for large outlays of public money in the form of partnership agreements.

Rather than exhaustive and thematically coherent, this report is a multidisciplinary exploration of the much-neglected realm of subnational transparency. Local governments and their corresponding commitments to transparency represent fertile ground for applied and scholarly research, particularly because of a series of unexplored paradoxes surrounding the challenges of compliance. The remainder of this introduction details three such paradoxes, and then provides a brief summary of each chapter.

Three Paradoxes of Local Transparency

Often described as the “oxygen of democracy” or a “right to affirm other rights”, transparency and access to public information laws play a critical

role in establishing the preconditions for government accountability and citizen participation in the affairs of state. It is a professionalizing and disciplining force: a constant reminder to public servants about who they serve and an exhortation to serve well. Serve well they must; citizens depend on effective local government services – policing, education, health, and sanitation – in their day-to-day lives.

Yet the current study highlights that city and state governments are reluctant or unable to make public how well they perform their jobs. This study highlights poor compliance with transparency, much of which can be summed up by three paradoxes surrounding the transparency of local government in Brazil. These observations may be equally applicable to other democracies, principally those in the process of consolidating the rule of law across subnational regions.

Locally Uninformed

Consider the following statement: the amount and quality of information we receive about our governments is often inversely proportional to the amount of influence they have on our lives. A first paradox is that citizens tend to be “locally uninformed”. Federal politics makes the news, but local governments shape our day-to-day lives. The effectiveness and efficiency

of our schools, policing, transportation, sanitation, preventive medical care, commuting and leisure spaces, among other essential services, are largely determined at the local level. Yet comparatively little is written or aired about local governments both in academia and in the news media. Moreover, the quality of local news media remains suspect in many parts of the world because of questions of independence, particularly in smaller locales. In the current study we touch upon this question by analyzing the transparency of government advertising.

Close but Closed

A second paradox is that while local governments are physically proximate to citizens, they are informationally closed and removed from citizens. Governments within closer physical reach of their citizens should intuitively be more open. Yet a growing body of research indicates an inverse relationship between levels of government and degrees of transparency, which appears to be mediated by levels of political and economic development. Analyzing data from transparency evaluations across the world, it appears that local governments tend to be more transparent than central governments in democratically advanced countries (see, for example, LAMBERT, 2013),

whereas the opposite holds true in less advanced democracies. For example, a large audit of cities, provinces, and the federal government in Canada finds baseline levels of municipal transparency much higher than those at the federal level (VALLANCE-JONES; KITAGAWA, 2015, p. 39–42). Conversely, evaluations and research undertaken within Brazil and across Latin America by Fundação Getúlio Vargas (FGV) researchers – including the current study – show that cities generally tend to have lower levels of transparency than federal governments (MICHENER, 2015c; MICHENER; MONCAU; VELASCO, 2014). Brazil’s federal government, for example, exhibits even higher compliance with transparency norms than its equivalent in Canada.

Given the importance of local governance, the paradox of “close but closed” represents a dilemma for transparency in Brazil that should not be lost on readers. One of the most important questions it raises is whether transparency is weaker at the local level because of a dearth of political will or a lack of administrative capacity. In other words, is poor local adherence to transparency the result of human or material under-capacitation, or systematic political avoidance? In many senses, this is a chicken-or-egg question in which leadership has tended to be the critical determinant

(BLANTON, 2003; SZEKELY, 2007; WORTHY, 2010). We come back to this theme in the report’s conclusion.

Vulnerability Paradox

The last paradox to be discussed stems from the public repercussions of transparency evaluations, as governments that are more transparent – and therefore furnish more information – become by their very transparency more susceptible to policy scrutiny and criticism. In other words, policy research based on evaluations of government data is more likely to offer critical assessments of governments that are more transparent, often because there is simply more information on which to base critiques.

Why is this paradox particularly relevant to local governments? In a country such as Brazil, where the federal government strives to impart the international image of being progressive, the benefits of being transparent are greater than the costs of being perceived as opaque (MICHENER, 2015b). Therefore, the federal government accepts transparency evaluations and their repercussions as inevitable. Yet the calculus is different for local governments, especially where citizens are passive and news media often lack independence. A politically rational local government might

find it advantageous to pay only superficial attention to transparency obligations, especially when no supranational or local institution acts as an enforcement mechanism.

One of the most glaring problems for subnational transparency in Brazil is the absence of dedicated oversight authorities. No one institution – neither the State Public Prosecutors, nor the State Comptroller Generals, nor the State Audit Courts – have stepped up to take responsibility for the enforcement of Brazil’s access to information law. Each state and each city adopts its own approach, which often results in no approach at all. In this context, the need for greater evaluation and enforcement of local transparency becomes imperative. The most urgent priority should be to move towards greater standardization and universal enforcement, as exemplified by Mexico’s National Institute of Access to Information (INAI). The INAI is a constitutionally autonomous entity, coordinated centrally, and represented throughout Mexico’s federation. It implements, promotes, and enforces policy across all levels of government and all powers, including political parties and state-owned enterprises. Although Brazil is not likely to adopt its own INAI anytime soon, one alternative would be to impart greater oversight and enforcement responsibilities to the *Ministerio Público* (Public Prosecutor).

Whatever option is selected, the dilemma of subpar local transparency cannot be ignored, especially in a country that suffers from acute policy coordination dilemmas, corruption, and inefficiency – all of which might find some remedy in greater transparency.

The following report is divided into five chapters that are summarized and organized as follows.

Chapter 1 – Evaluating Transparency in Brazil’s Major Cities and States

The first chapter seeks to evaluate formal and informal compliance by subnational administrations with Law 12.527/2011 on Access to Public Information (ATI law) at three levels: a) the quality of municipal decrees that regulate the implementation of the ATI law, b) platforms for requesting public information and c) active transparency. The active transparency analysis assessed compliance with requirements for public agencies to publicize information of public information on their website, as set out in Article 8 of the ATI law. In addition to this active transparency analysis, a passive transparency analysis was conducted on the answers provided to ATI requests in order to develop a deeper understanding of local implementation and management of the ATI law.

The research in chapter 1 utilized methodologies developed by the Fundação Getúlio Vargas Public Transparency Program (PTP-FGV) over the last three years. Municipal and state regulations were examined to evaluate the regulation of the implementation of the ATI law and to identify any obstacles or omissions that affect the right to access information. The platforms or channels for making ATI requests were also evaluated. They scored the ease of making a request, the ability to monitor and track request progress, and barriers to access, such as the requirement to provide personal information unobligated by law.

The active transparency evaluation is perhaps the most significant contribution of the chapter. It assessed whether governmental webpages complied with article 8 of law 12.527, which sets out six items that must be published by all agencies. The evaluation is based on the Eight Principles of Open Data, which mandate that data be complete, timely, primary, machine processable, accessible, nondiscriminatory, in a non-proprietary data format, and not subject to restrictive licenses regulating their use (see Appendix 1 to this report). A General Index of Active Transparency was created by taking the simple average of the above dimensions and multiplying them by the coefficient of what we

refer to as ‘essential completeness’. Essential completeness encompasses items that are indispensable to making sense of information. If the dates of expenditures are missing, for example, the overall result would reflect these critical gaps. This methodology, which uses a logic of necessary and sufficient conditions, is better adapted to evaluating policies, which function as interdependent wholes (MICHENER, 2015a).

Finally, we also assessed the implementation of the ATI Law. We did so by sending standardized ATI requests to all evaluated units on the themes of accountability, statistical monitoring and actual implementation measures, as well as follow-up questions on regulations, platforms and active transparency if gaps had been identified during the analyses outlined above. Responses to these requests were examined based on the response rate, the accuracy rate of responses and the average time to respond in days for each request sent.

The results obtained were quite heterogeneous, suggesting that there is still much ground to be covered. While a number of cities and states showed satisfactory results, many failed to comply with their legal obligations, particularly in the area of active transparency (average score of 36.45%). A significant part of low compliance with the ATI law can be attributed to a failure to

meet fundamental requirements of the legislation, such as the active transparency obligations that require governments to publicize procurement contracts and payments. Another cause for concern were some regulatory decrees (5 cities and states) and information access platforms (12 cities and states). Here, we encountered additional obligations outside the scope of the law or undue requirements in the process of accessing public information. On the other hand, the results also show that when a municipal agency harbors an employee or a unit responsible for receiving ATI requests, the accuracy rate of responses rises considerably. We revisit this important finding in the report's conclusion.

Chapter 2 - A Transparency Evaluation of Municipal Information Technology and Personal Data Management Policies

The second chapter evaluates the transparency of Brazilian municipalities in relation to their information management policies and handling of the personal data of citizens. It also examines the implementation of new technologies for urban monitoring and surveillance.

Population growth in urban settings is bringing about new challenges for

public administrations in sectors such as mobility, sustainability, security, and access to education and healthcare. In Brazil, the use of information and communications technologies (ICT) to facilitate public administration accelerated due to mega-events such as the World Cup and the Olympics. These events have encouraged smart city initiatives in areas such as public safety and civil defense. They complement e-government policies already in place, increasing the amount of citizen data collected, ostensibly as a means of supporting decision-making and improving the provision of public services.

Six different requests for information were sent to 43 municipalities (a total of 258 ATI requests) in order to assess the transparency of municipalities in relation to their policies for managing citizen information and handling data. The questions examined the extent to which municipalities were implementing e-government and smart city initiatives and the type of information being processed, as well as the policies, limits, guarantees and institutions to deal with citizen data. Researchers inquired into the existence of integrated command and control centers for monitoring and surveillance, agreements with private companies or purchases of technology for monitoring and surveillance, e-government initiatives, the use of webpage analytics, as well

as policies, departments, or personnel focused on the management of information and information security.

Of 258 requests sent, 134 received responses, corresponding to a response rate of 52%. Of these responses, 80 were evaluated as accurate, meaning that 29% of total requests received a relevant response that directly addressed the information required.

These low response rates and low accuracy scores indicate that municipalities are unprepared to meet their transparency obligations. While some municipalities demonstrated good performance and provided complete and accurate response, the high number of municipalities that did not respond, or did not respond accurately is cause for concern. An additional concern was the identification of some responses, which, while classified as accurate in terms of addressing the request, were of doubtful veracity. Based on the results obtained, it is possible to conclude that the majority of municipalities evaluated were not prepared to respond to ATI requests on the topics under investigation or when they were, they did not have the capacity to respond accurately.

Chapter 3 - Transparency and Government Advertising: Increasing Expenditures and Accountability

The third chapter presents an evaluation of expenditures on governmental advertising and publicity by municipal administrations. Governmental spending on advertising is important, as governments should inform populations about urgent actions and justify decisions. However, government spending on advertising can also be used to promote incumbent politicians, attempt to control the media or even as a mechanism for money laundering or misappropriation of public funds. A lack of transparency in advertising expenditures can increase the potential for abuse. Large amounts of public resources are allocated to advertising; however, there is little information on how these funds are spent, particularly at the municipal level. This chapter presents the results of an investigation into the relationship between municipal expenditures, population and annual budget, evaluating whether municipalities are transparent regarding the use of these resources.

Researchers used transparency mechanisms such as evaluation of government websites, access to information (ATI) requests and telephone contacts to collect information on governmental

advertising expenditure in the two largest municipalities for each state, as well as the Federal District. While municipal governments appear to be improving their transparency practices, the level of compliance is still far below expectations – only 30% of municipalities provided at least some of the requested information. Of the 52 cities analyzed, a total of 20 municipalities did not respond to repeated requests for access to information. As the study focused on larger municipalities, it is possible that researchers would have found even lower levels of transparency in smaller municipalities.

In addition to the widespread difficulty of obtaining information on advertising expenditures, researchers identified a few extreme cases. The city of Rio de Janeiro spent R\$ 107 million on government advertising in 2015 (based on media reports, given the city did not respond to ATI requests). The city of Manaus' spent more than R\$40 per inhabitant, nearly 2% of the municipal budget. In some municipalities, spending on governmental advertising was higher than the budgets for municipal agencies such as Departments of Culture or the Environment. These results suggest that there are significant inefficiencies in the distribution of resources, particularly given that a large part of the information disseminated at high costs to the public could be

published on social media and the Internet for a fraction of the cost.

This study also discovered that some governmental entities are in the process of approving laws that would limit government advertising to as much as 1% of the budget or 1% of revenues. This limit would imply a questionably high per-capita cost for advertising, and such a policy might encourage those municipalities that currently spend well below 1% to increase their spending on this questionable expense.

Chapter 4 - Transparency and Inequality in the Remuneration of Public Servants

The fourth chapter examines public remuneration in the context of Brazil's infamously high levels of social inequality. Previous studies have evaluated the impact of public servants on socioeconomic inequality in Brazil and analyzed the correspondence between public and private sector wages. However, to date there has been little research undertaken on the level of inequality within the public sector itself.

Using Law 12.527/2011 on Access to Public Information (ATI Law), data on employee remuneration was obtained from 80 state (Judiciary and Executive) and municipal (Executive) governments. The level of transparency of each entity was analyzed, both active and passive. Among the 26 ATI requests sent, 19

(73%) received responses, but only 6 (23%) responses were deemed accurate.

The data was analyzed to determine the level of inequality within public agencies. First, the Gini coefficient of the distribution of annual income among public servants within each agency was calculated. Then, the level of inequality was compared to that of the general population of the relevant state as well as with other states, professions, and countries. All of the public administrations (city governments and courts) analyzed unsurprisingly had lower Gini coefficients than their respective states or municipalities. However, the values were still high, particularly considering the homogeneity of the evaluated group. For example, the city government of Teresina, the capital of the state of Piauí, presented the highest rate of inequality, with a Gini of 0.417. For illustrative purposes, this value is higher than the Gini coefficient for countries such as Côte d'Ivoire, Djibouti, and Morocco.

Researchers also analyzed net remuneration for each profession, revealing enormous disparities. The lowest value corresponded to the average monthly salary of municipal teachers in Rio Branco (R\$2,085.41). These salaries contrasted sharply with the average monthly salary of judges from the Appeal Courts of Espírito Santo (R\$ 31,535.75). The results obtained suggest there is considerable disparity in the distribution of remuneration

within the public sector, particularly among different careers. Striking disparities were also found between different states and municipalities within the same profession. Police in the Federal District, for example, earn nearly twice the salaries of police in the state of Pernambuco. This study, developed with the intent of raising new questions and hypotheses, sought to offer opportunities for considering the extent, causes and effects of inequality within subnational public administrations.

Chapter 5 – Public Funds and Non-Profit Organizations: Evaluating Transparency and Accountability

The fifth chapter evaluates the transparency of federal partnership agreements with nonprofit organizations. In Brazil, nonprofits received more than R\$8 billion in federal funds during 2015. Nonprofits typically engage in the provision of public services and, ideally, governments select nonprofits through objective, standardized rules and monitor their activities, while nonprofits remains accountable to both the government and citizens, principally by disclosing their funding, management, and activities. The current study revealed that the transparency of partnership

agreements is extremely deficient.

The Law 12.527/2011 on Access to Public Information (ATI law) and the new Regulatory Framework for Civil Society Organizations (MROSC in Portuguese) require nonprofits that receive public resources to publish certain information on their websites. Using these legal requirements as a benchmark, the primary objective of this study was to evaluate nonprofit websites to assess whether nonprofits comply with their legal obligations for active transparency. It is important to note that the study is in some ways prospective; the MROSC law only comes into effect in January 2017.

The active transparency evaluation, which analyzed the two most expensive partnership agreements in the two largest cities in each state, found extremely mixed results. Fully 30% of the 104 nonprofits analyzed did not have websites, and only 18 of the remaining 73 organizations received a score higher than zero. This last result can be attributed to the failure of nonprofits to disclose their partnership contracts with government, as required by law. Additionally, only 39% of websites included annual reports, 34% included financial accounts, 19%

included internal and external audits, 15% of websites included work team remuneration, and a mere 13.7% included a work plan with stated goals.

In order to evaluate the transparency of public agencies in managing partnership agreements with nonprofits, access to information requests were sent to the 23 ministries involved in nonprofit partnership selection and management. All 23 ministries responded to the request, with highly accurate responses. Of the 23 responses, four declined to provide information on the basis that they did not have active partnership agreements with nonprofits, and one (the Ministry of Education) declined to provide information on the basis that the request was too generic. While it appears that the rules controlling partnerships with nonprofits are widely known, the process of selection and monitoring is still not well defined. Evaluation of ministry responses revealed that ministries designated no unit or personnel to manage the selection and monitoring of the partnership agreements, and that the selection criteria changed for each tender issued.

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Chapter 1

EVALUATING THE IMPLEMENTATION OF THE ACCESS TO INFORMATION LAW IN BRAZIL'S STATES AND CAPITALS

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1.1 Introduction

How transparent are Brazil's major cities and states? The governments of the states and larger municipalities set examples for smaller states and cities, exerting an important "demonstration effect" (BRINKS; COPPEDGE, 2006). It is therefore critical that these trendsetting jurisdictions are, in effect, adequately complying with Brazil's Access to Public Information Law (ATI law), 12.527/2011.

This study aims to evaluate formal and informal compliance with the transparency process on three levels: a) the quality of the municipal decrees regulating the implementation of the ATI law; b) platforms for

requesting public information, sending appeals, and receiving responses; and, c) obligatory active transparency, being defined as information every public agency is compelled by law to make public. Hence, we seek to understand in further detail how states and large cities in Brazil are tackling the challenges of implementing and complying with the ATI law.

The results show that many federative entities still do not meet the requirements set forth in the ATI law. The principal explanation for poor compliance with this law can be traced to fundamental parts of legislation that are not being followed, such as active transparency obligations that require governments to publish contracted and paid procurement values.

This chapter is organized into three sections. In the first section, we briefly introduce the theoretical bases upon which we develop this study; here we present the relevance of key features of the ATI law, such as the regulatory decrees, platforms for requesting public information, management of the ATI law, and active transparency. The second section focuses on the methodology used to assess transparency in three dimensions:

- 1 – verification of the legality of the local decrees regulating the ATI law;
- 2 – evaluation of the quality of the platforms and other means of making freedom of information requests;
- 3 – analysis of the responses

to requests leading to a deeper understanding of local management of the ATI law. In the third and final section, we present the results and discuss the compulsory nature of active transparency. Furthermore, we evaluate the publication of data relative to article 8 of the ATI law, investigating whether organizational structure, programs and actions, expenditures, procurement, and partnerships were all made public.

1.2 Theoretical Basis of the Evaluation

This section presents the elements that will be evaluated and outlines the details and relevance of each one.

a) Regulatory decrees: these regulations are equivalent to the powers granted to the states, to the federal district, and to the municipalities. Based upon article 18 of the constitution, subnational entities have the administrative, financial and political powers to govern and exercise their own administration. This autonomy is a political prerogative granted and limited by the Constitution of the Republic. Without exception, Brazil's federative entities chose to elaborate regulatory decrees to apply the ATI law (12.527) to state and municipal needs, as authorized by article 45 of this law.

The report entitled *Estado Brasileiro e*

Transparência (MICHENER; MONCAU; VELASCO, 2014) verified that Rio de Janeiro's regulatory decree nº 43.597 did not comply with the federal law. In addition, a study by MICHENER and FURTADO RODRIGUES (2014) revealed that five of the decrees regulating the 14 ATI laws in Latin America contain requirements that exceed the obligations imposed by law. For example, decree (136/2011), which regulates El Salvador's law (534/2010) requires the petitioner to present a copy of their identification in order to request information.

In recognition that regulations impose additional burdens, many of which can be illegal, the present study evaluates the regulatory decrees in the states and capitals and their adhesion to the law.

b) Platforms for Requesting Public Information: in contrast to 'contact us' pages and email, electronic platforms improve citizens' ability to communicate with government in order to consolidate the process of requesting information, appealing and receiving responses. This resource is not a formal requirement, but is considered an international best practice (FUMEGA, 2015). Research has shown (MICHENER; BIZZO, 2016; MICHENER; MONCAU; VELASCO, 2014, p. 65–75) that the response rates of requests made by email or other means are significantly lower

than those made through integrated platforms conceived specifically for this purpose. In other words, platforms such as the federal government's Electronic Service System for Citizens' Information (e-SIC) allow for better access to public information. Furthermore, the federal government provides the platform free of charge to any federative entity that wants to establish one, in addition to offering technical aid to implement it. Thus, it should be difficult for municipalities to justify the absence of these platforms. However, some of these platforms present barriers to accessing information. For example, some of these platforms require users to provide information, a practice specifically prohibited by federal law, including the applicants' sex or marriage status. Evaluating these channels is based on the idea that obstacles within the requesting procedure might discourage people from initiating the process, thereby making it difficult for people to exercise their political rights.

c) Management of the ATI law: the evaluation sought to understand the management of the ATI law with respect to responsibilities, statistical monitoring, implementation and planning. The questions described in the methodological section were all made through requests. Thus, this component of the analysis provides

information on management of the ATI law, seeking to understand why there are irregularities or shortcomings in its implementation. It also evaluates the political will to respond to requests. Clearly, compliance is a reflection of implementation and vice-versa (BOOKMAN; GUERRERO AMPARÁN, 2009; DARCH; UNDERWOOD, 2005; RODRÍGUEZ LUGARI, 2003; ZUIDERWIJK; JANSSEN, 2014). Implementation and compliance, in turn, reflect the degree of political leadership in fostering agency-wide commitments for transparency (BLANTON, 2003). In this regard, the responses to our requests reflect the degree of commitments to transparency demonstrated by the evaluated entities.

d) Active transparency: Brazil's access to information law states that every public entity, except municipalities with fewer than 10,000 inhabitants, is required to publish information of general or collective interest on their websites. If this law were followed, the need to request information would be extremely limited due to the great quantity and quality of information made available compulsorily or voluntarily (DARBISHIRE, 2010, p.15-18). Unfortunately, as democracies still harbor an administrative culture of secrecy, it is necessary to implement

legal obligations (VILLENEUVE, 2014). Article 8 of the ATI law presents mandatory publication of six categories of information. Of these six categories, five were evaluated in this study for each jurisdiction, including organizational structure and details regarding opening hours and contact information, programs and actions, expenditures, procurement contracts and partnership agreements. The sixth, 'frequently asked questions', was not considered due to the extreme difficulty of assessing its quality, in addition to being of little relevance.

1.3 Methodology

The methodologies used to evaluate the four dimensions of public transparency were developed for simplicity, validity and reliability of techniques and instruments. All data was coded by two researchers in order to ensure an acceptable level of objectivity and reliability.

The regulatory decrees of each state and capital were also analyzed, in order to confirm that directives for implementing law 12.527 are consistent with the spirit of the measure. The selected jurisdictions are presented in Table 1.

Table 1 Jurisdictions Evaluated
(States and Capitals)

Considering Federal Regulation nº 7724/12, for each entity, we examined

State		Capital
Acre	AC	Rio Branco
Alagoas	AL	Maceió
Amazonas	AM	Manaus
Amapá	AP	Macapá
Bahia	BA	Salvador
Ceará	CE	Fortaleza
Distrito Federal	DF	-
Espírito Santo	ES	Vitória
Goiás	GO	Goiânia
Maranhão	MA	São Luís
Minas Gerais	MG	Belo Horizonte
Mato G. do Sul	MS	Campo Grande
Mato Grosso	MT	Cuiabá
Pará	PA	Belém
Paraíba	PB	João Pessoa
Pernambuco	PE	Recife
Piauí	PI	Teresina
Paraná	PR	Curitiba
Rio de Janeiro	RJ	Rio de Janeiro
Rio G. do Norte	RN	Natal
Rondônia	RO	Porto Velho
Roraima	RR	Boa Vista
Rio G. do Sul	RS	Porto Alegre
Santa Catarina	SC	Florianópolis
Sergipe	SE	Aracajú
São Paulo	SP	São Paulo
Tocantins	TO	Palmas

the municipal or state regulations and analyzed the following factors:

1. Has an e-SIC platform been established?

2. Has a Commission for the Reevaluation of Information been established?

3. Does the entity promote a “culture of transparency”?

4. Are there sanctions if public servants do not comply with the ATI law?

5. Is information available on the different levels of confidentiality?

The first three points investigate obstacles or omissions that complicate the process of accessing public information. Of the five factors presented, four evaluate the presence of policies which can generate further repercussions: 1 – final commission to decide on appeals; 2 – support for the promotion of transparency; 3 – rules relating to sanctions; and 4 – confidentiality of non-published information. Thus, these factors provide a sample of relevant points with important potential impacts for the right to access public information.

1.3.1 Evaluation of Platforms

In addition to evaluating the state and municipal ATI regulations, we also analyzed the channels through which requests are submitted. This evaluation consisted of three questions composed of three theoretical dimensions. The first question evaluated whether the system was user-friendly along the

following lines: sending requests and appeals, and receiving responses therein. The second question evaluated the ability to monitor the progress of an information request. Protocol numbers are important, as they provide proof a request was sent and allow the user to track the request through the process. The third question evaluated discrimination. This question examined whether there were policies requiring petitioners to reveal more personal information than what is established by law, or if there was any restriction in the way a request is made, such as, for example, a limit on the number of characters entered into a portal.

The three dimensions – *communication and accessibility* of the platform, the *traceability* of requests, and presence of *barriers* to access to information were folded into one score and assigned points as follows:

1. Platform communication and accessibility

100 = if it is possible to send a request, receive responses and make appeals through the platform;
 50 = if the platform allows users to a) send requests and receive responses, or b) provides a dedicated email address for access to information;
 0 = if there is no platform or dedicated email address for access to information.

2. User name and receipts

100 = if the platform for sending requests and receiving responses provides a specific user name;

50 = if the process provides either a receipt or a protocol number for the request;

0 = if the process provides neither receipt nor protocol number.

3. Barriers to access

100 = does not impose a character limit and does not require personal information beyond name, CPF/RG and contact;

50 = does not require personal information beyond name, CPF/RG and contact; however, imposes character limit;

0 = requires personal information in addition to name, CPF/RG and contact.

1.3.2 Evaluation of the Management of the Access to Information Law

Implementing the ATI law is a precondition for full compliance. In order to evaluate management of the ATI law, we sent at least three standard requests to all evaluated units. These requests cover the themes of accountability, statistical monitoring and concrete implementation measures. From the results of the analyses regarding a) the regulations, b) the platforms, and c) active transparency, we added requests referring to the relevant item(s) as outlined in the request format below.

The request process followed a

standard procedure. For each state and municipal government, we looked for their official transparency websites. Some of them provided an e-SIC system, but for those that did not, we sought an appropriate email address for the application of the procedures of the ATI law. In scenarios where this did not exist, we sought other means of digital communication such as a 'contact us' address or a general-use email address to make our request. Entities are obligated by law to respond within a period of 20 days, with the option to advise requesters of a further 10-day extension. The requests were all sent between July 2nd and 8th 2016, and were all in the following format:

Based on Law 12.527/2011, we would like to request all relevant documents for:

- a) The choice of authorities specifically designated to implement, administer and comply with the Access to Information Law. Please, provide their names and contact details;*
- b) The number of requests sent, responded and denied during the past year. If possible, we would like to receive this information segregated by agency and topic, and if the request was denied, the justification for the rejection, based on Law 12.527/11;*
- c) Concrete measures for the*

implementation of Law 12.527/11.;

If the entity did not have a dedicated platform for access to information, we sent the following request:

d) The plans or progress made toward the implementation of an e-SIC platform, which are available free of charge from the CGU – Ministry of Transparency, Monitoring and Control, along with technical assistance;

If it was not possible to find the regulation, we sent the following question:

e) Plans or progress made toward reforming or announcing a municipal Regulation based on the best practices of Decree 7724/12;

If the entity had not implemented active transparency measures, we sent the following request:

f) Plans or progress made toward the adequate publication of information on the Transparency Portal, according to the obligations set forth in Law 12.527/11;

For all requests denied or ignored, we appealed through the e-SIC platform itself, or we sent the protocol number to the Ombudsman's office. Most of the entities presented a contact form on the website.

The next step was to evaluate the response rate, the 'accuracy' of responses (the accuracy rate), and the average response time. These metrics are identical to those employed in the

FGV-PTP's first report, *Estado Brasileiro e Transparência* (MICHENER; MONCAU; VELASCO, 2014, p. 25–29). The three metrics investigated were scored by two independent researchers in order to ensure objectivity. After being scored, inter-coder reliability was computed using the kappa (Cohen) statistic.

The response rate is the proportion of responses to requests by a specific agency, while the accuracy rate measures the proportion of accurate responses to the requests sent. In other words, an evaluation of accuracy means the response contained a minimum correlation and congruence with the objective of the access to information request. Finally, the average time to respond is based on the number of days between the request sent and a response received. All of these metrics serve as indicators of institutional commitment to the full implementation of the ATI law.

1.3.3 Active Transparency

The active transparency evaluation seeks to assess compliance with article 8 of the ATI law. As mentioned above, we evaluate five items – organizational structure, programs and actions, expenditures, procurement, and partnership agreements. We looked for these items in the transparency portals' main web pages and evaluated them based on the eight Principles of Open Data. These principles include

the requirement that data be complete, timely, primary, machine processable, accessible, non-discriminatory, in a non-proprietary format, and not subject to restrictive licenses regulating their use. Obviously, the 'eight principles' were applied in a selective manner since the qualitative data cannot be scored on its 'processability', for example. It is also important to note that many principles are evaluated based on an analysis of the website as a whole, such as licenses regulating the use of the data. The appendix details the evaluation of the items investigated according to a) the protocol guiding the evaluators' actions, and b) the principles of transparency and corresponding indicators. For quantitative items, such as expenditures, procurement, transfers, or partnership agreements, we divided *completeness* into two dimensions: the *essential* dimension and the *non-essential* dimension. This is because some of this information is so necessary that its absence makes the evaluation of the item lose much of its meaning (MICHENER, 2015). Consider 'expenditures', for example: without the values of the expenditures or its object, a full evaluation of expenditures becomes impossible.

Below, we present a summary of the general concept of the evaluation process, and the ideas surrounding some of the multidimensional principles.

Items

1. Organizational Structure, Programs and Actions

For the organizational structure, the objective is to verify the presence of institutional information such as the names of the different administrative units, addresses, business hours and contact details. For programs and actions, the aim is to check whether there is a of the programs, actions or projects of the agency in question and a description providing at least the general objectives for each program or action. This item was evaluated mainly upon the principles of completeness and accessibility.

2. Expenditures, Procurement, Budget Transfers and Partnership Agreements

Expenditures were subject to dimensions of evaluation: essential attributes of data presented, non-essential attributes, and the longitudinal extension of the data (in months). The evaluator used a sample, determined by date or object/type, in order to provide a score. The form and the content were evaluated, but no attempt was made to verify the truthfulness or reasonableness of the data presented.

3. Principles of Completeness and Accessibility

We defined completeness in line with the methodology described above: for quantitative items, we evaluated

essential and non-essential attributes of the data; for qualitative items, we simply evaluated the degree to which stipulated items were being disclosed. *Accessibility* is a multidimensional principle. Websites and information should be accessible in three ways: a) accessible to people with disabilities; b) easily findable; and c) easily leading to a conclusion or inference (MICHENER; BERSCH, 2013). The indicators of these dimensions and principles can be found in the appendix in the document entitled *Methodology – Public Transparency Program – Evaluation of Active Transparency*.

1.3.4 Scoring Active Transparency

After gathering the data from the analyses described in this section, we created the General Index of Active Transparency. The score for each of the five items evaluated – ‘organizational structure’, ‘programs and actions’, ‘expenditures’, ‘procurement contracts’ and ‘partnership agreements and voluntary transfers’ – was calculated. For items where essential ‘completeness’ was measured, the simple average of all dimensions was multiplied by completeness. This means that if [essential] completeness scored 50/100, and the average of all the other dimensions ‘completeness (non-essential)’, ‘machine processability’, ‘the extent to which data is primary’, ‘timeliness’,

'accessibility', 'the principle of nondiscrimination', and the presence of an open license – scored 80/100, the equation would be 0.5 multiplied by 80, giving a final score of 40/100.

The logic of multiplying the total results by 'completeness (essential)' is based on the literature on concept formation (ADCOCK; COLLIER, 2002; GERRING, 1999; GOERTZ, 2006; SARTORI, 1970). The traditional problem of composite indices is that the aggregation process does not compensate for the absence of essential elements. This is a recurrent problem when indices are used to measure policies. Policies contain interdependent parts (MICHENER, 2015). Without values, for example, the 'expenditures' item does not make sense. In this way, even if the expenditures receive good assessment scores for timeliness, accessibility, nondiscrimination, etc., when all of these are multiplied, the expenditures item will receive a null score because it does not include an essential element to make sense of the data (values).

1.4 Results and Discussion

Below, we present the results of the evaluations of regulatory decrees, platforms for requesting public information, management practices associated with the Access to Information (ATI) law,

and active transparency.

It is important to highlight that some entities could not be evaluated. We were unable to find the regulatory decrees issued by the states of Amazonas, Amapá, Espírito Santo, Sergipe, and the municipality of Aracaju. The case of Sergipe is explained by a news article dating from May 13th 2016, in which State Representative Georgeo Passos asked the Governor of the state, Jackson Barreto (PMDB), to issue a decree regulating the application of law 12.527/11. Curiously, it was only in the state of Sergipe that it was not possible to carry out an evaluation of the platforms, the management of the ATI law, or active transparency.

1. Regulatory decrees

We evaluated 48 regulating decrees from 53 cities and states. Of these 48, four had not created a Service for Citizens' Information (SIC). This service is particularly important as it creates a unit dedicated to providing access to government information, which should improve the agency or jurisdiction's management and compliance.

The state of Rio de Janeiro was particularly troubling. The administrative entity of this state is the only one that requires a signed statement of responsibility for each and every access to information request. Furthermore, every request

must be filed at the agency or entity in possession of the requested documents, making online requests

impossible and forcing citizens to make their requests in person. With regard to the need to present

Table 2 Evaluation of decrees regulating the Access to Information Law.

State	Municipality	Establishes e-SIC	Establishes Commission for Reevaluating the Confidentiality of Information	Determines Sanctions for Non-Compliance with the ATI Law	Promotion of Culture of Transparency	Describes Different Degrees of Confidentiality
AC	Rio Branco	●	●	●	●	●
AL	Maceió	●	●	●	●	●
AM	Manaus	●	●	●	●	●
AP	Macapá	●	●	●	●	●
BA	Salvador	●	●	●	●	●
CE	Fortaleza	●	●	●	●	●
DF	Brasília	●	●	●	●	●
ES	Vitória	●	●	●	●	●
GO	Goiânia	●	●	●	●	●
MA	São Luís	●	●	●	●	●
MG	Belo Horizonte	●	●	●	●	●
MS	Campo Grande	●	●	●	●	●
MT	Cuiabá	●	●	●	●	●
PA	Belém	●	●	●	●	●
PB	João Pessoa	●	●	●	●	●
PE	Recife	●	●	●	●	●
PI	Teresina	●	●	●	●	●
PR	Curitiba	●	●	●	●	●
RJ	Rio de Janeiro	●	●	●	●	●
RN	Natal	●	●	●	●	●
RO	Porto Velho	●	●	●	●	●
RR	Boa Vista	●	●	●	●	●
RS	Porto Alegre	●	●	●	●	●
SC	Florianópolis	●	●	●	●	●
SE	Aracajú	●	●	●	●	●
SP	São Paulo	●	●	●	●	●
TO	Palmas	●	●	●	●	●

Table 2 Continuation.

State	Establishes e-SIC	Establishes Commission for Reevaluating the Confidentiality of Information	Determines Sanctions for Non-Compliance with the ATI Law	Promotion of Culture of Transparency	Describes Different Degrees of Confidentiality
Acre	●	●	●	●	●
Alagoas	●	●	●	●	●
Amazonas	●	●	●	●	●
Amapá	●	●	●	●	●
Bahia	●	●	●	●	●
Ceará	●	●	●	●	●
Espírito Santo	●	●	●	●	●
Goiás	●	●	●	●	●
Maranhão	●	●	●	●	●
Minas Gerais	●	●	●	●	●
Mato G. do Sul	●	●	●	●	●
Mato Grosso	●	●	●	●	●
Pará	●	●	●	●	●
Pernambuco	●	●	●	●	●
Paraíba	●	●	●	●	●
Piauí	●	●	●	●	●
Paraná	●	●	●	●	●
Rio de Janeiro	●	●	●	●	●
Rio G. do Norte	●	●	●	●	●
Rondônia	●	●	●	●	●
Roraima	●	●	●	●	●
Rio G. do Sul	●	●	●	●	●
Santa Catarina	●	●	●	●	●
Sergipe	●	●	●	●	●
São Paulo	●	●	●	●	●

more personal information than what is required by Article 11 of Law 12.527 (and Article 12 of Decree 7724) – name, street or email address and identity number – we found that five of the 48 regulatory

decrees evaluated had established additional requirements of this kind.

2. Platforms

Despite regulatory decrees that forbid additional burdens for information requests, 12 federative

entities impose requirements that are not set forth in the ATI law. These are presented in Table 3.

Table 3 Information requirements beyond the parameters of the Law or Federal Decree.

Location	Information
Belém	Telephone Number
Boa Vista	Telephone Number
Curitiba	Telephone Number
Goiás	Telephone Number and Schooling
Pará	Telephone Number
Paraíba	Telephone Number
Recife	Telephone Number and Sex
Salvador	Sex and Name of Mother
Tocantins	Sex and Schooling
Vitória	Telephone Number

It is important to highlight the municipal authorities of Teresina and Goiânia. Despite a decree regulating the ATI law and establishing the creation of a Service for Citizens' Information, it was not possible to submit a request for access to information through an integrated platform in these two municipalities. In the case of Goiânia, after two failed attempts to send the request through the online form, we sent the request by email. In the case of Teresina, as there was no specific platform or email address for sending requests, we used the generic email address provided.

Table 4 presents the score for each municipality according to the ATI

platform evaluation that assessed communication in the platform, user name and receipt, and barriers to access. The inter-coder reliability for this analysis obtained a score of 64.15% and a Kappa statistic of 0.41 (s.e.=0.06, $p < 0.01$), which is interpreted as moderately consistent, according to the criteria proposed by Landis and Koch (1977).

Of the 51 requests submitted, 15 were ignored. Among the 15 federative entities that ignored our access to information requests, eight of them establish sanctions for noncompliance with the law, including the possibility of a warning, a fine, termination of contract with the public entity, or temporary suspension from participating in tenders as well as a two-year contract ban with the public administration. The eight units in question are:

- 1) Bahia
- 2) Belém
- 3) Maceió
- 4) Manaus
- 5) Paraíba
- 6) Piauí
- 7) Estado do Rio de Janeiro
- 8) Rondônia

Of the 36 total responses, eight federative entities did not comply with the 20-day timeframe established by law. Another five made use of the extension, responding within 30 days.

Table 4 Evaluation of Access to Information Platforms.

Federative Entities	Platform	Login and Receipt	Barriers to Access
Acre	●	●	●
Alagoas	◎	◎	●
Amapá	◎	○	●
Amazonas	●	●	◎
Aracaju	◎	●	●
Bahia	●	●	●
Belém	●	●	○
Belo Horizonte	◎	◎	○
Boa Vista	◎	◎	○
Campo Grande	●	●	○
Ceará	◎	●	●
Cuiabá	◎	●	●
Curitiba	◎	●	○
Distrito Federal	●	●	◎
Espírito Santo	●	●	●
Florianópolis	◎	◎	●
Fortaleza	●	●	◎
Goiânia	◎	○	●
Goiás	●	◎	○
João Pessoa	●	◎	●
Macapá	●	●	●
Maceió	●	●	◎
Manaus	●	◎	●
Maranhão	●	●	◎
Mato Grosso	●	●	●
Mato G. do Sul	●	●	●
Minas Gerais	●	●	●
Natal	●	●	●
Palmas	●	●	●
Pará	●	●	○
Paraíba	●	●	○
Paraná	◎	◎	◎
Pernambuco	●	●	●

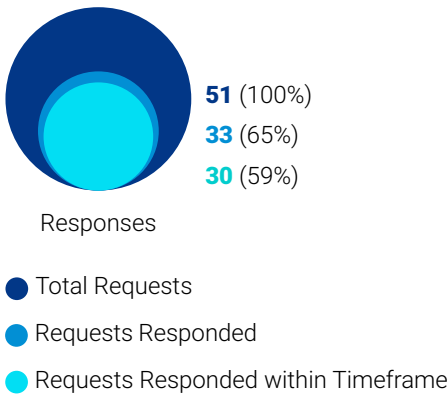
● 100
 ◎ 50
 ○ 0

The administrations that did not respond within the timeframes were:

- 1) Alagoas
- 2) Aracaju
- 3) Curitiba
- 4) Distrito Federal
- 5) Fortaleza
- 6) João Pessoa
- 7) Natal
- 8) Palmas

Figure 1 illustrates the total number of requests made, how many of these requests received responses and how many of these responses arrived within the timeframe specified within the ATI law.

Figure 1 Passive Transparency Evaluation.

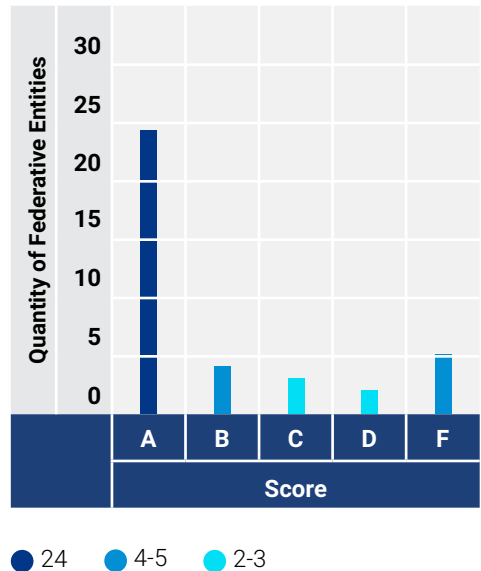


Regarding the responses, each entity received a request containing four individual questions. After receiving the responses, we computed the accuracy rate. Figure 2 illustrates the scores and the

number of entities which received each score. The intervals represent the average of each combination from 0, 50 or 100, for each of the four questions, scored individually.

To verify the reliability of the evaluation, an analysis was conducted on the double coding of the results. This analysis showed a reliability score of 93.24% and a *Kappa* statistic of 0.83% (s.e.= 0.06, p<0.001). These results show near perfect levels of agreement (according to Landis and Koch, 1977) and are statistically significant, suggesting the evaluation is highly reliable and consistent. This means the assigned scores are not likely to be the result of a subjective assessment.

Figure 2 Number of Jurisdictions per Score.



The first question we asked the federative entities was whether there was a public servant responsible for managing ATI requests. This is relevant information because a dedicated civil servant can significantly improve the efficiency of management of ATI requests. The federative entities that confirmed the presence of a person responsible for this specific task were:

- 1) Alagoas
- 2) Belo Horizonte
- 3) Boa Vista
- 4) Ceará
- 5) Cuiabá
- 6) Curitiba
- 7) Distrito Federal
- 8) Florianópolis
- 9) Fortaleza
- 10) Goiânia
- 11) João Pessoa
- 12) Macapá
- 13) Maranhão
- 14) Mato Grosso
- 15) Mato Grosso do Sul
- 16) Minas Gerais
- 17) Palmas
- 18) Paraná
- 19) Pernambuco
- 20) Porto Velho
- 21) Recife
- 22) Rio Branco

- 23) Rio Grande do Sul
- 24) Roraima
- 25) Salvador
- 26) Santa Catarina
- 27) São Luís
- 28) São Paulo
- 29) São Paulo (state)
- 30) Teresina
- 31) Tocantins
- 32) Vitória

Of a total of 32 federative entities, 24 received a score of “A”, having responded to all four of the questions accurately. Four received a score of “B”, responding to three questions accurately, and providing relevant information to the request. Of the entities with dedicated civil servants, 88% of them gave acceptable responses, meaning they responded a minimum of three questions in an accurate manner and presented relevant information in relation to the remaining question.

The three entities that responded to the requests and did not obtain a score were Goiás, Natal and Pará. For the state of Goiás and the municipality of Natal, the responses were considered overly generic and are described below, respectively:

“On the Administration Department website (www.segov.go.gov.br), in the ‘access to information’ link, you will be able to find all the requested information. There

you will find 90% (ninety percent) of the activities of this bureau, including the data regarding who is responsible for following the requests through the process."

"Dear Sir, the statistics regarding the responses for access to information are presented in the link below: <http://natal.rn.gov.br/leideacesso/estatistica/>"

The response from the state of Pará requested the applicant to direct the request to the Auditor General of Pará, even though the request was made on the e-SIC platform.

"We ask you to please address the agency responsible for your request for information, the Auditor General of Pará- AGE"

Table 5 contains the score allocated to each jurisdiction for their response to the ATI requests, as well as the timeframe for responding:

Table 5 Passive Transparency Evaluation.

Jurisdictions	Days to Response	Score - Accuracy	Jurisdictions	Days to Response	Score - Accuracy
Distrito Federal	21	A	Fortaleza	23	A
Maranhão	17	A	Goiânia	9	A
Mato Grosso	7	A	Palmas	41	A
Mato G. do Sul	9	A	Porto Velho	4	A
Paraná	30	A	Recife	19	A
Pernambuco	0	A	Rio Branco	21	A
Rio G.e do Sul	14	A	Salvador	13	A
Roraima	8	A	São Paulo	18	A
Santa Catarina	13	A	Teresina	19	A
SP (estado)	12	A	Vitória	8	A
Tocantins	6	A	Ceará	18	B
Belo Horizonte	22	A	Minas Gerais	20	B
Boa Vista	29	A	Curitiba	21	B
Cuiabá	10	A			

● No Response

● Outside of Timeframe or Non-justified Extension

Table 5 Passive Transparency Evaluation (continuation).

Jurisdictions	Days to Response	Score - Accuracy	Jurisdictions	Days to Response	Score - Accuracy
Florianópolis	1	B	Amapá	●	●
Alagoas	32	C	Bahia	●	●
João Pessoa	28	C	Espírito Santo	●	●
São Luís	15	C	Paraíba	●	●
Aracaju	28	D	Piauí	●	●
Porto Alegre	11	D	RJ (estado)	●	●
Amazonas	10	F	Rio G. do Norte	●	●
Macapá	20	F	Rondônia	●	●
Goiás	4	F	Sergipe	●	●
Pará	20	F	Belém	●	●
Natal	31	F	Campo Grande	●	●
Acre	●	●	Maceió	●	●
			Manaus	●	●
			Rio de Janeiro	●	●

● No Response ● Outside of Timeframe or Non-justified Extension

3. Active transparency

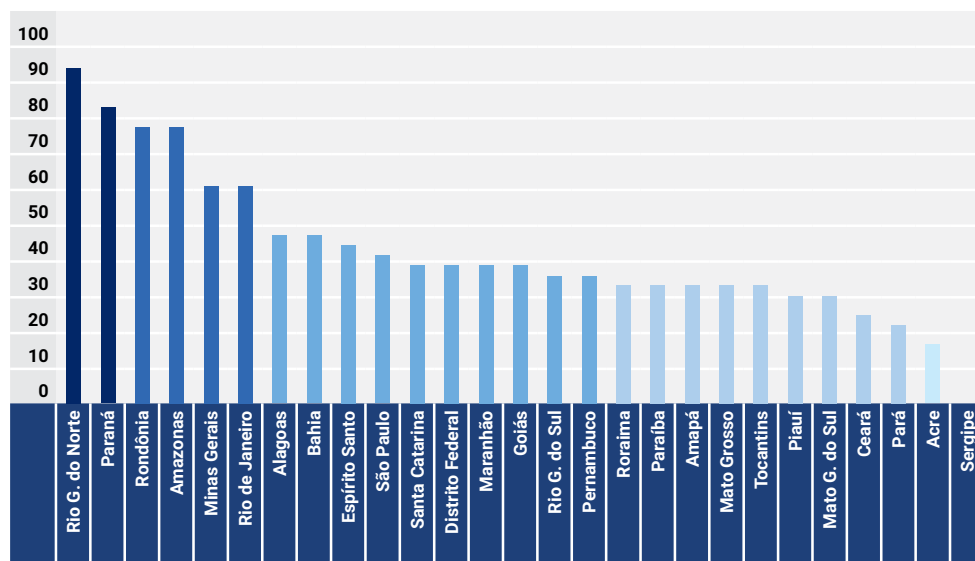
In this subsection, we present the results for the active transparency evaluation in the states and capitals. The division of the results is presented graphically with the data shown at the federal level. From these graphs, it is also possible to evaluate the five best and worst state and municipal performers according to the General Index of Active Transparency.

1. Organizational Structure

Article 8 of the Access to Information Law (Item I, paragraph one) establishes the requirement for agencies

to publicize their “jurisdictional responsibilities, organizational structure, addresses and telephone numbers of the respective units and opening hours to the public”. As shown in Figure 3, only the state of Rio Grande do Norte achieved the maximum score of 100, while the state of Sergipe was the only one that did not receive any points. In the majority of cases, the average score of 45.2 was the result of the absence of addresses and opening hours for at least three administrative units.

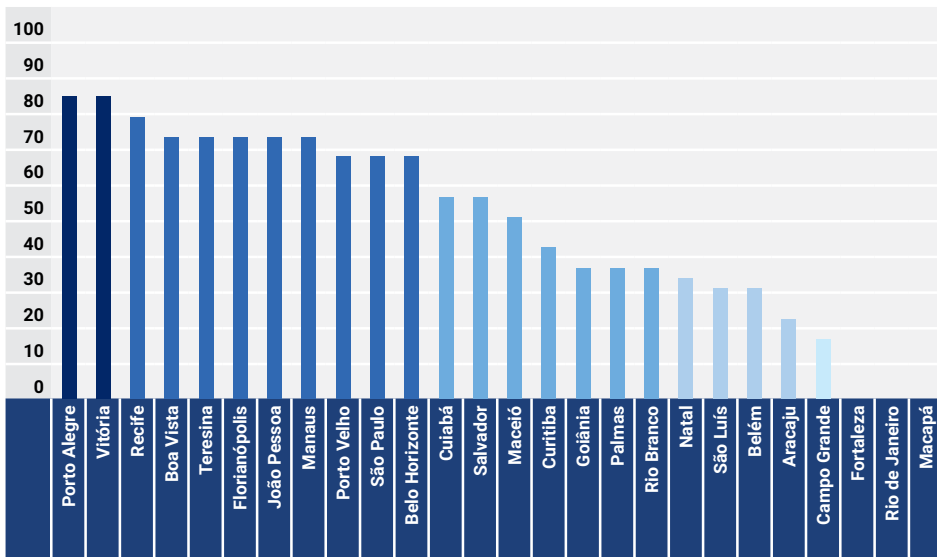
Figure 3 Score for State Organizational Structure



At the municipal level, the average score was 49.3, as shown in Figure 4. No government reached the maximum score of 100; however, Recife, Porto Alegre, Vitória and João Pessoa had acceptable results, reaching a score of 83.3. On the other hand, the

municipalities of Fortaleza, Rio de Janeiro and Macapá did not obtain any points at all. As with the evaluation of the states, the absence of addresses and opening hours for at least three administrative units had a negative impact on the scores.

Figure 4 Score for Municipality Organizational Structure



2. Programs and Actions

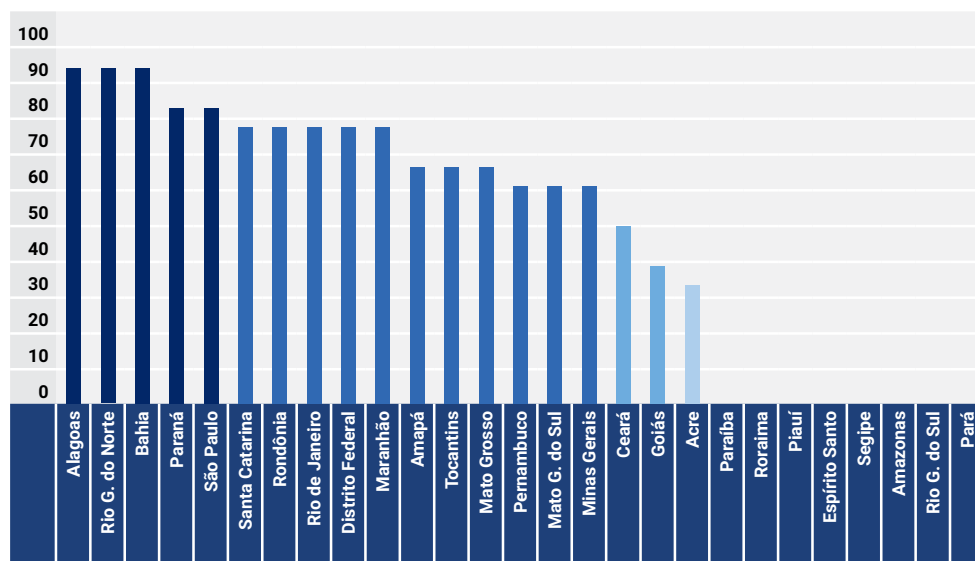
Article 8 of the Access to Information Law (Item V, paragraph one), sets out requirements for entities to publish “general data for monitoring programs, actions and works undertaken by agencies and units”.

In this aspect, Rio Grande do Norte again fulfilled all requirements and

obtained a score of 100. The state of Bahia also achieved this result.

By contrast, Paraíba, Roraima, Piauí, Espírito Santo, Sergipe, Amazonas, Rio Grande do Sul and Pará, did not meet any of the established requirements, and received a score of zero, as shown in Figure 5. The average score was 52.1.

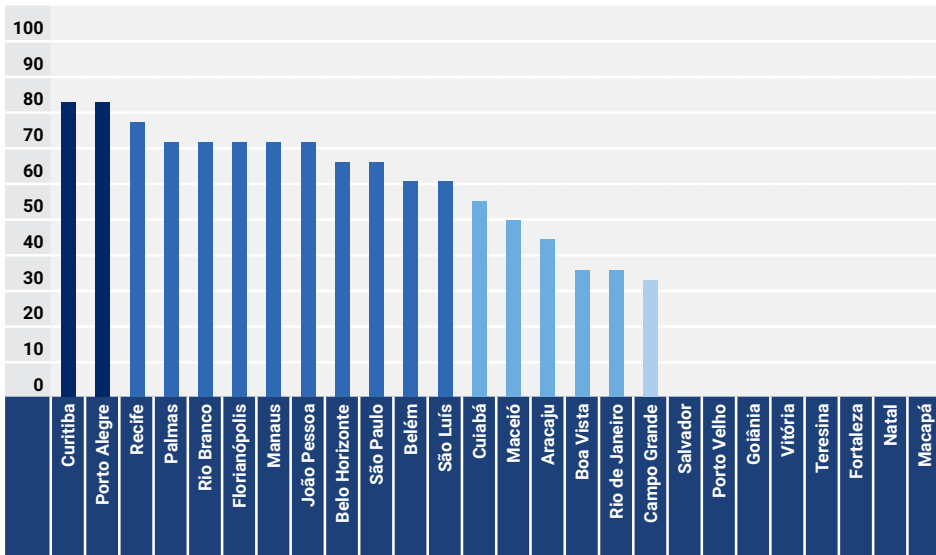
Figure 5 Score for State Programs and Actions



The scores for information on Programs and Actions are particularly alarming because of the high number of municipalities that received a zero. Eight of the 26 municipalities received a score of zero. In contrast, the municipalities of Porto Alegre, Rio Branco, Recife, Curitiba, Palmas and João Pessoa did particularly well, receiving a score of 83.3 (Figure 6).

In the same section where the programs and actions list is published, there is also a description detailing their general objectives. The federative entities that did not present a list of programs and actions obviously did not present these general objectives, and obtained an average score of 45.4.

Figure 6 Score for Municipality Programs and Actions

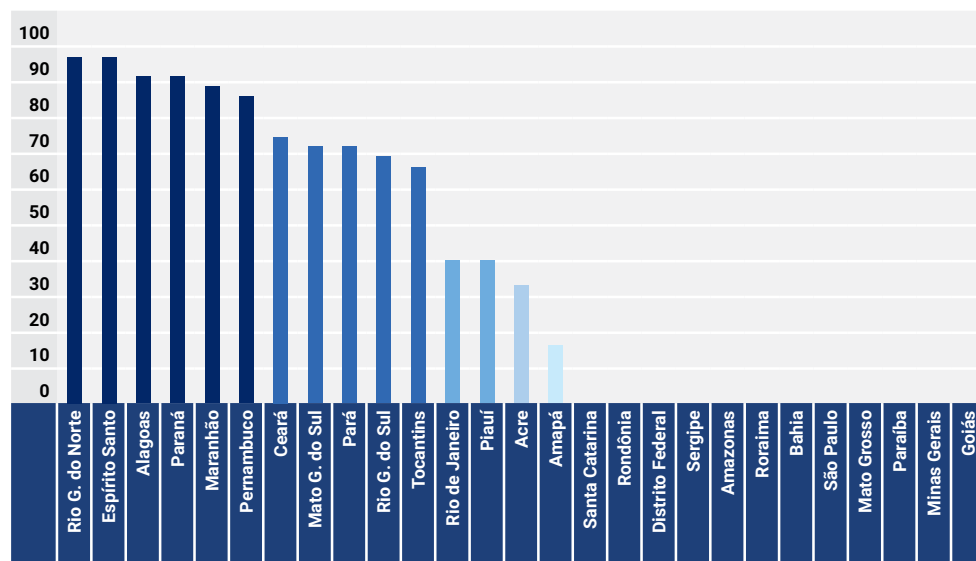


3. Expenditure

Expenditure was evaluated in relation to the requirements set out in item III, paragraph one, of Article 8 of the Access to Information Law. The average score for the states was 39.2, as shown in Figure 7. Of the entities

evaluated, six states achieved a score above 90; with two scoring 100. Of the 27 entities evaluated, 12 did not obtain a score. The lowest scores can be explained by the lack of payment dates and any reference to the amounts paid.

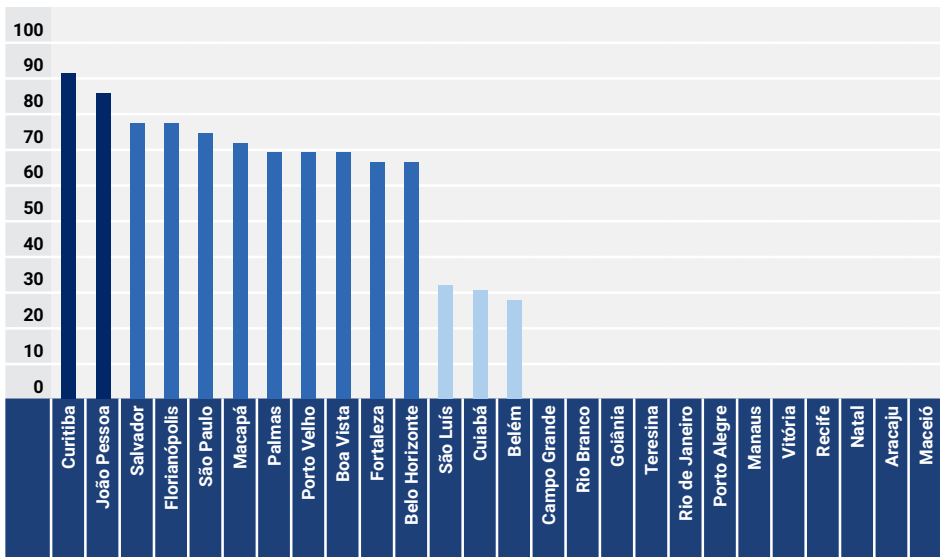
Figure 7 Score for State Expenditure



The average municipal score for expenditures was 35.6 as shown in Figure 8. The two municipalities with the highest scores were João Pessoa and Curitiba, achieving 86.11 and 91.66 respectively. In contrast, the municipalities of Manaus, Rio Branco,

Recife, Teresina, Rio de Janeiro, Porto Alegre, Goiânia, Vitória, Natal, Campo Grande, Aracaju and Maceió received scores of zero. Low scores were a result of the lack of information on amounts paid, as well as the dates on which payments occurred.

Figure 8 Score for Municipal Expenditure

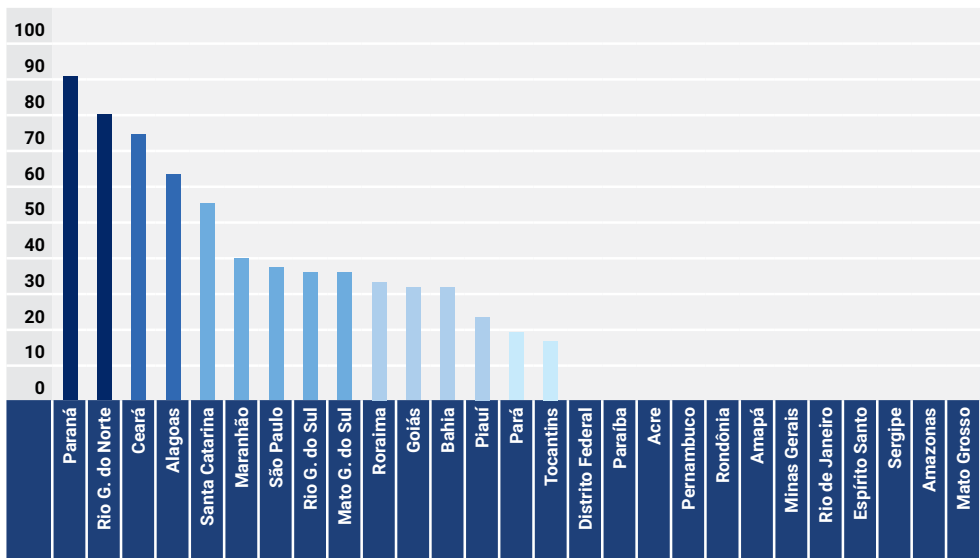


4. Procurement

The average procurement score for states was 25, as shown in Figure 9. The highest score was achieved by the state of Paraná (92), while the lowest score (zero) was given to Mato Grosso, Amazonas, Sergipe, Espírito

Santo, Rio de Janeiro, Minas Gerais, Amapá, Rondônia, Pernambuco Acre, Paraíba and the Federal District. The extremely low average occurred due to the absence of data relating to negotiated contracts, amounts paid and contract signing dates.

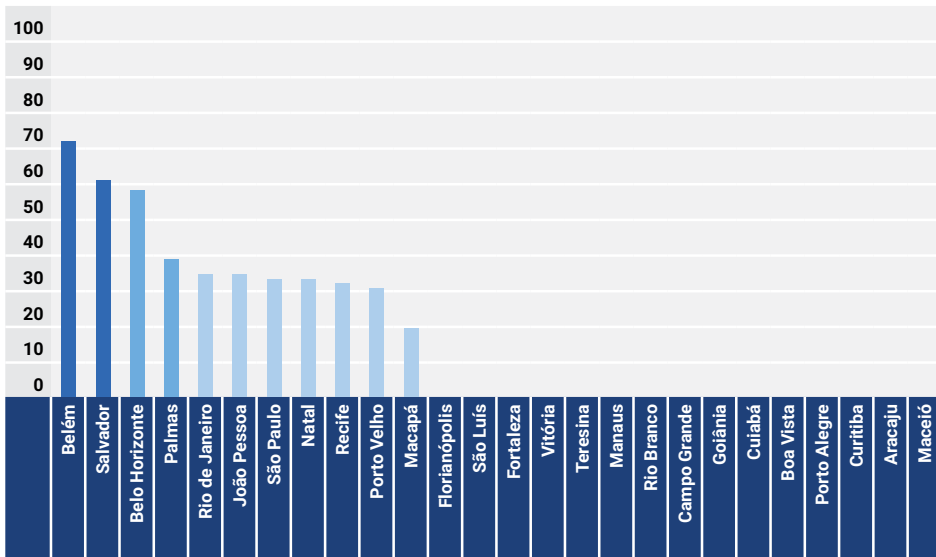
Figure 9 Score for State Procurement



The average municipal procurement score was 17.6. The only municipality to achieve a score higher than 72.2 was Belém, while the lowest scores of zero were allocated to Maceió, Aracaju, Curitiba, Boa Vista, Cuiabá, Goiânia, Campo Grande, Rio Branco,

Manaus, Teresina, Vitória, Fortaleza, São Luís and Florianópolis, as shown in Figure 10. The main factor leading to this extremely low score was the absence of information about contract and payment amounts.

Figure 10 Score for Municipal Procurement

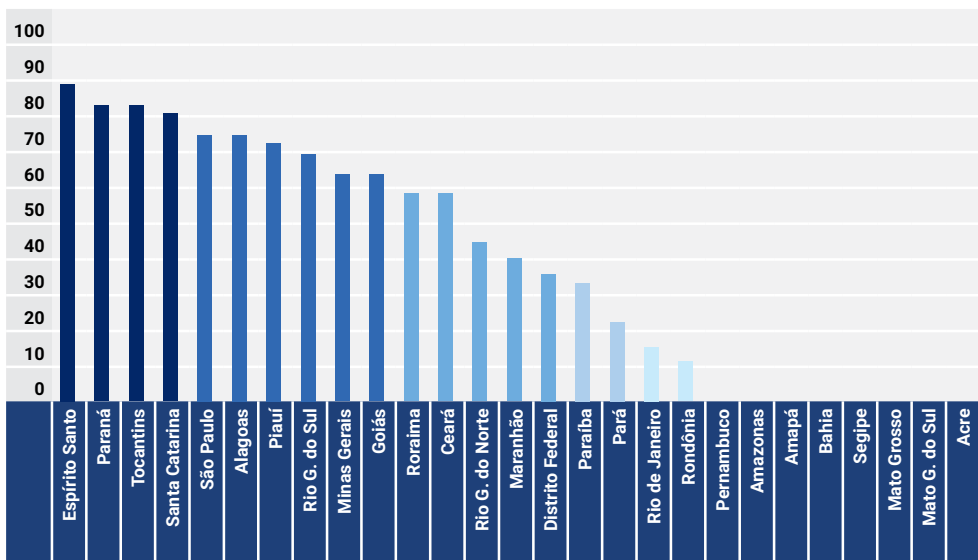


5. Partnership Agreements and Voluntary Transfers

The average “partnership agreements” score for states was 40.7. Espírito Santo was the only state to receive a score higher than 85. The states of Pernambuco, Amazonas, Amapá,

Bahia, Mato Grosso, Mato Grosso do Sul and Acre received a score of zero, as shown in Figure 11. The low value of the scores was driven by the lack of information about the negotiated value of agreements and the dates and values of any transfer of funds.

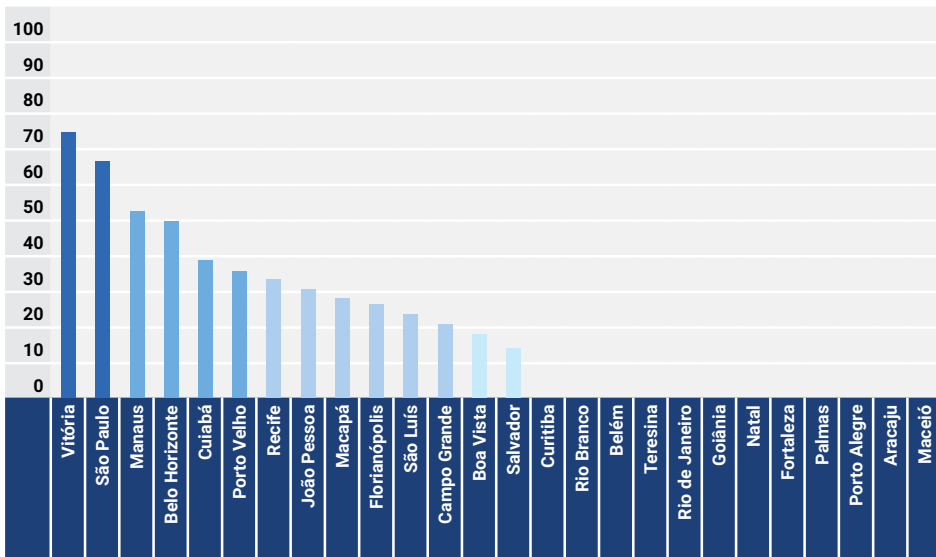
Figure 11 Score for State Partnership Agreements



With respect to the capitals, only Vitória received a score higher than 70, while many received no points at all, including Curitiba, Rio Branco, Belém, Teresina, Rio de Janeiro, Goiânia, Natal, Fortaleza, Palmas, Porto Alegre, Aracaju and Maceió, as

shown in Figure 12. The municipal scores, in the same way as the state scores, were influenced by the absence of information about the negotiated value of agreements and the dates and values of any transfer of funds.

Figure 12 Score for Municipal Partnership Agreements

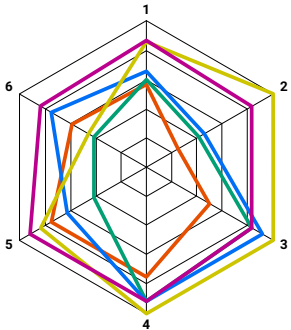


6. General Index of Active Transparency

The results of double-coded evaluations show inter-coder reliability of 87.74%, and a Kappa statistic of 0.80 ($z=32.71, p<0.001$). These results show substantial congruence (according to the criteria established by Landis and Koch, 1977), suggesting the proposed evaluations are reliable.

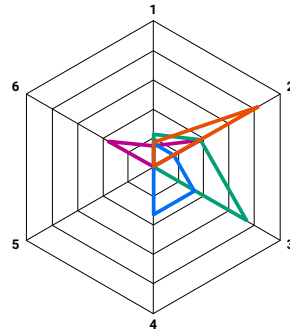
Figure 13 shows the five states with the highest active transparency scores. These are: Alagoas, Ceará, Maranhão, Paraná and Rio Grande do Norte with an average score of 71. The five states with the lowest scores - Acre, Amazonas, Mato Grosso, Paraíba and Sergipe – are shown in Figure 14. Their average score was 14.

Figures 13-14 General Index for Active Transparency



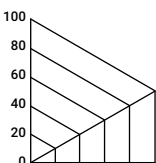
Highest Scoring States

- Alagoas
- Ceará
- Maranhão
- Paraná
- Rio Grande do Norte



Lowest Ranking States

- Acre
- Amazonas
- Mato Grosso
- Paraíba
- Sergipe

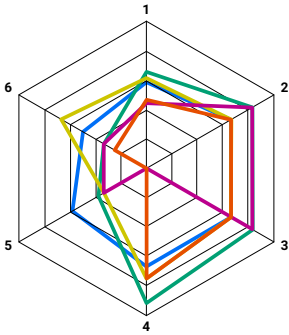


1	General Active Transparency Score	4	Expenditures
2	Organizational Structure Total	5	Procurement
3	Programs and Actions	6	Partnership Agreements and Voluntary Transfers

The average municipal score for the five top-ranking cities in the General Index of Active transparency was 55.3, for Belo Horizonte, Florianópolis, João Pessoa, Recife and São Paulo. Their high ranking was a result of

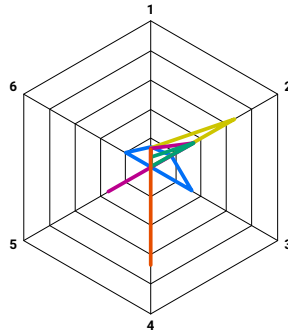
their high completeness scores. The average for the five municipalities with the lowest scores in the General Index of Active Transparency was 12.2, with Goiânia, the capital of Goiás, receiving the lowest score.

Figures 15-16 General Index for Active Transparency.



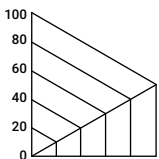
Highest Scoring Municipalities

- Belo Horizonte
- Florianópolis
- João Pessoa
- Recife
- São Paulo



Lowest Scoring Municipalities

- Campo Grande
- Fortaleza
- Goiânia
- Natal
- Teresina



1	General Active Transparency Score	4	Expenditures
2	Organizational Structure Total	5	Procurement
3	Programs and Actions	6	Partnership Agreements and Voluntary Transfers

1.5 Results of the Analysis of Platforms, Passive Transparency and Active Transparency

Table 6 Evaluation of Platforms, Passive Transparency and Active Transparency

Jurisdiction	Platform Score	Passive Transparency Score	General Index of Active Transparency
Paraná	D	A	87
Rio Grande do Norte	B	●	86
Alagoas	C	C	66
João Pessoa	B	C	66
São Paulo	A	A	62
Maranhão	B	A	60
Belo Horizonte	F	A	58
Ceará	B	B	57
Santa Catarina	B	A	53
Tocantins	C	A	53
São Paulo (state)	B	A	48
Florianópolis	C	B	47
Recife	D	A	44
Curitiba	D	B	43
Mato Grosso do Sul	A	A	43
Cuiabá	B	A	42
Palmas	A	A	42
Belém	C	●	41
Boa Vista	F	A	40
Minas Gerais	A	B	40
Rio Grande do Sul	C	A	40
Salvador	C	A	39
Espírito Santo	A	●	38
Bahia	A	●	37
Manaus	B	●	37
Goiás	D	F	37
Pernambuco	A	A	37

Table 6 Continuation

Jurisdiction	Platform Score	Passive Transparency Score	General Index of Active Transparency
Piauí	A	●	35
Rondônia	B	●	33
Porto Alegre	C	D	33
Porto Velho	B	A	33
Distrito Federal	B	A	33
São Luís	A	D	32
Vitória	D	A	32
Rio de Janeiro (state)	F	●	30
Pará	C	F	29
Roraima	C	A	25
Macapá	A	F	25
Rio Branco	B	A	25
Amapá	D	●	23
Mato Grosso	A	A	23
Maceió	B	●	20
Acre	A	●	17
Amazonas	B	F	17
Rio de Janeiro	D	●	16
Aracaju	B	D	15
Paraíba	C	●	15
Campo Grande	D	●	14
Fortaleza	B	A	13
Natal	A	F	13
Teresina	F	A	13
Goiania	D	A	7
Sergipe	●	●	0

● No Response

1.6 Comparison of the Results with Other Rankings

Table 7 presents a comparison of our evaluation with other municipal transparency indices and indicators. We compared scores from the platform evaluation, General Index score from the active transparency evaluation and the computed score based on the ATI platform analyses with the transparency indices constructed by the General Federal Comptroller's Office (Controladoria Geral da União-CGU) in 2015, and the index produced

by the Federal Prosecutor's Office (Ministério Público -MPF) in May of 2016. Likewise, we show the results obtained in reference to the Human Development Index, the party elected to power in the 2014 state elections, and in the 2012 municipal elections.

As shown in Table 7 and Table 8, there is no clear correlation between the compared indices and scores, suggesting there is no particular level of human development, or political ideology responsible for improving government transparency at the state or municipal level.

Table 7⁴ Comparison of State Results with other Indices and Indicators

Jurisdiction	Platform Score	Passive Transparency Score	General Index of Active Transparency	EBT- CGU 2 ^a EDITION (Jul to Oct 2015)	RNT – MPF 2 ^a Evaluation (May 2016)	IDHM (2010)	Majority Party
Paraná	D	A	87	9,3	8,7	0,749	PSDB
Rio G. do Norte	B	●	86	8,2	9,2	0,684	PSD
Alagoas	C	C	66	7,9	9,8	0,631	PMDB
Maranhão	B	A	60	10,0	8,5	0,639	PC do B
Ceará	B	B	57	8,1	10,0	0,682	PT
Tocantins	C	A	53	10,0	9,8	0,699	PMDB
Santa Catarina	B	A	53	6,9	9,2	0,774	PSD
São Paulo	B	A	48	10,0	9,7	0,783	PSDB
Mato G. do Sul	A	A	43	2,5	9,1	0,729	PSDB
Minas Gerais	A	B	40	10,0	9,2	0,731	PT
Rio G. do Sul	C	A	40	8,9	8,6	0,746	PMDB
Espírito Santo	A	●	38	10,0	10,0	0,740	PMDB
Goiás	D	F	37	10,0	9,8	0,735	PSDB
Pernambuco	A	A	37	6,7	8,8	0,673	PSB
Bahia	A	●	37	10,0	4,1	0,660	PT
Piauí	A	●	35	8,5	8,0	0,646	PT
Rondônia	B	●	33	4,4	10,0	0,690	PMDB
Distrito Federal	B	A	33	10,0	7,6	0,824	PSB
Rio de Janeiro	F	●	30	7,1	8,7	0,761	PMDB
Pará	C	F	29	9,0	8,3	0,646	PSDB
Roraima	C	A	25	2,5	3,8	0,707	PP
Mato Grosso	A	A	23	8,6	9,8	0,725	PSDB ¹
Amapá	D	●	23	0,0	8,0	0,708	PDT
Amazonas	B	F	17	1,4	7,5	0,674	PROS
Acre	A	●	17	3,3	5,6	0,663	PT
Paraíba	C	●	15	8,8	7,3	0,658	PSB
Sergipe	F	●	0	2,1	8,1	0,665	PMDB

● Did not respond

¹ Current Governor Pedro Taques changed his political party on August 12th 2015. He was previously affiliated with the PDT.

Table 8 Comparison of Municipal Results to other Indices and Indicators

Jurisdiction	State	Platform Score	Passive Transparency Score	General Index of Active Transparency	EBT- CGU 2 ^a EDITION (Jul to Oct 2015)	RNT – MPF 2 ^a Evaluation (May 2016)	IDHM (2010)	Majority Party
João Pessoa	PB	B	C	66	10,0	9,0	0,763	PSD ¹
São Paulo	SP	A	A	62	10,0	9,3	0,805	PT
Belo Horizonte	MG	F	A	58	8,8	8,2	0,810	PSB
Florianópolis	SC	C	B	47	8,8	7,7	0,847	PSD
Recife	PE	D	A	44	10,0	8,4	0,772	PSB
Curitiba	PR	D	B	43	10,0	8,1	0,823	PDT
Palmas	TO	A	A	42	8,2	9,3	0,788	PSB ²
Cuiabá	MT	B	A	42	9,2	8,5	0,785	PSB
Belém	PA	C	●	41	4,7	9,7	0,746	PSDB
Boa Vista	RR	F	A	40	4,4	7,2	0,752	PMDB
Salvador	BA	C	A	39	5,8	6,4	0,759	DEM
Manaus	AM	B	●	37	3,9	3,9	0,737	PSDB
Porto Alegre	RS	C	D	33	5,8	10,0	0,805	PDT
Porto Velho	RO	B	A	33	0,0	6,4	0,736	PSB
Vitória	ES	D	A	32	8,8	7,8	0,845	PPS
São Luís	MA	A	D	32	9,6	7,0	0,768	PDT ³
Macapá	AP	A	F	25	6,1	4,3	0,733	REDE ⁴
Rio Branco	AC	B	A	25	10,0	6,2	0,727	PT
Maceió	AL	B	●	20	3,9	9,0	0,721	PSDB
Rio de Janeiro	RJ	D	●	16	8,6	8,5	0,799	PMDB
Aracaju	SE	B	D	15	2,2	5,2	0,770	DEM
Campo Grande	MS	C	●	14	6,8	4,1	0,784	PP
Natal	RN	A	F	13	7,4	6,5	0,763	PDT
Fortaleza	CE	B	A	13	8,2	8,0	0,754	PDT ⁵
Teresina	PI	F	A	13	3,8	6,9	0,751	PSDB
Goiânia	GO	D	A	7	8,3	5,4	0,799	PT

● Did not respond

¹ Current Mayor Luciano Cartaxo changed political party on September 17th 2015. He was previously affiliated to the PT.

² Current Mayor Carlos Amastha changed political party in May 2015. He was previously affiliated with the PP.

³ Current Mayor Edivaldo Holanda Junior changed political party on August 28th 2015. He was previously affiliated with the PTC.

⁴ Current Mayor Clecio Luis changed political party in September 2015. He was previously affiliated with the PSOL.

⁵ Current Mayor Roberto Claudio changed political party in September 2015. He was previously affiliated with the PROS.

Conclusion

This chapter analyzed formal and informal compliance with transparency practices on three levels: a) quality of municipal decrees regulating the implementation of law 12.527 on access to information; b) platforms for passive transparency, which serve to facilitate making requests, appeals, and receiving responses; and c) active transparency obligations. The evidence shows that, despite a number of cities and states evincing satisfactory results, many failed to meet their legal obligations, particularly in the area of active transparency, where the average score was 36.45%.

The scores for passive transparency platforms are slightly better than the active transparency scores. Of the 53 states and municipalities evaluated, 13 received a grade of “A”, signaling solid commitments to making good platforms available to citizens, while 16 others received a score of “B”. A few good practices can be seen in the responses to the requests sent. Such is the case of Porto Velho (RO), which

provided accurate responses in just four days to information requests.

In general, the quality of responses suggests that improvements stem from allocating specific workers to managing requests (i.e. access to information units), as was reported in the received responses. Of the 24 responses which received a grade of “A”, the common denominator is that they all have a specific unit designated to respond to freedom of information requests.

This study evaluated crucial functionalities of access to public information laws at the municipal and state level, and there is ample room for further exploration. More research is needed to evaluate how information management processes are handled, particularly the classification and declassification of sensitive material. It is also important to determine whether civil servants have received sanctions in cases of noncompliance with the ATI law and if the government is effectively promoting a culture of transparency.

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Chapter 2

EVALUATING THE TRANSPARENCY OF MUNICIPAL INFORMATION TECHNOLOGY AND PERSONAL DATA MANAGEMENT POLICIES

Marina Barros and Jamila Venturini

2.1 Introduction

The growth in urban populations is creating new challenges for public administration in mobility, sustainability, public security, education and healthcare. International organizations, however, have highlighted how information and communications technologies (ICT) can play a central role in facilitating the development of more efficient public policies by processing the large volumes of data collected through the various processes and devices present in everyday lives.

In Brazil, mega-events such as the World Cup and the Olympics boosted the development of smart city initiatives, specifically in areas such as safety and civil defense. These actions complemented the e-government policies already underway, accelerating a trend towards collecting greater amounts of citizen data to support decision-making and to improve public services.

This chapter presents the results of research into the transparency of Brazilian municipalities in relation to their information management policies and handling of citizens' data. It also deploys transparency evaluations to better understand how local governments have implemented new technologies for urban monitoring and surveillance.

These themes are a central part of the research agenda of the Center for Technology & Society at Getúlio Vargas Foundation (CTS-FGV), which has focused on topics related to Human Rights and Internet Governance for the last two years and, more specifically, privacy issues in the digital age.

Recently, the CTS-FGV conducted a study on Terms of Use and Human Rights, analyzing how 50 platforms (including social networks, storage services, email, etc.) observed rights to privacy, freedom of expression, and due process in their membership contracts. The access

to information (ATI) requests and responses analyzed in the current study reflect this research agenda.

Furthermore, the study, *Privacidade na Era Digital*, analyzed the privacy regulatory frameworks in Brazil in order to identify opportunities and challenges that might be encountered during the implementation of United Nations Resolution 68/167 on the same topic. This previous study also contributes to the current report by identifying gaps in regulations concerning the collection and handling of data by the public administration, within the context of 'smart cities' (DAHLMANN et al., 2015).

The current evaluation seeks to answer the following question: are municipalities transparent with respect to their policies for managing their citizens' information and handling their data?

To this end, six queries were sent to a group of municipalities in Brazil using the Electronic Service System for Citizens' Information (e-SIC) or similar services, provided by municipalities in compliance with Law 12.527/2011, the Law of Access to Public Information (the ATI Law).

The questions sought to gauge the extent to which cities are involved with e-government and smart cities initiatives. They also served to survey policies related to the management of citizens' information, and the treatment of their data within this context.

The methodology applied in this

transparency evaluation largely replicates the passive transparency methodology developed by FGV's Public Transparency Program (PTP-FGV), applied in the reports entitled *Estado Brasileiro e Transparência* (MICHENER; MONCAU; VELASCO, 2014) and *Avaliação de Transparência do Ministério Público* (MONCAU et al., 2015).

In total, 258 ATI requests were sent and 137 replies were received within an average of 15 days. Subsequently, the responses were coded on the basis of relevance to the question by two separate researchers. Based on this data, a response rate was calculated – that is, the number of valid responses divided by the quantity of requests sent. Once the timeframe established by the ATI law had expired (30 days), telephone calls were made to the municipalities that had not responded to the ATI requests in order to verify the progress of the request and reinforce the importance of obtaining the information. This procedure substituted the internal appeal, which law 12.527 stipulates as being the first step toward remediation.

This chapter is divided into three sections. The first section introduces the context and highlights the topic's relevance within the policy area. The second section addresses the research methodology and questions, and finally, the third section presents an analysis of the results.

2.2 Contextualization

2.2.1 Protection of Privacy in Brazil

The Edward Snowden leaks concerning the United States National Security Agency's mass surveillance programs (MACASKILL; DANCE, 2013) seem to have brought to light a preoccupation that has existed for some time. In discussions about new information and communications technologies, the issue of the privacy protections is particularly delicate. In Brazil, this is not a new topic of discussion. Despite gaining international attention for questioning the invasive policies led by the United States and its allies – Australia, Canada, New Zealand and United Kingdom – Brazil has been called a “Police State practicing constant surveillance” during a parliamentary inquiry investigating abuses in the use of wiretaps on telephones. The Inter-American Court of Human Rights has also indicted the Brazilian State for violating the right to privacy by illegal intercepting telephone calls made by activists.

From a regulatory point of view, protection of privacy in Brazil does not exist in a legal vacuum. On the contrary, Brazil contains strong privacy protection measures in its Constitution, in addition to adhering to the main international human rights treaties regarding privacy. At

the sub-constitutional level, Brazil has legislation regarding telephone and telematic interceptions (Law 9.296/1996), which regulates exceptional situations of breach of confidentiality (article 5, item XII of the Federal Constitution) and establishes some procedures for its implementation. In addition, other laws establish rules for obtaining information for research purposes and establish the obligations of private companies to cooperate with this process. This includes measures for data retention, access to registry data, and connection and Internet access records, among others (DAHLMANN et al., 2015).

In addition to legislation relating to surveillance of private communications, other rules address the handling of personal information by the government and private agents. Even though Brazil does not have a general law for the protection of personal data, the issue is covered with a series of sectorial rules; including the Consumer Defense Code (*Código de Defesa do Consumidor: Law n° 8078/1990*), the Positive Registry Law (*Lei de Cadastro Positivo: Law n° 12.414/2011*), and the Civil Rights Framework for the Internet (*Marco Civil da Internet: Law n° 12.965/2014*).

Furthermore, the habeas data mechanism introduced by the Federal Constitution of 1988 and regulated by Law n° 9507/1997 guarantees

the right to access and rectify personal data obtained by the State. In addition, Law 12.527/2011, the Law on Access to Public Information (the ATI Law) establishes rules regarding the disclosure of personal information held by public authorities.

The absence of a unified framework for the protection of personal data may establish a background of legal uncertainty and allow for abuses to take place. Unified frameworks, along the same lines as those adopted by the majority of European and several American countries, are especially critical in an age of rapid technological advances for collecting and processing of large volumes of data..

2.2.2 E-Government and Smart Cities: New Challenges to Privacy?

The growth of urban populations raises a new series of challenges for public administration in sectors such as mobility, sustainability, security, and access to education and healthcare, among others. Faced with these challenges, international organizations have highlighted the ways in which information and communications technology (ICT) can play a central role in facilitating the development of more efficient public policies, for example, by processing large volumes of data collected through a wide array of interconnected devices.

Based on this premise, projects for so-called “smart cities” are multiplying around the world (SETO, 2015) with the promise to increase the efficiency of public administration and provide innovative solutions to urban problems ranging from congestion to the management of natural resources (PAROUTIS; BENNET; HERACLEUOUS, 2013). The “smart city” concept is still in its formative stages, but urban projects of this type have common characteristics, such as an inter-disciplinary approach – combining engineering, urban planning, design, architecture and other areas of knowledge – and the use of information and communications technologies (ICT).

In Brazil, mega-events such as the World Cup and the Olympics boosted the development of smart city initiatives, especially in the areas of public safety and civil defense. These projects were in addition to existing e-government initiatives already underway. The benefits from these projects include creating a more inclusive form of public governance, as well as more practical benefits such as the provision of online government services, improving public management, creating more agile administrative processes and the better use of public resources. The potential direct impact on citizens’ lives may be considerable, it may reduce time and travel involved in obtaining public

services, thereby conserving scarce and valuable resources. In addition, there is the possibility of expanding democratic participation to all actors in the political process through new channels of communication - citizens, public administrators, nonprofit organizations, and politicians.

The tendency in this context is to collect an ever-greater volume of citizens’ data in order to support decision-making and public service operations. This data may be obtained through the public administration either directly – for example through surveys and citizens’ interaction with digital public services or smart objects such as sensors and cameras installed throughout the city – or indirectly, by way of public service concessions, or agreements established with private companies.

Despite the potential benefits attributed to these projects, the migration of public services to digital platforms and the ever-increasing collection of citizens’ data through mobile phone applications, web pages or other smart city objects introduces a series of new challenges for managing information. There are at least four dimensions of the concept of privacy involved in the development of smart cities: (i) privacy of personal information; (ii) privacy of the person; (iii) privacy of behavior; and (iv) privacy of personal communications (BARTOLI et al., 2012).

Practices previously considered commonplace may now expose citizens to undue and unauthorized use of their information, and may even put their safety at risk. When made available digitally, publicly accessible data can be combined to create sophisticated databases that can allow the identification of an individual's detailed private habits. Information contained in official journals about public examinations or obtaining a public benefit (such as a scholarship, or other social benefit) can easily be collected and combined by third parties to create accurate individual profiles. In this context, achieving the right balance between the right to access information and the protection of individual privacies becomes increasingly challenging.

It should also be noted that the rules introduced by the ATI law, 12.527/2011, do not address data collection by public authorities, but simply its disclosure to the public. In a context where sophisticated digital surveillance technologies are available on the market, and where agreements are made with the private sector for administering public services, among others, the absence of limits or clearly applicable rules may lead to abuses of the right to privacy.

Finally, new security measures are necessary to prevent unauthorized access by third parties to databases held by public agencies or public

agency concessions. These measures are not detailed in the legislation regarding access to information at the federal level, in principle leaving each federative entity to regulate this issue.

2.3 Methodology

The analysis of the responses followed a two-step methodology identical to that of Michener, Moncau & Velasco (2014, p.26-28). The first step was to assign an accuracy score to the responses using a discrete three-point scale of 0 (response has no relation to the request or no additional information was provided), 50 (response is minimally related to what was asked in the request) and 100 (response presents a direct relation to what was requested, substantially addressing the request). Two independent researchers coded responses to requests in order to ensure objectivity and reliability.

The second step was to compute the arithmetic mean of the accuracy score for each response, based on the scores assigned by the researchers to provide the final accuracy score for the agency. In order for the score to be considered minimally accurate, an average of at least 50 was needed.

Comparison of the results of the two assessments of the responses yielded an inter-coder reliability of 95.56%, and a kappa statistic of 0.92 (s.e.=0.07, $p < 0.001$), corresponding

to near-perfect levels of congruence (Landis & Koch, 1977). These results indicate that the evaluation was highly reliable and consistent, and that it is very unlikely that the attributed scores reflect a subjective opinion.

All requests were made from June 10th to 27th 2016, using the official websites of the municipal authorities through the integrated Public Information Request Platforms or the Electronic System for Citizens' Information Services (e-SIC) platforms. In cases where it was not possible to access the platform, alternative means of contacting the municipality were sought, such as through the public ombudsman's office.

While the timeframe for responding to ATI requests established by law allows for 20 days, with a potential extension of 10 days, all responses received before the first day of August were considered, that is to say up to three weeks after the statutory deadline for some requests. Responses were considered any type of communication sent by email or accessible by way of the passive transparency platform, which was not automatically generated, or was not a communication of an extension or transfer.

All requests were made using a single identity. The standard procedure was to fill in only the compulsory fields in the registry form – full name, general

registration, social security number (CPF), email, telephone number or address – providing the applicant's real information throughout the request submission process. In addition, before each request, applicants identified themselves as researchers from the Getúlio Vargas Foundation (FGV) in Rio de Janeiro. The applicants also used the FGV institutional e-mail during the requesting process as a proof of their affiliation.

2.3.1 Methodological Modification: Telephone Call Instead of Appeal

Unlike most of the passive transparency evaluations made by the Public Transparency Program at the Getúlio Vargas Foundation (PTP-FGV) and based on previous experience, where the first and second instance appeals failed to provide the desired information, this evaluation chose to make contact by telephone with the municipal administrations that had not provided any responses within the timeframe established by the ATI law.

2.3.2 Unit of Analysis

The municipalities selected for evaluation consisted of the capital city and the second most populous city, based on the population estimates made by Brazil's Institute for Geography and Statistics (IBGE), 2014.

Table 9 presents the selected cities:

Table 9 Selected Cities

Federative Unit	Capital City	Largest City Excluding Capital
Acre	Rio Branco	Cruzeiro do Sul
Alagoas	Maceió	Arapiraca
Amapá	Macapá	Santana
Amazonas	Manaus	Parintins
Bahia	Salvador	Feira de Santana
Ceará	Fortaleza	Caucaia
Espírito Santo	Vitória	Serra
Goiás	Goiânia	Aparecida de Goiânia
Maranhão	São Luís	Imperatriz
Mato Grosso	Cuiabá	Várzea Grande
Mato G. do Sul	Campo Grande	Dourados
Minas Gerais	Belo Horizonte	Uberlândia
Pará	Belém	Ananindeua
Paraíba	João Pessoa	Campina Grande
Paraná	Curitiba	Londrina
Pernambuco	Recife	Jaboatão dos Guararapes
Piauí	Teresina	Parnaíba
Rio de Janeiro	Rio de Janeiro	São Gonçalo
Rio Grande do Norte	Natal	Mossoró
Rio G. do Sul	Porto Alegre	Caxias do Sul
Rondônia	Porto Velho	Ji-Paraná
Roraima	Boa Vista	Rorainópolis
Santa Catarina	Florianópolis	Joinville
São Paulo	São Paulo	Guarulhos
Sergipe	Aracaju	Nossa Senhora do Socorro
Tocantins	Palmas	Araguaína

It was not possible to send the ATI requests in 10 of the municipalities due to platform accessibility issues: the platform froze at the moment of sending the request, the platform was undergoing maintenance, or there was an unspecified “server error”. This restricted the original sample to 43 municipalities, in turn limiting the potential responses to 258.

These obstacles to the implementation of ATI requests shows that approximately 20% of the Brazilian municipalities analyzed do not provide reliable channels for ATI requests. The municipalities in question are: Santana (AP), Fortaleza e Caucaia (CE), Vitória e Serra (ES), Dourados (MS), Ananindeua (PA), Rorainópolis (RR) and Nossa Senhora do Socorro (SE).

The majority of the ATI requests were assigned a protocol number and a confirmation of receipt, which may be considered good practice on the part of the request handling service. However, in several cases, researchers detected no communication on the progress of the request. As can be seen in Figure 17 and Table 10 below, a significant number of the municipalities simply did not respond to the requests even after confirmation of receipt, and others responded much slower than the timeframe established in the framework of the ATI law, with no notice of an extension.

After the deadline of the time allowed for receiving responses, researchers

contacted the municipalities by telephone. The goal was to increase the possibility of obtaining the desired information through direct and personal contact with the person in charge of managing the ATI requests. Researchers used a standardized script to avoid biases and distortions from call to call.

The telephone calls reveal a lack of knowledge of the ATI law on the part of the public administration officials, and therefore a lack of understanding of the rights of citizens to access public information. A considerable number of the municipalities reached did not offer information regarding the department responsible for managing the platform, could not provide information about the request-making process, or failed to locate our request. An analysis of this part of the transparency evaluation is included in the conclusion.

2.3.3 Formulation of the Evaluation Questions

Considering the advances and challenges presented in section 2.1 of this chapter, six questions were presented to the municipal administrations in the sample.

The first block of questions examined the extent to which the cities in question are involved in e-government and smart city initiatives and the type of information that is being processed in this context. To this end, questions were formulated regarding: (i) the

existence of integrated command and control centers for monitoring and surveillance, their characteristics and related regulations; (ii) the existence of agreements or contracts with private companies for the provision of services in these centers; (iii) the acquisition of monitoring and surveillance technology such as cameras, unmanned aircraft (drones) or robots over the course of the last four years as well as the documents relating to such acquisitions; (iv) the existence of e-government initiatives or initiatives for online participation through mobile applications or web pages; and (v) the use of analytic mechanisms to measure webpage traffic and how said data is used.

In addition to surveying existing initiatives, questions (i), (ii) and (iii) sought to analyze how municipal administrations deal with ATI requests related to topics surrounding public safety and what kind of arguments are presented as a justification for potentially negative responses.

The second block of questions sought to identify whether municipalities are prepared to deal with the data collected from their citizens, as well as the existing limits and guarantees for processing this data. In addition, we sought to identify the level of institutionalization of information management positions and policies at the municipal level. The questions examined: (i) the existence of an agency or department responsible for the IT

systems for the administration; (ii) the existence of official permanent positions dedicated to the management of information; and (iii) existing policies regarding privacy, government confidentiality, and information security, among others related to the management of information.

2.4 Results

In general, the results obtained in the recent evaluation identified that the municipal administrations are unprepared to meet their compliance requirements under Law 12.527/2011, the Law of Access to Public Information law (the ATI law). Low response rates and low accuracy scores were observed, lower than the rates obtained in previous evaluations at the federal, state and municipal level (MICHENER; MONCAU; VELASCO 2014 p. 38-42).

Six different questions were sent to 43 municipalities, totaling 258 freedom of information requests. Of these 258 requests, 137 received responses, corresponding to a response rate of 52%.

Among the answers received, researchers found 80 to be accurate, meaning the municipal agencies responded accurately to only 31% of the requests submitted. In other words, out of every three ATI requests sent to municipalities in this evaluation, only one response provided accurate information in response to the request.

Only two of the 43 municipalities evaluated responded to all of the questions accurately: Macapá (AP) and Cuiabá (MT). Eight municipalities responded to more than four of the six questions accurately: Belo Horizonte (MG), Roraima (state), Curitiba (PR), Londrina (PR), Caxias do Sul (RS), São Paulo (SP), Rio Branco (AC) and Jabotão dos Guararapes (PE).

On the other hand, 15 of the 43 evaluated municipalities (35%) did not respond to any of the six ATI requests, failing to comply with the very essence of the ATI law. Of these 15 municipalities, four are state capitals: Manaus (AM), Belém (PA), João Pessoa (PB) and Rio de Janeiro (RJ).

It is worth mentioning that a negative response such as “we do not have an Integrated Operations and Control Center” was considered accurate.

Figure 17 Average Response Time

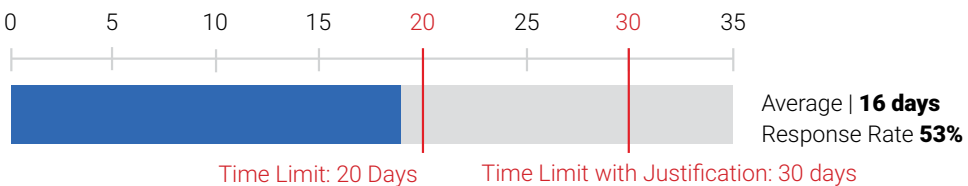


Table 10 Ranking of Municipalities

The aggregate analysis of each municipality's responses allows us to draw out some of the procedural practices for handling ATI requests. Some detailed examples follow below.

Municipality	Rank	Accuracy Rate	Average Time (days)	Response Rate	Number of Requests Sent	Number of Responses	Accurate Responses
Macapá	11°	100%	27	100%	6	6	6
Cuiabá	11°	100%	10	100%	6	6	6
Belo Horizonte	11°	83%	18	100%	6	6	5
Porto Velho	11°	83%	15	100%	6	6	5
Curitiba	11°	67%	15	83%	6	6	4
Londrina	11°	67%	15	100%	6	6	4
Caxias do Sul	11°	67%	23	100%	6	6	4
São Paulo	11°	67%	30	100%	6	6	4
Imperatriz	11°	50%	3	100%	6	6	3
Boa Vista	11°	50%	23	100%	6	6	3
Porto Alegre	11°	33%	14	100%	6	6	2
Arapiraca	15°	17%	32	100%	6	6	1
Rio Branco	15°	67%	22	83%	6	5	4
São Luís	15°	50%	4	83%	6	5	3
Recife	15°	50%	14	83%	6	5	3
Natal	25°	50%	5	83%	6	5	3
Florianópolis	25°	17%	2	83%	6	5	1
Jaboatão dos Guararapes	25°	67%	20	67%	6	4	4
Campo Grande	25°	50%	4	67%	6	4	3
Parnaíba	25°	50%	29	67%	6	4	3
Salvador	25°	33%	25	67%	6	4	2
Goiânia	25°	17%	12	67%	6	4	1
Uberlândia	25°	17%	4	67%	6	4	1
Teresina	25°	17%	16	67%	6	4	1
Ji-Paraná	25°	0%	15	67%	6	4	0

Table 10 Continuation

Municipality	Rank	Accuracy Rate	Average Time (days)	Response Rate	Number of Requests Sent	Number of Responses	Accurate Responses
Aracajú	27°	33%	28	50%	6	3	2
Palmas	27°	33%	13	50%	6	3	2
Maceió	28°	0%	18	33%	6	2	0
Cruzeiro do Sul	43°	0%	0	0%	6	0	0
Manaus	43°	0%	0	0%	6	0	0
Parintins	43°	0%	0	0%	6	0	0
Feira de Santana	43°	0%	0	0%	6	0	0
Aparecida de Goiânia	43°	0%	0	0%	6	0	0
Várzea Grande	43°	0%	0	0%	6	0	0
Belém	43°	0%	0	0%	6	0	0
João Pessoa	43°	0%	0	0%	6	0	0
Campina Grande	43°	0%	0	0%	6	0	0
Rio de Janeiro	43°	0%	0	0%	6	0	0
São Gonçalo	43°	0%	0	0%	6	0	0
Mossoró	43°	0%	0	0%	6	0	0
Joinville	43°	0%	0	0%	6	0	0
Guarulhos	43°	0%	0	0%	6	0	0
Araguaína	43°	0%	0	0%	6	0	0
Santana		0%	0	0%	0	0	0
Fortaleza		0%	0	0%	0	0	0
Caucaia		0%	0	0%	0	0	0
Vitória		0%	0	0%	0	0	0
Serra		0%	0	0%	0	0	0
Dourados		0%	0	0%	0	0	0
Ananindeua		0%	0	0%	0	0	0
Rorainópolis		0%	0	0%	0	0	0
N. Senhora do Socorro		0%	0	0%	0	0	0

● Beyond the Deadline, or Extension not Justified

The municipality of São Paulo (SP) responded to all six ATI requests, and four of those responses were deemed accurate. Questions 3 and 4 requested information regarding the surveillance and monitoring structure in the municipality and received inadequate responses. With regard to question 3, the Municipal Department of Administration responded that the municipality did not have an Integrated Operations Center, but suggested that the applicant contact other administrative agencies “to obtain further details”. This response leaves considerable margin for doubt concerning the consistency and the reliability of the information provided. In fact, as a World Cup host city, the municipality of São Paulo did implement an Operations and Control Center in 2014, as researchers confirmed through an Internet search.

The municipality of Rio de Janeiro (RJ) did not respond to any ATI requests. Previous evaluations (MICHENER; MONCAU; VELASCO, 2014) have identified the same problem with the city’s ATI request processing system, known as “Portal 1746”.

In a further example of poor public administration information services, Recife (PE) provided responses which, although rated as accurate, aroused the suspicion of researchers. For

example, the municipality of Recife denied the existence of an Integrated Operations and Control Center, the purchase of surveillance equipment over the course of the last four years, and the use of analytics tools in their online services. However, an Internet search identified a news article reporting the expansion of the city’s Operations and Control Center in 2013.

On the other hand, it is worth highlighting the good performance of the cities of Jaboatão (PE) and Caxias do Sul (RS). Despite not being state capitals, these municipalities provided complete and accurate answers, including adjoining documents, links and data, which satisfactorily met the requirements of the ATI requests.

2.4.1 Evaluation of Each Question’s Results

In general there was little variation in results between the questions, with the exception of question six, which obtained 49% accurate answers, significantly higher than the 31% average accuracy rate. It is possible to infer that this is due to the question being comparatively less complex in terms of the volume of text and information requested.

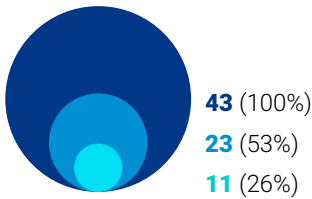
It is also worth highlighting that questions 3 and 4 regarding surveillance and monitoring

obtained the lowest response rates, receiving on average 5 fewer responses than other questions.

We evaluate the results obtained for each question below.

A. Question 1

Figure 18 Request 1



Response to Question 1

- Requests Sent
- Responses Received
- Accurate Responses

According to the CETIC.br survey, *TIC Governo Eletrônico 2015*, 41% of Brazilian municipalities have an IT department, including 96% of state capitals. Based on this information, we requested the documents that established these departments and the positions associated with them.

The question sought information on the structure responsible for IT systems in each municipality, requesting links to the agency’s website and the documents establishing the structure and its related positions.

The full text of the question is presented below:

1. *Is there any agency or department*

in the municipality’s administration responsible for IT systems for the entire administration? Which? Please send a link to the agency/department’s website or a document establishing its creation. Does any municipal body have Open Data managers, Information Officers or permanent official positions dedicated to information management? Please send the documents that support the creation of these positions.

Of the 23 municipalities that answered the ATI request, 11 (26%) provided accurate responses to this question. We would like to draw particular attention to the municipality of São Paulo (SP) whose answer was particularly complete, including links to the solicited documents, budgetary resources dedicated to the department as well as related laws and ordinances.

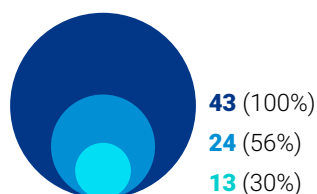
Curitiba’s (PR) response was also notable for the high quality of the information provided. As requested, the response contained the decree regulating the organizational structure of the Information and Technology Department as well as Municipal Law n°14.422.

The remainder of responses from municipalities were limited to information such as the name of the agency managing IT in the municipality and the link to its website, but with no mention made of the decrees or laws that establish,

govern, or structure this agency and its corresponding staff. These responses were considered partial.

B. Question 2

Figure 19 Request 2



Response to Question 2

- Requests Sent
- Responses Received
- Accurate Responses

The second question requests that municipal administrations indicate applicable norms regarding their information management activities, with a particular focus placed on privacy, government confidentiality, information security and electronic transactions.

A recent survey of Federal privacy legislation (DAHLMANN e al., 2015) identified a number of gaps in the detailed procedures for collecting, processing and sharing information by public authorities. Based on this diagnosis, question 2 sought to identify how municipalities address such gaps and how they regulate their existing obligations, especially in relation to the ATI law. At a time when the

country is discussing the adoption of a blanket law for personal data protection, identification of existing and applicable rules at the various levels of administration is essential for understanding the context in which such a law would be enacted.

It is worth noting that such legislation is difficult to access through traditional Internet search engines, or even through the municipal administrations' web portals. For this reason, the inclusion of documents or hyperlinks should be considered good practice on behalf of the municipality.

The full text of the question is below:

2. What are the municipality's official policies/laws/decrees/regulations regarding privacy, government confidentiality, information security, electronic transactions or other information-related issues? I would like to request the list and the text (or the link) of the relevant legislation for each of the aforementioned aspects, specifically, state and municipal legislation and administrative acts orienting and regulating the municipality's activities.

Of the 24 municipalities that answered the ATI request, 13 provided an accurate response.

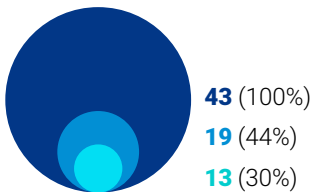
The response sent by the municipality of Londrina (PR) deserves particular mention. It included four decrees covering the information and data management of its municipal administration. In addition, the

municipality of Belo Horizonte included the decree instituting the municipality’s information security policy. Two other responses worth highlighting as good examples are those of Salvador and São Luís, which both sent accurate links to the requested documents.

The rest of the responses responded to the question by referring to the decree regulating the ATI law. Some municipalities also mentioned the lack of municipal regulation relating to other aspects of the request (privacy, electronic transactions, etc.) and some municipalities did not mention anything other than the ATI law, disregarding the rest of the request.

C. Question 3

Figure 20 Request 3



Response to Question 3

- Requests Sent
- Responses Received
- Accurate Responses

Question 3 sought information about the existence (or otherwise) of an Integrated Command and Control Center in the municipality, as well as the regulations that govern

it and public spending therein.

Since the Pan-American Games in 2007, Brazil has hosted a series of mega-events including the World Military Games in 2011, the Confederations Cup in 2013, the World Cup in 2014, and the Olympic and Paralympic games in 2016. In this context, surveillance investments were made in the various host cities, including the implementation of Integrated Command and Control Centers, as well as Mobile Integrated Command and Control Centers and thousands of surveillance and monitoring cameras (A PÚBLICA, 2013; MOTHERBOARD, 2016).

The full text of the question is below:

3. Does the municipality have an integrated command and control center for monitoring and/or surveillance purposes? If so, I would like to request the respective norms regulating the command and control center, containing the following information: start date of operations, annual budget (last 4 years) and the source and quantity of fixed servers. Were there investments made by private companies for the acquisition of goods, services or staff training? I would like to request the contract established, stating the name of the companies and value invested.

Only 19 municipalities responded to this question, 13 provided an accurate response.

The municipality of Porto Velho

(RO) showed great willingness to provide information, with a detailed response including information on its surveillance system, the process of acquisition of security equipment as well as purchase statements.

The municipality of Cuiabá (MT) also deserves particular mention for its commitment to providing information, including the number of fixed servers, as well as the administrative process and contracts signed between the municipal administration and the *CMT-Cuiabá Monitoramento de Trânsito Lider* Consortium.

The administration of Belo Horizonte (MG) also provided relevant information regarding their Integrated Command and Control Center, sending copies of contracts and bills of sale for services. The municipalities of São Luís (MA) and Palmas (TO) also sent their contracts and budgets. Such responses show the question was clear and could be answered in a satisfactory manner.

Another case worth mentioning is that of the municipality of Uberlândia (MG), which demonstrated a commitment to resolve the request. The question was redirected to the Transit and Transport Department on the basis that the only municipal command and control center was linked to that department, for the purpose of monitoring the public bus fleet by GPS. The response suggested scheduling a meeting and also included the names and telephone numbers of the mass transport

companies so that the petitioner could obtain further clarification.

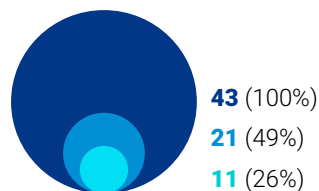
On the other hand, the administration of the municipality of São Paulo (SP) omitted important information, sending the following reply:

[...] According to the Coordinating Body for Management of Information and Communications Technology, the administration does not have an integrated command and control center. We suggest individually contacting the managing bodies of each system in order to obtain further detail [...]

A quick Internet search shows that the Municipality of São Paulo (SP) has an Integrated Command and Control Center composed of several agencies, which has been in place since 2014.

D. Question 4

Figure 21 Request 4



Response to Question 4

- Requests Sent
- Responses Received
- Accurate Responses

The fourth question requests information regarding the purchase

or use of monitoring technologies such as cameras, unmanned aircraft or robots over the course of the last 4 years. The use of these technologies responds to various demands from the public administration and is part of smart city development strategies. Data collected by cameras or citizens' personal devices have been used for territorial surveillance or monitoring in situations with large circulation of people through urban spaces, such as mega-events (CARDOSO, 2013). Other applications include the use of sensors to help reinforce security in public or private buildings and geolocation to help monitor the dynamics of certain naturally occurring phenomena in order to aid prevention or rescue operations (BORGIA, 2014).

Despite the potential benefits provided by such technologies, it is fundamental to ensure transparency in their acquisition, as well as ensure that their implementation observes core human rights principles.

The complete text of the question is below:

4. Does the municipality utilize technology or has it acquired technological services such as cameras, unmanned aircraft (drones) or robots for monitoring purposes over the course of the last four years (2012, 2013, 2014, 2015)? I would like to request the complete text or a link to download the documents relating to the acquisition of these

services (such as procurement tenders, contracts and bills of sale).

Of the 21 municipalities that answered the request, 11 provided an accurate response.

The municipalities of Porto Velho (RO), Curitiba (PR), Londrina (PR), Palmas (TO) and Belo Horizonte (MG) were the only ones to answer the question in its entirety, providing the documentation relating to the acquisition of these services, such as the procurement tenders, purchase contracts and bills of sale.

The municipalities of Arapiraca (AL), Macapá (AP), Imperatriz (MA), Natal (RN), Boa Vista (RR), Porto Alegre (RS) and Aracaju (SE) responded with minimal detail or denied the use or acquisition of monitoring technologies. It was not possible to verify the veracity of these responses. The municipality of Recife (PE) simply declared the existence of video surveillance cameras, without mentioning their quantity, the contracts signed for their acquisition or their value.

Some municipalities sent a hyperlink to their Municipal Procurement Portals, as was the case with Goiânia (GO), Cuiabá (PR) and Teresina (PI). This practice has been commonly observed in other passive transparency evaluations, although it is not considered an accurate response as the procurement portal search mechanisms are confusing and do not allow for precise filtration to identify the information needed.

Other cases worthy of mention include

the municipality of Uberlândia (MG), which claimed that the bills of sale for the purchase of monitoring and surveillance cameras were classified as confidential. Campo Grande (MS) demanded an identification document in addition to the name and email address of the petitioner before responding. This was the only case where information was alleged to be classified.

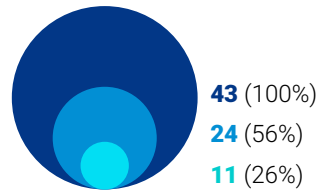
Once more, the municipality of Caxias do Sul (RS) distinguished itself by the completeness of the information it provided, including the contract addendum addressing the maintenance service for the Municipal Guard's security systems.

Finally, yet another curious case is that of the municipality of São Luís (MA). As a response, the administration sent the bill of sale for a video surveillance bus, valued at R\$350,000 and declared that it had acquired 42 surveillance cameras in the context of the Federal Government's Program for Combatting Crack, without mentioning their value. The example shows an intention to provide the information requested, albeit incomplete.

E. Question 5

Currently, 88% of Brazilian municipal administrations have a website (TIC GOVERNO ELETRÔNICO, 2015). Government services such as emitting bills of sale, consulting administrative processes and paying bills are already

Figure 22 Request 5



Response to Question 5

- Requests Sent
- Responses Received
- Accurate Responses

available online in almost 80% of state capitals and 40% of other cities, saving citizens the time and money it would take to physically travel to an administrative office (or several) to obtain these services (TIC GOVERNO ELETRÔNICO, 2015). In terms of availability of applications, 52% of Brazilian state capitals possess applications developed by the municipal administration for the provision of citizen services (TIC GOVERNO ELETRÔNICO, 2015).

Based on this information, question 5 concerns e-government practices adopted by the municipality, including the use of mobile applications, databases shared via APIs, provision of online services and participation platforms. A link was requested for each of the available resources.

The full text of the question is below:

5. Does the municipality make any applications available via cellular phones, mobile devices, or websites for the provision of online

services or public participation (e-gov)? If so, list the links to the databases shared via API.

Twenty-four responses were received, of which 11 were rated as accurate, containing the requested lists and links of e-government services available in the municipality.

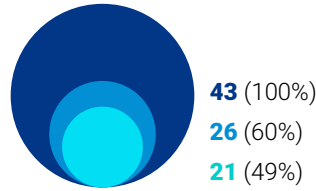
The municipalities of Rio Branco (AC), Maceió (AL), Belo Horizonte (MG), Cuiabá (MT), Recife (PE), Teresina (PI), Londrina (PR), Caxias do Sul (RS), and Porto Alegre (RS) listed four or more solutions and applications available to their citizens. Goiânia (GO) mentioned the existence of three applications, still in development at the time of the request.

It is worth mentioning Campo Grande’s (MS) response, which stated that the municipality did not possess any applications or online services. This could constitute omission of information on the part of the civil servant responsible for processing the request given that the city has an official website. In addition, the ATI request was made through the municipal e-SIC platform, which is in itself considered an online service.

F. Question 6

Question 6 concerns the use of website traffic analysis tools on interfaces between the administration and citizens, as well as the use of these analyses made by managers. The use of corporate online website

Figure 23 Request 6



Response to Question 6

- Requests Sent
- Responses Received
- Accurate Responses

traffic tools - such as Google Analytics – can provide useful data for the most efficient provision of online services. However, website traffic-measuring platforms – generally supplied by private agents – mediate the relationship between the public administration and the citizen, who is subject to the rules set forth in the Terms of Use of the companies providing this service. Moreover, this generally implies sharing user information with third parties, sometimes out of the country.

The full text of the question is below:

6. Does any agency in the municipality measure the traffic on their websites or use any type of website analytics tool (website traffic analysis)? If so, which? What web analytics mechanisms are used (example: Google Analytics)? How are these data used by the public administration?

Of the 43 municipalities in the

sample, 26 responded to the ATI request, with 21 of the responses assessed as accurate. This question obtained the highest number of accurate responses (44%). While no conclusion can be made regarding this difference, we can offer a few hypotheses. For example, the text of the question was shorter than the others and the volume of information requested was smaller. In addition, municipal administrations might consider the use of these tools as a positive aspect, serving as an indicator of their efficient use of the Internet.

The responses indicate that the use of analytics tools is quite common among municipal administration agencies. The most common justification was that the analysis of website access spikes helped to improve the network, although some answers left room for doubt on the actual use of these resources. The study did show that the use of such tools is common in software development, and permitted mapping that can be used to begin discussions on the implications of the use of these tools – such as in the case of sharing user data with third parties.

The municipality of Arapiraca (AL) sent Google Analytics graphs extracted from its official website. Porto Alegre (RS), however, affirmed that “more than 120 websites are monitored by Google Analytics”, but failed to reveal what use was made of the data.

The municipality of Belo Horizonte

(MG) mentioned the use of awstat software, used in some strategic applications to understand the seasonality of access spikes, while Florianópolis (SC) reported the use of such tools in order to “verify possible attempted attacks by hackers”. Once again, Recife (PE) denied using such tools for measuring website traffic.

The responses indicate, in general, that the municipalities’ technological management departments are searching for information regarding traffic on their websites. However, we do not know what decisions are made on the basis of this analysis, or what is done with the collected data.

2.5 Discussion

In the face of new social, cultural, and legal challenges emerging from the growing use of technology in citizen-state relations, this study sought to address the issue of municipal transparency in relation to Information Technology (IT) management policies and the treatment of citizens’ personal data.

The enforcement of transparency in this context is relevant not only because of the enactment of the Law 12.527/2011 on Access to Public Information Law in Brazil, but also because of the importance of citizen control over how governments regulate their lives in large urban centers.

Citizens must be aware of the IT policies in their municipalities in order to keep the public administration accountable. This means being aware of what surveillance practices are being undertaken and the ordinances that regulate the use of data, among other aspects of municipal IT management. Growing concern with human rights violations arising from the use of IT in mass monitoring and surveillance activities has led to the creation of explicit principles by renowned international organizations. Their most primary recommendation is that the State be more transparent with respect to these matters.

Based on the current study, it is possible to conclude that the majority of evaluated municipalities are either unprepared to respond to ATI requests concerning the topics at hand, or, alternatively, lack the capacity to provide accurate answers. In several cases, we received partial or standardized answers, showing no commitment on behalf of the administration to provide citizens with information.

Based on the responses analyzed, few governments offered consistent information regarding IT management policies or regulation regarding privacy, electronic transactions, surveillance infrastructure, surveillance, provision of online services, or applications offered to citizens by the public administration. The questions posed were simple and straightforward. Some questions presented explicit obligations, such as providing the applicable norms and regulations in place, but did not receive accurate responses.

We believe that the low levels of compliance owe something to the relative novelty of the policy area. Many public administrators expressed confusion, in addition to a predisposition to interpret some of the questions as sensitive.

This relative ignorance is troubling, especially given the growing demand for computerized services, surveillance and monitoring equipment, and mass collection of personal data. Within this context, there should be a clear imperative to guarantee more effective transparency and accountability.

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Chapter 3

TRANSPARENCY AND GOVERNMENT ADVERTISING: INCREASING EXPENDITURES AND LAGGING ACCOUNTABILITY

**Luis Filipe Kopp, Gregory Michener
and Ana Paula Jelihovschi**

3.1 Introduction

Government spending on advertising continues to increase, even as Brazil faces a political and economic crisis. Federal spending on government advertising, principally via mass media, grew by 65% in the first quarter of 2016, totaling R\$386.5 million, compared to R\$234.1 million in the same period during the previous year (ESTADÃO, 2016). In the state of Rio de Janeiro, where civil servants face delays in their salaries, and the incumbent governor recently declared a state of public calamity due to a budgetary crisis, the advertising budget for 2016

was four times larger than that of the previous year (O GLOBO, 2016). Rio de Janeiro's municipal administration spent R\$107.2 million on "advertising and media communications" in 2015 (FOLHA, 2016), more than the amount spent by the state, and 8% more than it had spent the previous year.

These antecedents suggest inexplicable largesse during a moment of crisis; when public funds are at their lowest, advertising expenditures are at their highest. Are these expenditures really being used to inform the population about crucial public policy issues or are they being used as a political tool for the self-promotion of politicians? Are municipal and state administrations sufficiently transparent regarding their spending on advertising? Do citizens receive benefits equivalent to the opportunity costs of funds spent on government advertising?

Government spending on advertising can be critical when administrations have an urgent need to inform or justify their decisions to the public. This type of advertising can even be economically valuable when funds are used to invest in future returns, such as when advertising bolsters public health or tourism and investment revenues. However, advertising may also be used to promote incumbent politicians and their parties (BUCCI, 2015), as a tool for controlling the media, and as a convenient means of laundering money for electoral campaigns.

The masterminds of the "Mensalão" legislative vote-buying scheme (criminal action 470), which shook Brazil during an eight-year period, used advertising money as a source for buying votes (MICHENER; PEREIRA, 2016).

In addition to the legal issues associated with government advertising, there are also moral issues. Here, the issue of opportunity costs comes to the fore. During the first four years of Dilma Rousseff's presidential term, her government spent R\$9 billion (US\$3 billion) on government advertising (RODRIGUES FERNANDES, 2015). It is important to consider whether this exorbitant sum – destined to promote the state-owned petroleum company, state-owned banks, the state-owned development bank, and state-subsidized social housing projects among others (e.g. Petrobrás, Caixa Econômica, BNDES, "Minha Casa Minha Vida") – could have been put to better use. Considered within the context of opportunity costs, the abuse of government advertising is endemic in Brazil; it is present in all spheres of power, including several state-owned enterprises and political parties. Despite the importance of the topic, few studies have systematically assessed advertising expenditure at the municipal level, especially with regard to the transparency of these expenditures.

The purpose of this chapter is to begin to fill this research gap. Requests were sent to the capital and second largest municipality of each state, seeking

information regarding government spending on advertising. In total, 52 municipalities and the Federal District were evaluated. Researchers did not evaluate smaller municipalities due to logistical constraints and the assumption that larger municipalities would be better able to comply with the Access to Public Information Law (ATI law). Given the sensitivity of such information, resistance to disclosure was expected, especially owing to the political context; research was conducted during an election year.

The first step in evaluating the transparency of government advertising was to conduct a search in each municipality's transparency portals for pertinent information. If no data was found, the information was requested based on the Access to Information (ATI) Law. If government responses were unsatisfactory, either an appeal or a second request was made, and if there was no reply at all, telephone contact was made. The results show significant differences in spending on advertising across the country. While Rio de Janeiro (RJ) spent R\$107 million in 2015, almost double what was spent by the Department of the Environment (R\$62 million) and close to what was spent by the Department of Culture (R\$138 million), Manaus (AM) spent 1.92% of its budget on advertising, representing a cost of R\$42 per capita. Boa Vista (RR) spent up to 1.35% of the municipal budget on advertising and Vitória (ES) reported

annual spending of R\$36 per capita. If expenditures of R\$10 per capita per year are extrapolated, we can estimate that Brazilian citizens pay more than R\$2 billion for municipal advertising.

This chapter is organized into four sections: (1) Review of the academic literature addressing government advertising and media; (2) description of the methodology applied to this evaluation, detailing the data collection process and the process of sending ATI requests; (3) presentation of the results obtained from the data collected; and, (4) discussions surrounding the results and suggestions for further research.

3.2 Government Advertising

Government advertising is defined as space in the media, paid or otherwise, acquired for the purpose of delivering information or announcements to citizens (FUNDAR, 2013, p.6). This definition includes radio, press, television and online media. It is the citizen's right to be informed and, in cases of reasonable necessity, the duty of governments to deliver relevant information through advertising paid for with public funds. Nevertheless, as with any use of public resources, one should always question the motivations behind spending, and the prudence with which it is conducted.

First, paying for something that could be done for free by using social media

is reason enough to question the effectiveness of these expenditures. The media's main role is to deliver relevant and urgent information to the population through radio, television and newspapers. The objective of "giving publicity" to certain actions or political priorities could obviously be accomplished through low-cost actions: press conferences, interviews, or social media notices. The abuse of public funds for government advertising – for self-promotion, for laundering funds for political finance, or for gaining leverage over the media – is well documented (FUCATELMEDIA OBSERVATORY, 2006; HUGHES; LAWSON, 2005; INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, 2012; MASTRINI; BECERRA, 2006; O'DONNELL, 2007; RIVA PALACIO, 1997; RODRÍGUEZ CASTAÑEDA, 1993).

The risk of using official advertising funds for media control and manipulation is not a new problem, nor is it exclusive to Brazil. In 1982 Mexican president José López Portillo made explicit the role of government advertising when he stated, "I'm not paying you to lash out at me" (FUNDAR, 2013). Manipulative spending on government advertising is such a problem in the Americas that the Organization of American States' Inter-American Commission on Human Rights has prepared a document containing 82 principles to regulate its use (BOTERO, 2012). According to Araujo and Tejedo-Romero (2016), cases

of abuse occur mainly in the executive branch and at the municipal level, particularly in medium and small cities.

Despite its importance, the topic has not been sufficiently studied – especially at the municipal level. When the municipal level is investigated, the studies approach each municipality as an isolated case, or aggregate many of them into one unit (see, for example, DIVINEWS, 2014; GASTOS ABERTOS, 2016; JORNAL O GUAÍRA, 2016). This approach distracts from the fact that this is a widespread phenomenon, present in every city and state.

3.3 Methodology

For this study, the capital and the second most populous municipality for each of Brazil's states and the Federal District were selected. Even though medium and small cities are alleged to misuse government advertising with greater frequency than larger cities, this study followed the pattern of the current report, in which most chapters analyze the largest cities only. In establishing a research design, evaluators also assumed there would be a greater chance of finding data in processable formats in larger cities. In order to select the most populous cities that were not the state capitals, population data from Brazil's Institute for Geography and Statistics (IBGE) was used. Municipalities evaluated in this study are listed in Table 11.

Table 11 List of Municipalities Evaluated

State	Capital City	Second Largest Municipality
AC	Rio Branco	Cruzeiro do Sul
AL	Maceió	Arapiraca
AM	Manaus	Parintins
AP	Macapá	Santana
BA	Salvador	Feira de Santana
CE	Fortaleza	Caucaia
DF	Brasília	-
ES	Vitória	Serra
GO	Goiânia	Aparecida de Goiânia
MA	São Luís	Imperatriz
MG	Belo Horizonte	Uberlândia
MS	Campo Grande	Dourados
MT	Cuiabá	Várzea Grande
PA	Belém	Ananindeua
PB	João Pessoa	Campina Grande
PE	Recife	Jaboatão dos Guararapes
PI	Teresina	Parnaíba
PR	Londrina	Curitiba
RJ	Rio de Janeiro	São Gonçalo
RN	Natal	Mossoró
RO	Porto Velho	Ji-Paraná
RR	Boa Vista	Rorainópolis
RS	Porto Alegre	Caxias do Sul
SC	Florianópolis	Joinville
SE	Aracaju	Nossa Senhora do Socorro
SP	São Paulo	Guarulhos
TO	Palmas	Araguaína

● Municipalities That Did Not Respond to Repeated ATI Requests Regarding Expenditure on Advertising in 2015

The study began with a search for each municipality's website online. According to the Access to Information (ATI) law, it is mandatory that this website include an icon that links to the municipality's Transparency Portal, where information such as advertising expenditures can be requested. Four possible outcomes were identified:

- The municipal administration did not have a website;
- The municipality's website did not contain a reference to the Transparency Portal;
- There was a Transparency Portal, but either no platform for making information requests (e.g. such as an Electronic Service System for Citizens' Information (e-SIC)) or the platform did not function properly;
- There was a properly functioning e-SIC platform in place;

The e-SIC platform allows citizens to make ATI requests and receive notifications to monitor requests and appeals. In cases where the municipal administration did not possess a Transparency Portal (e-SIC or other), the request was sent through the municipal ombudsman's office. The requests for each case were identical, as transcribed below:

Dear Sir or Madam, we are researchers from the Getulio Vargas Foundation School of Administration and we would like to request data related to advertising

expenditures, based on the Access to Information Law. Could you please provide an editable spreadsheet containing the data described below for the years 2010-2015?

- Please provide approved and executed budgets for government advertising, organized by value, type of media (blog, newspaper, magazine, TV, Facebook, google adwords, etc.), year, area (tourism, education health, etc), as well as the contracted party's CNPJ/ company name (in case of public enterprises and direct spending) and the contracted party and contracting mode (procurement, exemption, etc.). Where possible, it would be better if the data were segregated by contract and the link made available.

Thank you very much,

Most ATI requests were sent to the municipal administrations between the 7th and 16th of April, 2016. Between May 15th and 30th and on June 30th we attempted to send the requests a second time to municipalities where the original request had not gone through. According to the ATI law, the municipalities must respond within a period of 20 calendar days. It is possible to extend this timeframe for an additional 10 calendar days, with justification. If we did not obtain a response when the time expired, we made the request again, or, when possible, we made

a first and second appeal. Once all digital channels (email, portals) were exhausted, we made contact with the remaining administrations by telephone. We organized the responses obtained into the typology below:

A. Information regarding annual spending: We assessed whether information on the total amount spent had been made available. We assigned a score of 100 points if data were available for all annual spending (with breakdown showing release of funds (approval for disbursement) rather than just funds paid) since 2010; 75 points if data were available since 2013 (this year was chosen as a lower bound as it marks the first year of the current mandate); 50 points if only 2014 and or 2015 were available; 25 points if information on total funds paid was available, but not the breakdown showing the release of funds (approval for disbursement); and 0 points if no information regarding expenditures was found.

B. Completeness of information: In addition to the amount spent, we also requested information about intermediaries and recipients of resources. We assigned a score of 100 points if the advertising agency, final recipient of resources and the campaign were identified; 60 points if only the advertising agency or the recipient were identified; 30 points if only the total was available; and 0 points if, in

order to obtain the expenditures, it was necessary to know, a priori, the name or CNPJ of the agencies. Likewise, we assigned a score of 0 points if it was not possible to obtain the information on the link provided, or if a failure to respond to the request was justified on the basis that the decree regulating the ATI law does not oblige the municipality to provide “additional work” (article 13, III of Federal Decree 7724).

C. Machine Processability: We assigned a score of 100 points if it was possible to obtain a processable spreadsheet or file containing the information, or if the data was obtained easily in a specific section of the Transparency Portal in csv, txt or xls format. We assigned a score of 60 points if the information was received in the body of an email or in .DOC format and 30 points if it was received in .pdf format only.

D. Timeliness: We assigned a score of 100 points if the answer was obtained within the 20-consecutive-day timeframe or if the information was available on the website; 90 points if they requested and justified an extension and provided the response within 30 days; 60 points if they did not request the extension, but responded within 30 days, 30 points if they responded within 60 days; and 0 points if they did not respond in a minimally satisfactory manner in up to 60 days from the date of the first request.

3.4 Results

The results show that while transparency is still extremely deficient in Brazil’s municipalities, there is ongoing and perceptible progress. During the four months over which this study was conducted, we noted the improvement of many transparency portals; some only came online during the execution period. In general, during the telephone contact phase we found it difficult to locate the person responsible for handling the request, and we were often redirected up to five or more times. Even so, civil servants were attentive and helpful; the main barrier was simply a lack of knowledge regarding the ATI law for the majority of staff.

It was not possible to request the information in three municipalities: Santana (AP), Caucaia (CE) and Mossoró (RN). In the first two cases, the webpage was offline during the period of the study and in the case of Mossoró, the system for making ATI requests was defective and only returned an error message. However, it was possible to obtain the values spent by the Media Communications Department from 2010 to 2015 through the Transparency Portal directly. In general, even in municipalities far removed from Brazil’s large urban centers, the quality of the websites was acceptable. Manaus (AM) did not have a Transparency Portal at the start

of this study, but during the course of the process, the platform became available and we were able to make ATI requests. In the case of Florianópolis (SC), we tried to make the ATI requests several times and the site always returned an error message. The request was only accepted for processing after we changed our address on the registration page to a random address within Santa Catarina. It is worth highlighting that the ATI law states that “any person, physical or legal, can formulate a freedom of information request” (in article 11 of the decree); this means that this right should not be limited to citizens of Santa Catarina.

In some municipalities, the responses were contrary to the very principles set forth in the ATI law. In Londrina (PR), for example, the government reported that during the entire period analyzed, 2010 to 2015, there was no expenditure on advertising. Despite this assertion, expenditures were found amounting to more than R\$3 million in 2015 alone on the municipality’s website. Rio Branco (AC), Boa Vista (RR), and Porto Velho (RO) sent only the total spent per year, and no disaggregated information. Unfortunately, 60% of the requests (30 out of 50) did not receive responses, or received only an automated answer. Some municipalities (Florianópolis (SC) and Macapá (AP)) mentioned it would not be possible to retrieve information relating to the previous administration. Goiânia (GO) and Joinville (SC),

began making data available from 2015, so it is hoped that these municipalities will be better prepared to handle passive transparency requests in the years to come.

In some transparency portals, information was obtained about advertising spending that provided a breakdown of committed, released (approved for disbursement) and paid funds, or paid funds only. Where possible, the values of released funds were used for this study, given the release of funds is usually processed by the operational units that receive the contracted object (good, service, etc.). According to article 63 of Law n° 4.320/1964, release of funds involves the verification of the right for payment on behalf of the creditor, based on the titles and documents proving the right to payment and the exact amount to be disbursed. The expenditures are summarized in Table 12.

Each municipality’s spending, as shown in Figure 24, represents an average of R\$10 per capita. However, Vitória (ES) and Boa Vista (RR) show spending above R\$25 per capita and Mossoró (RN), Rio de Janeiro (RJ), and Florianópolis (SC) show spending above R\$15 per capita. This analysis is limited to the sample for which it was possible to obtain the data for 2015, meaning other municipalities included in the study could have even higher expenditures per capita.

Table 12 Municipal Expenditure on Advertising from 2010 to 2015 (R\$)

State	Municipality	2010	2011	2012	2013	2014	2015
RO	Ji-Paraná	●	●	●	300.000	770.000	850.000
PR	Londrina	●	●	●	●	●	3.111.280
AC	Rio Branco	2.502.212	2.888.987	3.126.536	3.432.290	3.038.845	3.129.668
RO	Porto Velho	4.085.552	4.642.261	2.988.761	2.925.775	2.361.213	4.493.335
PB	Campina Grande	●	●	●	●	●	4.857.151
AP	Macapá	●	●	5.947.543	1.500.500	3.512.974	5.304.661
RN	Mossoró	●	●	●	●	6.773.866*	5.321.073*
RS	Caxias do Sul	●	●	●	●	●	5.855.404
ES	Serra	●	●	●	2.230.697	3.837.631	6.275.825
SC	Florianópolis	●	●	●	3.703.307	7.496.826	8.150.380
SC	Joinville	6.684.420	8.402.551	8.569.444	3.893.769	9.581.403	8.296.259
RR	Boa Vista	2.129.956	1.026.758	676.309	2.461.000	5.292.016	8.900.350
RS	Porto Alegre	13.534.080	11.263.564	15.111.067	14.034.783	16.442.006	10.521.279
ES	Vitória	7.476.708	6.804.826	11.452.708	12.552.803	12.368.844	10.839.006
BA	Feira de Santana	5.766.560	9.805.999	6.599.954	4.636.540	9.042.895	11.039.951
GO	Goiânia	●	●	●	●	●	14.472.250
PB	João Pessoa	●	●	●	●	17.510.610	16.401.857
PR	Curitiba	18.721.950	17.649.646	17.459.396	12.793.564	13.990.874	19.391.479
PA	Belém	●	●	●	11.660.497*	17.787.163*	21.623.797*
DF	Brasília	●	●	●	●	●	29.467.113
BA	Salvador	10.167.045	13.147.684	23.319.815	22.534.937	56.798.160	66.854.819
SP	São Paulo	175.842.565	162.096.853	162.875.031	121.588.431	99.742.420	70.677.903
AM	Manaus	●	●	39.837.366*	18.695.256*	71.048.689*	86.288.566*
RJ	Rio de Janeiro	40.600.000*	115.300.000*	57.600.000*	86.300.000*	99.100.000*	107.200.000*

● Municipalities that Did Not Respond to Repeated ATI Requests Regarding Expenditure on Advertising in 2015

* Indicates Values that Were not Provided by the Municipality but which Were Estimated Using Data from the Press

Figure 25 also shows a significant increase in the volume of expenditure per capita in the majority of municipalities during the period analyzed, except São Paulo

(SP), Mossoró (RN), and Vitória (ES), where spending decreased, and Rio Branco (AC) where it remained relatively constant.

Figure 24 Advertising Expenditures in 2013, 2014, and 2015 (R\$)

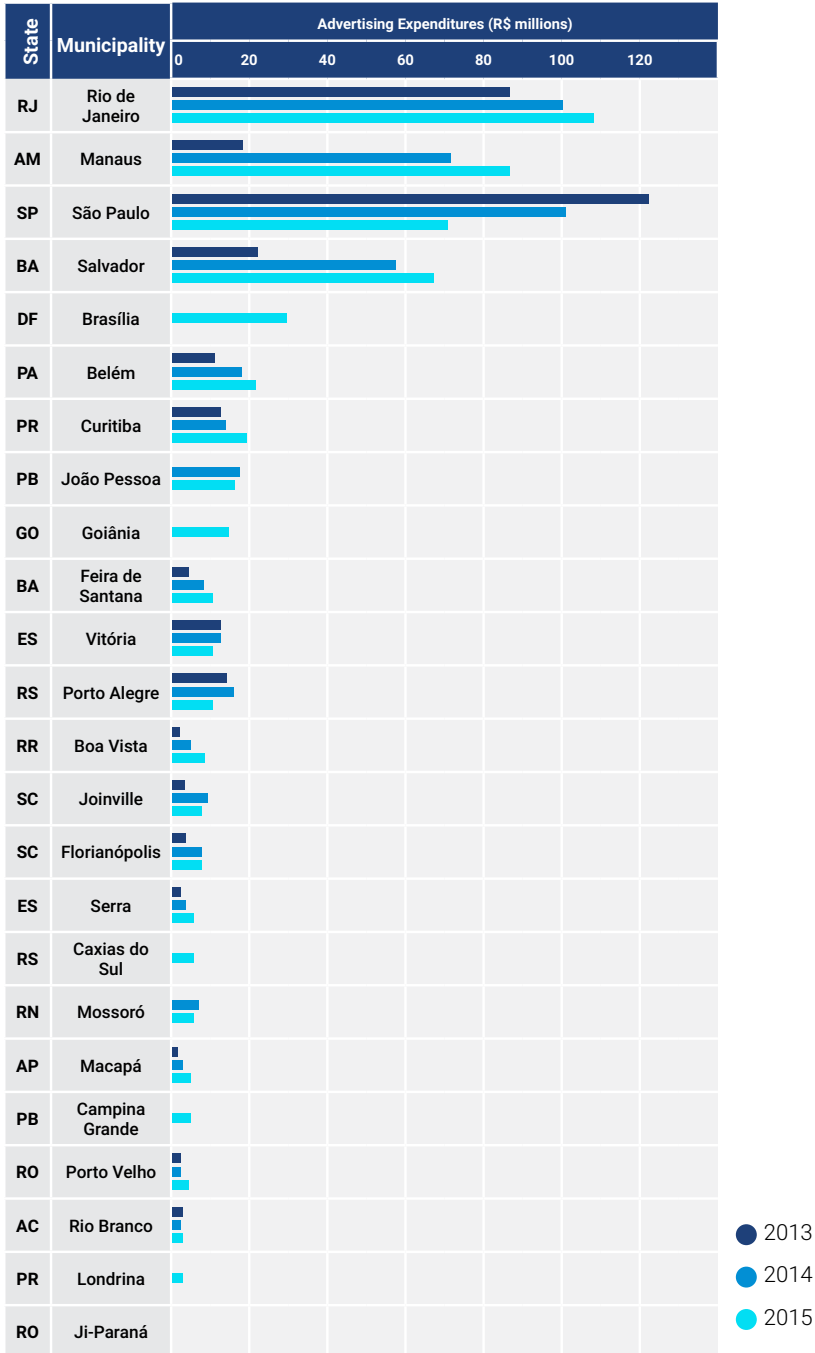


Figure 25 Advertising Expenditures by Municipal Budget and Population (R\$)

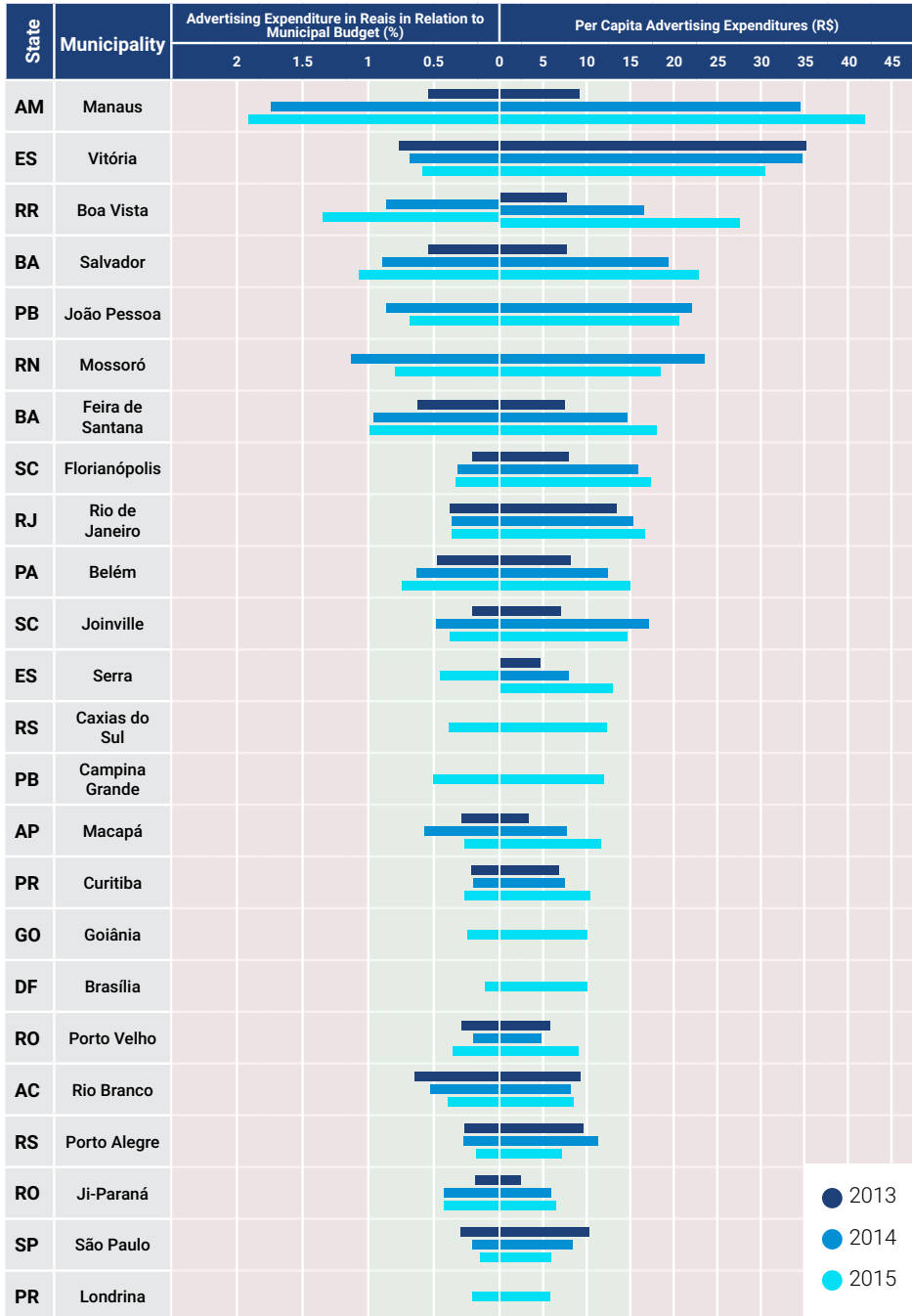


Table 13 Results of Response Analysis

State	Municipality	Expenditure	Timeframe	Processability	Completeness	Average
BA	Feira de Santana	100	100	100	100	100
ES	Vitória	100	100	100	100	100
SP	São Paulo	100	100	100	60	90
RS	Caxias do Sul	50	100	100	100	88
PR	Curitiba	100	90	100	60	88
PB	João Pessoa	50	100	100	100	88
SC	Florianópolis	75	100	100	60	84
RO	Ji-Paraná	75	100	60	100	84
RR	Boa Vista	100	100	100	30	83
AP	Macapá	75	60	100	60	74
RS	Porto Alegre	100	60	100	30	73
DF	Brasília	50	30	100	100	70
ES	Serra	75	30	100	60	66
AC	Rio Branco	100	60	60	30	63
PB	Campina Grande	50	100	30	60	60
GO	Goiânia	50	30	30	100	53
SC	Joinville	50	30	100	30	53
PR	Londrina	50	30	60	30	43
RO	Porto Velho	100	-	30	30	40
PA	Ananindeua	●	●	●	●	●
GO	Aparecida de Goiânia	●	●	●	●	●
SE	Aracaju	●	●	●	●	●
TO	Araguaína	●	●	●	●	●
AL	Arapiraca	●	●	●	●	●
PA	Belém	●	●	●	●	●
MG	Belo Horizonte	●	●	●	●	●
MS	Campo Grande	●	●	●	●	●
CE	Caucaia	●	●	●	●	●
AC	Cruzeiro do Sul	●	●	●	●	●
MT	Cuiabá	●	●	●	●	●
MS	Dourados	●	●	●	●	●
CE	Fortaleza	●	●	●	●	●
SP	Guarulhos	●	●	●	●	●
MA	Imperatriz	●	●	●	●	●

Table 13 Continuation

State	Municipality	Expenditure	Timeframe	Processability	Completeness	Average
PE	Jaboatão dos Guararapes	●	●	●	●	●
AL	Maceió	●	●	●	●	●
AM	Manaus	●	●	●	●	●
RN	Mossoró	●	●	●	●	●
RN	Natal	●	●	●	●	●
SE	Nossa Senhora do Socorro	●	●	●	●	●
TO	Palmas	●	●	●	●	●
AM	Parintins	●	●	●	●	●
PI	Parnaíba	●	●	●	●	●
PE	Recife	●	●	●	●	●
RJ	Rio de Janeiro	●	●	●	●	●
RR	Rorainópolis	●	●	●	●	●
BA	Salvador	●	●	●	●	●
AP	Santana	●	●	●	●	●
RJ	São Gonçalo	●	●	●	●	●
MA	São Luís	●	●	●	●	●
PI	Teresina	●	●	●	●	●
MG	Uberlândia	●	●	●	●	●
MT	Várzea Grande	●	●	●	●	●

● No response

In Manaus (AM), Boa Vista (RR), Mossoró (RN), Feira de Santana (BA) and Salvador (BA), spending on publicity was high relative to both the budget and the size of the population. Despite representing a large percentage of the budget, spending was higher than R\$20 per capita in João Pessoa (PB) and Vitória (ES).

In Table 13, the municipalities listed provided data – either through the Transparency Portal or through an

ATI request made through a specific platform. All other municipalities could not be evaluated. This is a serious problem as not responding can be considered worse than an incomplete or non-processable response.

A comparison of evaluations made by the researchers yielded an inter-coder reliability of 92.92% and a Kappa statistic of 0.87 (s.e.: 0.04; $p < 0,001$), which can be interpreted as a near-perfect level of congruence (LANDIS; KOCH, 1977)

and is statistically significant. This result shows the evaluation is highly reliable and that the evaluation result is unlikely to be a subjective opinion.

During the analysis, some municipalities demonstrated particularly good results and operational practices, which should serve as an example for other municipalities. It is also fair to say that some systems are in constant evolution; during the study, several portals came online or expanded their functionality.

Some of the positive examples include:

- Systems that provide protocol numbers for monitoring ATI requests, and allow the applicant to file appeals (for example, as used in the Federal District and Fortaleza (CE)).
- Ability to export data results in various editable formats.
- Specific section in the municipal transparency portal for advertising expenditure (for example, as in Caxias do Sul (RS) and Joao Pessoa (PB)).
- Making other citizens' requests available (for example, as in Arapiraca (AL) where it is possible to have access to the question, but not the answer).
- In Bahia, the State's Court of Auditors provides information regarding spending on publicity for all municipalities in the State, simplifying control.

In general, each municipality has a different system that it uses to make

information available. However, given that some systems were developed by the same software development firm, it is possible to generate some standardization in the form and presentation of the data.

While there were many positive examples, some practices must also be highlighted as examples of poor responses and areas requiring improvement:

- Responses that failed to provide the requested information, despite promises.
- Municipalities that did not request or provide justification for extension of the 20 day deadline.
- Cases in which no response was received within the 30-day deadline where it was not possible to file an appeal or complaint through the website.
- No telephone or contact details provided for municipal administration or ombudsman's office.
- Não fornecem telefone de contato da prefeitura ou da ouvidoria.
- Using the ATI law as a justification for not responding, based on the argument that the municipality does not have the means to consolidate information and are thereby exempt from presenting data on government advertising to the population.

In addition to these general issues, there was also the specific case of Florianópolis (SC) where it was only

possible to submit a request using an address within Santa Catarina.

As each ATI request requires the use of public resources, all of the documentation received was organized in folders and made available in its untreated form on the Public Transparency Program's website for future open use. It was not possible to consolidate all the information, as the municipalities that provided information each used a different format. For example, some municipalities provided expenditure totals per year, while others separated the data by advertising agency or program/action.

3.5 Discussions

The most important finding of the current research is the difficulty of obtaining data on government advertising in the largest municipalities. Despite our ATI requests, it was practically impossible to systematically trace the resources spent on government advertising to the final recipients in the media. This is because advertising agencies are intermediate agents, and governments are required to go through these agencies by law. Information requests on government spending thus end at the middle-man rather than the final recipient. Within this context, it becomes apparent that the difficulty of obtaining data reduces

the possibility of oversight. It impairs citizens such that they do not have the wherewithal to demand greater efficiency in government spending. At the same time, the media, which should theoretically serve to safeguard the public interest, has no interest in pressuring for greater transparency for fear of seeing expenditures reduced. As a result, inefficiencies and perceptions of corruption increase.

Corruption in this area of expenditures is common because advertising agencies can charge market prices far beyond the price of media advertising contracts. This context makes it exceedingly difficult to prove the occurrence of fraud and creates conditions that can facilitate overbilling and embezzlement (GAZETA DO POVO, 2013). The masterminds of one of the largest corruption scandals in Brazil, the "Mensalão", employed advertising agencies to launder enormous volumes of public funds and, had it not been for a whistleblower, this massive graft would have easily slipped by unnoticed (MICHENER, PEREIRA, 2016).

Researching public expenditures on advertising requires investigating the full range of potential sources. There are direct government expenditures at the federal, state and municipal/district level, in all three branches of government: in the judiciary, the legislature, and the executive. Examining advertising expenditures is one thing, assessing their value

as an investment is quite another. One example to consider is Londrina (PR), where the government reported using Facebook to communicate with the population, without incurring any advertising costs at all. If this model allows the municipality to fulfill its obligations to inform the population, applying a similar model to other locations could save billions of state funds. However, social media is not necessarily a low cost option for the federal government. In 2015, it spent R\$56 million on Facebook and Twitter (RODRIGUES, 2016). Spending on social networks may in effect use 'public policy campaigns' to masquerade government achievements, and effective discussion on social media may be vetoed or blocked by hosts.

The transparency of government advertising expenditures should be of serious public concern. The municipality of Rio de Janeiro, which hosted multiple mega-events over the past few years, provided no information in response to our requests. Requesters were also told that they had to make their requests in person at City Hall (in violation of Article 10 of Brazil's access to information law) and that the answer would need to be confirmed by the ombudsman's office. Based on a review of investigative journalism on Rio de Janeiro, it was possible to establish a spending estimate of R\$107 million for 2015. This is a very high expenditure that ought to be disclosed.

Of the municipalities that did not provide responses to requests, subsequent appeals yielded no results. Such was the outcome even where municipalities had an appeals system integrated into their e-SIC platform. In some cases of non-response, it was not possible to appeal, even when the 20-day timeframe and the 10-day extension had expired.

When transparency does exist, one of the constraints is the requirement of Law 12.232/2010 (on government advertising contracts), in which budgets for publicity must be spent through advertising agencies. Ostensibly, government believes it is sufficient to disclose the advertising agency only, without giving light to campaigns and media vehicles as mandated by article 16 of law 12.232:

Article 16. The information on the execution of the contract, with the names of the specialized service providers and vehicles, shall be disclosed in an appropriate, open, location on the world wide web, guaranteeing free access to the information to any interested parties.

Sole Paragraph. Information on the amounts paid shall be disclosed by the total of each type of service provider and each medium of communication.

There is currently a draft bill (N°785 of 2015) in the Federal Senate, which would serve as an amendment to the

Law on Fiscal Responsibility, proposing to limit spending on government advertising to a fixed fraction of current net revenue: 0.1% for the federal government and 1% for states, Federal District, and municipalities. Electoral advertising and instructions of the Superior Electoral Court (TSE) are excluded from this limitation. The proposed bill also provides that jurisdictions can exceed this threshold in cases of public calamity, state of defense, or a state of siege. In Rio de Janeiro's Legislative Assembly, draft bill N° 1728/2016 proposes limiting advertising expenditure to 0.001% of the total budget. In the municipality of Recife (PE), a draft bill, 06/2014, was approved in a plenary vote. The law establishes the requirement that spending on publicity shall not exceed 1% of the effective revenue in the previous fiscal year, with the exception of advertising campaigns to promote tourism in Recife approved by the Municipal Tourism Council, educational campaigns in the areas of public health, traffic security, environmental protection and preservation, and the prevention of violence. In other

words, there is no spending limit for policy issues in which advertising is important; for less important issues, it is still possible to spend up to 1% of the budget. This appears to be a dangerous and potentially wasteful policy.

The limit of 1% of current revenue being discussed in Congress is still relatively high when compared to the average expenditure in most municipalities. If the limit for spending on government advertising were set at 0.5% of the budget, potential savings would be up to 13% of current spending. In addition to limiting total advertising spending relative to the budget, municipalities should restrict per-capita costs. A limit of R\$10 expenditure on advertising per capita could provide savings of up to 10.9%, given rates of current spending. With both limits in place, there could be a combined decrease of 28.5% in public spending on advertising in comparison to 2015, or an average of R\$5.8 million per municipality. Nevertheless, there is a risk that spending could be multiplied by up to 36 times its current value if the municipalities increase their spending to reach the proposed limit of 1%.

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Chapter 4

TRANSPARENCY AND INEQUALITY IN THE REMUNERATION OF PUBLIC SERVANTS

**Jonas Coelho, Gregory Michener,
Evelyn Contreras and Luis Filipe Kopp**

4.1 Introduction

A considerable share of the Brazil's working population is employed by government. According to a 2014 survey, there are more than 11 million public servants nationwide (CORONATO; IMÉRCIO, 2014), and data from the Ministry of Planning shows spending on personnel averaged 40% of federal government revenue in 2015 (ALVES, 2016). Given Brazil's notorious social inequality, the current research scrutinizes public remunerations and asks to what extent it replicates inequalities within the public administration. To what extent, for example, does inequality in pay inside of Rio de Janeiro's city government replicate inequality in the private

sector of the city of Rio de Janeiro? This analysis is particularly relevant in the current context. This is a time when debt and corresponding austerity policies have given rise to widespread delays in paying public servants in state and municipal governments. Yet it is also a time in which some parts of the Brazilian state, such as the judiciary, have secured substantial wage increases notwithstanding salaries that are already comparatively high (AGÊNCIA SENADO, 2016).

Most studies on salaries in Brazil use data from the National Household Sample Survey (PNAD, in Portuguese). Despite the wealth of detail provided by the PNAD, the dataset has important limitations. For starters, the values are constructed from estimates based on declarations made by interviewees, who may or may not be willing to reveal their real income levels. This reluctance might be explained by issues of confidentiality or because public servants do not wish to disclose illicit activities, such as receiving wages higher than the legal ceiling. Furthermore, most existing studies on public servant remuneration focus on the difference between public and private employees (BARBOSA; SOUZA, 2012), or on the public sector's contributions to inequality in Brazil as a whole (DARÉ; HOFFMANN, 2012; HOFFMAN, 2009; SOARES, 2010). Few studies have attempted to evaluate wage

disparities within the public sector.

The current research established a database containing the net remuneration of public servants (including bonuses and deductions) for each month of 2015, for a sample of 80 different public agencies: 53 of them in the executive branch (municipal and state) and 27 within the judiciary.

The process of data collection, which relied heavily on compliance with the Law 12.527/2011 on Access to Public Information (ATI law), also served as a base for analyzing the extent to which public authorities comply with access to information obligations. We also extracted income averages for certain professions, for future comparative analyses. Finally, we computed the Gini coefficient pertaining to the distribution of public servants' net annual income. The resulting comparison provides a glance into divergences in public sector pay across Brazil.

The advantage of using data obtained through the ATI law is its accuracy, as it comes directly from the source. Each figure presented should correspond to the final amount paid to each public servant, increasing the reliability of the end result. In addition, this method provides access to information regarding bonuses and benefits that are usually excluded from wage databases, even if they represent a considerable share of a public servant's final income.

Several analyses have been carried out on governmental compliance with

the ATI law (ARTIGO 19, 2016; ARTIGO 19 2015; SIQUEIRA, 2015). In this study, we chose to focus specifically on the topic of public servant remuneration, as well as verifying the public availability of this data. From the results obtained, it is possible to deduce which specific entities can provide data to allow a large-scale, automated analysis on employee remuneration. Furthermore, the results obtained through ATI requests allow us to document obstacles encountered in the search for such sensitive data, which in many cases may involve information that relates directly to the employee responsible for responding to requests.

The analysis illustrated significant disparities, not only within and between professions, but also within and between different states and municipalities. The internal inequalities within the administration of a state or municipality – measured as the Gini coefficient of the income distribution of public servants within a given state or municipal institution – were predictably smaller than that of the respective state or municipality's total population. Yet given the corporatist foundations of public employment, levels of pay inequality within agencies analyzed were strikingly divergent from jurisdiction to jurisdiction and in some cases quite high, particularly within certain state courts.

This chapter is organized into four sections. The first section presents

a brief summary of the public sector's obligations with respect to the transparency of remuneration. The second section describes the methodology employed in the transparency evaluated conducted by FGV researchers. The third section contains the results, based on wage averages for each profession in each entity, as well as the annual income analysis for public servants, summarized by the Gini coefficient. Finally, we present our conclusions.

4.2 The Transparency of Remuneration In Brazil's Public Sector

The disclosure of data on public servant remuneration is frequently the object of litigation across the world. The typical defense is that remuneration should be classified as it infringes on public servants' rights to privacy or may endanger their person and family (ALIANZA REGIONAL, 2011). In Chile, the cases of *Televisión Nacional de Chile (TVN) vs. Cazeneve* and *Fondo Nacional de Salud (FONASA) vs. Rojas*, concluded that the right to public information prevailed over public servants' right to privacy. In Paraguay, the Court of Appeals (Tribunal de Apelaciones) made a similar judgment in the case of *Acuerdo y Sentencia número 51*, in which a citizen requested a list of all

employees hired by the municipality of Lambaré, segregated by department and position. However, in 2013, the Supreme Court of Venezuela – a country that does not yet have an access to information law (MICHENER, 2015) – ruled in *Espacio Público contra la Contraloría General de la República* that the salary of public servants is considered private information.

In Brazil, Law 12.527/11, the Access to Public Information Law (ATI Law), regulates the rights established in the Constitution. Although there is no explicit reference to the disclosure of data on government employees in Brazil's ATI law, jurisprudence has is clear. The Brazilian Supreme Court's decision on case 652.777/ SP (recurso extraordinário com agravo) established that "it is legitimate to publish, including on an electronic site maintained by the Public Administration, the names of its employees and the value of their wages and corresponding pecuniary advantages" ("ARE/652777", 2015).

Reporting Supreme Court Justice Teori Zavascki referred to excerpts from an interpretation previously offered by Justice Ayres Britto, in which he argued that the gross remuneration of government employees, as well as the positions and functions they occupy, is information of general or collective interest. Justice Ayres Britto also dismissed arguments relating to privacy on the basis that

the data in question concerns "public servants as servants of the public; or in the language of the Constitution itself, agents of the State acting 'in that capacity' (Article 37, Paragraph 6)". Reporting Justice Teori Zavascki concluded his decision by saying that the term "general or collective interest" should be understood according to the above-mentioned interpretation, encompassing the remuneration of public servants.

Besides being subject to the provisions of the ATI law, the Judiciary must observe the provisions of Resolution 102/2009 of the National Justice Council (CNJ), which regulates the publication of information of public interest. According to Article 3 of the aforementioned resolution, all of the courts in the country are compelled to publish information on the Internet, as established by the resolution, including:

Wages, daily allowances, indemnities, and any other sum disbursed to or discounted from the members of the judiciary and to employees of any standing, collaborators, and occasional collaborators, with nominal identification of the beneficiary and of the unit in which they effectively provide their services, as described in Annex VIII.

Annex VIII, mentioned above, is extremely relevant, as it establishes not only the content to be disclosed, but also the form in which it should be made available. This Annex is included

in Appendix 1 at the end of this chapter.

In order to conduct public sector wage research, it is critical to have access to data in machine-processable formats. Paragraph 3 of the ATI law's eight article requires that websites allow data to be recorded in an open, nonproprietary, structured and machine-processable format, but also that it should enable automated access (i.e. it should be machine accessible and processable). The relevance of such a mechanism lies in the possibility of analyzing large volumes of data where manual processing would be unfeasible.

4.3 Methodology

4.3.1 Data collection

The process of obtaining data files on salaries can be divided into three stages: 1) analysis of the appropriate Transparency Portal (active transparency analysis); 2) submitting freedom of information requests (passive transparency analysis); 3) sending appeals to responses that were incomplete or unsatisfactory. If we succeeded in the first of these stages, we did not move on to the next. For example, if the pertinent information was available on the Transparency Portal, there was no need to make an ATI request.

4.3.1.A Active Transparency

We analyzed 80 transparency portals in total. Of these, 26 were related to the municipal administrations of each state capital, 27 related to the state administrations of each state and the Federal District and 27 related to data from the judiciary in each state and the Federal District. This analysis was carried out from 12 February 2016 to 13 March 2016.

The data was required to fulfill specific form and content requirements. This division was necessary for the subsequent analysis.

In relation to content, the data was required to contain:

- i) Individualized identification of each public servant (full name or registration number).
- ii) Final net remuneration, including any and all bonuses or extras.
- iii) Position occupied by the public servant.
- iiii) Values for the entire year of 2015, including Christmas bonus (13th month salary).

Regarding the form, the data was required to meet the following requirements:

- i) Segregated by month.
- ii) Presented in a machine-processable format (csv, xls, ods, html, xml, tsv or any other format allowing large-scale processing).
- iii) Presented in a unified manner by agency. In other words, in the case

of analysis of executive government, the data could not contain different files for each department.

iiii) Presented in grouped format. For instance, data for each employee must be grouped together so that, for example, remuneration can be analyzed for one employee for all months in a given year, rather than having to look at 12 individual payrolls and aggregate that individual's data manually.

v) Presented with clear, intelligible terminology and, if necessary, be accompanied by explanations or legends to enable identification of items.

The first step in the analysis of the Transparency portals was to identify those that met the content requirements. If the entity fulfilled the content requirements, we analyzed the form, seeking to identify compliance with all five parameters described above. If there was compliance with all items in both form and content, we downloaded the information. If not, we sent an ATI request for the data in the desired format.

In the case of the judiciary, we also evaluated whether the payments segmented by the categories present in Annex VIII of Resolution 102 of the National Justice Council were made available, merely for the purpose of documenting compliance.

4.3.1.B Passive Transparency

All ATI requests solicited documents on remuneration according to the parameters outlined above. The channels used to make the ATI requests were the same as in previous chapters: e-SIC portals (Electronic System of the Citizen Information Service), e-mails sent directly to email addresses indicated on the agencies' websites, or contact forms. Each request made explicit the scholarly nature of research.

We sent requests to 12 municipal administrations and 15 different courts spread out over 19 states. The selection was a purposive regional sample, in which 5 of the North's 7 states were included, 7 of the North-East's 9 states, 2 of the Center-West's 4 states, 2 of the South-East's 4 states, and all three states in the Southern region. The courts that were excluded from the sample were those of Rondônia, Tocantins, Piauí, Sergipe, São Paulo and initially Goiás, in order to maintain the relation explained above. However, due to obstacles encountered trying to make a request to the Federal District Court, we included Goiás in the final sample. Due to errors in the transparency portals of municipalities, we were not able to send a request to Belém (PA). Errors occurred in both attempts to submit a request, which were undertaken within a space of seven days (March 3rd and 10th).

Although the ATI law establishes

a maximum period of 20 calendar days for responses with a notified extension of 10 days, all answers received until the first of July were included in the sample. As consistent with the PTP methodology employed in other chapters, valid responses exclude communication referring to the status of the requests, transfers, or the internal distribution or processing of the request.

The analysis of the responses followed a two-step methodology closely resembling that used by Michener, Moncau and Velasco (2014, p.26-28). The first step was to assign an accuracy score to the response using a discrete scale of three points, ranging from 0 (response unrelated to request or did not provide any additional information); 50 (response minimally answer the request but does not directly address requested items); and 100 (response relates directly to what was requested, addressing the request in its entirety). This procedure was performed for every response by two independent researchers.

The results of the double coding of the responses to the requests show an inter-coder reliability of 90.48% and a Kappa statistic of 0.82 (s.e.=0.16, $p < 0.001$), that corresponds to near perfect, statistically significant levels of congruence, according to Landis and Koch (1977, p.159-174). These results show the evaluation was highly reliable and consistent, meaning it is very

unlikely that the scores are a result of a subjective opinion. The second step was to compute the arithmetic mean of the accuracy score for each response, based on the scores assigned by the researchers in order to achieve the final accuracy score for the agency. An average score of at least 50 was needed in order for the response to be considered minimally accurate.

4.3.1.B.i Appeals

If the response was not considered satisfactory, and if no alternative was presented by the agency, we made an appeal according to the model established in the ATI law. A satisfactory response was defined as one that fulfilled the criteria outlined in section 4.31A regarding form and content. We chose to send the appeals only to the state capitals, to make the volume of information more manageable.

In some cases, despite not immediately sending the requested documents, the agency advised that they had asked the responsible department to undertake the necessary steps to generate the document requested. In these situations, although the response was still considered unsatisfactory, no appeal was lodged. Among the capitals, only Cuiabá and Goiânia reported that they were implementing the function within the IT department. After the appeal, Boa Vista's Superintendent

of Communications sent a response reporting it was also working to implement it in its portal.

4.3.2 Processing the Information

4.3.2.A Compiling the Data

After collecting all data, it was necessary to standardize the distribution of information in order to avoid a bias in the evaluative criteria. The original unstandardized data was highly varied, both in the way it was organized and in the nomenclatures used. For these purposes, a new spreadsheet was created for each branch of government studied. In this new spreadsheet, each line consisted of a payment made to a public servant. In other words, employees present for the whole of 2015 would occupy 12 lines, each one containing information regarding one month's payment. In some cases, they occupied 13 lines, as the Christmas bonus was shown as a separate payment. However, this did not alter the analysis as the values used were annual sums and it did not matter if they were divided by 12 or 13.

The following columns were created:

- i. Codmun – containing the code used by the Brazilian Institute for Geography and Statistics to identify a municipality. In the case of states, we used the code referring to the state.
- ii. Município – containing the name of the municipality. The

column was left blank for states.

iii. UF – containing the state evaluated or the state where the evaluated municipality was located.

iiii. Mês – containing the month corresponding to the payment in the line.

v. Ano – containing the year corresponding to the payment in the line.

vi. Nome – Name of public servant.

vii. Órgão de exercício – Agency where public servant was located.

viii. Cargo – Position occupied.

ix. Matrícula/CPF – Column used to aid the individual identification of each public servant and to avoid considering those with the same name as the same individual. If registration number was provided, this was reported in the column. If not, the Social Security Number (CPF), or part of it, was used.

x. Remuneração básica bruta – Gross salary of the position and function before bonuses and deductions.

xi. rem_liq – value paid to public servant, including bonuses and deductions.

The files were always generated in .xls format. As this format is limited to 1,048,576 lines, any file surpassing this limit was complemented by another, numbered accordingly.

Once the data was organized using Stata 14.1 software, a unified .csv copy

of the files was generated. We then carried out a verification of the data in the “nome/name” and “matrícula/CPF” columns, inserting the result in a column named “nome2/name2”. This was necessary because some CPF numbers were obtained only partially (with some numbers hidden). Analyzed alone, this column could conflate two individuals into one if the visible portions of the CPF numbers coincided. This procedure also mitigated against the possibility that two people of the same name might be considered the same person. We also removed all spaces from this column in order to avoid possible alterations in the analysis due to tabulation errors.

We then proceeded to sum the net payments for each employee, arriving at a final annual value. As some values returned 0 or unjustifiably low results, we removed all employees whose annual income was below R\$ 10,244 – the value of 13 months of minimum wage at the time (R\$ 788). In total, 138,400 employees were filtered out due to this floor value. Finally, we used the function Gini Desc to extract the Gini coefficient of the distribution of public servants’ annual income.

As the professions were, as a rule, specified by numerous different nomenclatures, we chose to generate a new nomenclature for each career, in order to standardize the analysis. Thus, for example, positions such as “A / PROFESSOR SC CLASSE A NIVEL

I / PROFESSOR DE EDUCACAO FISICA” became simply “Professor”. We then generated a new column “cargo_unif” using this new nomenclature.

As it was impossible to perform this substitution for the thousands of different nomenclatures, we chose to select the following careers: “lawyer/advogado”, “auditor fiscal”, “dentist surgeon/cirurgião dentista”, “Public Defender/Defensor Público”, “dentist/dentista”, “nurse/enfermeiro”, “engineer/engenheiro”, “judge/magistrado”, “doctor/médico”, “police or fireman/policial ou bombeiro”, “prosecutor/procurador” e “teacher/professor”.

Due to the considerable time spent converting, standardizing and compiling the files for each entity, we chose to limit the analysis to 11 databases. Those of Roraima (Executive and Judiciary), Santa Catarina’s Judiciary and the Federal District’s Executive were selected to form the sample. Roraima was selected as it presented the values for both branches of government, Santa Catarina was selected as it was the only database for the Judiciary containing only judges, and the Federal District was selected as it is the federal unit with the highest income inequality according to the Brazil’s Institute for Geography and Statistics (IBGE, 2015).

In the case of the judiciary, as none of the databases contained social security numbers (CPF) or any other form of

individual identification, researchers created a new column containing the entity's codes, months, names and positions. This process was necessary to identify people with the same name occupying the same positions. Only four of these were found among the more than 8,000 employees, and they were removed from the sample, due to the impossibility of knowing whether or not they were the same person.

4.3.2.B Obstacles and Limitations

We encountered several difficulties during the course of this study. Some were overcome, as described above, but in the case some of these hurdles, it was not possible to surmount all of the obstacles and we had to accept some limitations. The first limitation, and the most difficult to identify and correct, stems from errors in the governments' database itself. Some of the information was clearly wrong, as was the case for Pernambuco, for which an extremely small number of employees had names such as "1ICARDO", which were probably the result of incorrect character readings. Although this seems like a relatively small problem, the difference of one letter in a name can generate a considerable difference in the final income analyzed, compromising the reliability of the whole database. In order to avoid obvious errors, we removed all values below a year's minimum wages.

The second limitation lay in the concept of net remuneration itself. Some transparency portals separated every bonus or deduction in a separate item, while others simply informed the net final amount received. Thus, it is impossible to speculate about the causes of the fluctuations in public servant wages as we cannot clearly distinguish the bonus from the salary in all cases. It is possible that in one specific month a public servant would have received an extravagant sum, but this value could be the result of an accumulation of entitlements that was paid in full on the specific month in question, as is the case when public servants win some type of legal ruling. Different social security allocations can also be subject to different deductions, without implying that there is a real distortion in salary entitlements between different employees.

Finally, another limitation encountered was the limited range of the databases within each branch of government. For legal and organizational reasons, the executive power of a state does not possess information about some categories of public servants, such as members of the Public Prosecutor's Office (Ministério Público), the Legislature or the Court of Auditors, among others.

4.4 Results

4.4.1 Transparency Analysis

4.4.1.A Active Transparency

Of all municipalities in the sample, only Maceió met both the form and the content criteria. In total, 13 municipal capitals met the content requirements. Among the states, 19 portals contained information that met the content criteria. Regarding the form, the results were significantly better, with eight states meeting both content and form criteria. The data availability for state administrations and municipal capitals is shown in Table 14:

As illustrated in Table 15, five courts fulfilled both the form and content requirements, complying with the division set out in Annex VIII, Resolution 102 of the National Justice Council. The Court of Alagoas was the only one not to fulfill the content criteria, as it did not include employee remuneration at the time of evaluation. It is worth noting that, in previous evaluations (ARTIGO 19, 2015, p. 19), this same court also presented cases of noncompliance with the ATI law (ARTIGO 19, 2015, p. 16, 18, 37). In total, of the 26 that provided data, three courts did not provide the data from categories specified in Annex VIII.

Table 14 Active Transparency Evaluation in States and Capitals

Federative Entity	Content Available on Website	Analyzable Form
Aracaju	●	●
Belém	●	●
Belo Horizonte	●	●
Boa Vista	●	●
Campo Grande	●	●
Cuiabá	●	●
Curitiba	●	●
Florianópolis	●	●
Fortaleza	●	●
Goiânia	●	●
João Pessoa	●	●
Macapá	●	●
Maceió	●	●
Manaus	●	●
Natal	●	●
Palmas	●	●
Porto Alegre	●	●
Porto Velho	●	●
Recife	●	●
Rio Branco	●	●
Rio de Janeiro	●	●
Salvador	●	●
São Luís	●	●
São Paulo	●	●
Teresina	●	●
Vitória	●	●
Acre (AC)	●	●
Alagoas (AL)	●	●
Amapá (AP)	●	●
Amazonas (AM)	●	●
Bahia (BA)	●	●
Ceará (CE)	●	●

Table 14 Continuation

Federative Entity	Content Available on Website	Analyzable Form
Distrito Federal (DF)	●	●
Espírito Santo (ES)	●	●
Goiás (GO)	●	●
Maranhão (MA)	●	●
Mato Grosso (MT)	●	●
M. Grosso do Sul (MS)	●	●
Minas Gerais (MG)	●	●
Pará (PA)	●	●
Paraíba (PB)	●	●
Paraná (PR)	●	●
Pernambuco (PE)	●	●
Piauí (PI)	●	●
Rio de Janeiro (RJ)	●	●
Rio G. do Norte (RN)	●	●
Rio Grande do Sul (RS)	●	●
Rondônia (RO)	●	●
Roraima (RR)	●	●
Santa Catarina (SC)	●	●
São Paulo (SP)	●	●
Sergipe (SE)	●	●
Tocantins (TO)	●	●

4.4.1.B Passive Transparency

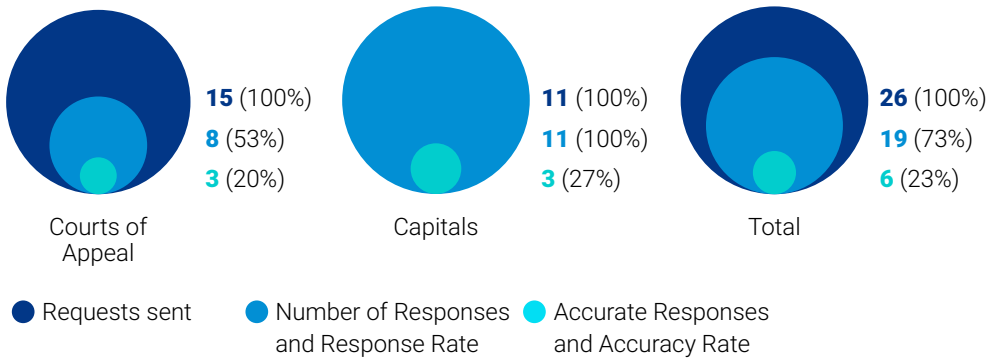
Table 16 and Figure 26 present information on response rates, response times, as well as the accuracy with which the requests were answered. Among the capitals, all requests received responses, but only three out of 11 responded in a satisfactory manner. Among the 27 courts, only eight of the 15 requests

Table 15 Active Transparency Evaluation of the State Courts of Appeal

Courts of Appeal	Content	Annex VIII	Form
Acre (AC)	●	●	●
Alagoas (AL)	●	●	●
Amapá (AP)	●	●	●
Amazonas (AM)	●	●	●
Bahia (BA)	●	●	●
Ceará (CE)	●	●	●
Distrito Federal (DF)	●	●	●
Espírito Santo (ES)	●	●	●
Goiás (GO)	●	●	●
Maranhão (MA)	●	●	●
Mato Grosso (MT)	●	●	●
Mato G. do Sul (MS)	●	●	●
Minas Gerais (MG)	●	●	●
Pará (PA)	●	●	●
Paraíba (PB)	●	●	●
Paraná (PR)	●	●	●
Pernambuco (PE)	●	●	●
Piauí (PI)	●	●	●
Rio de Janeiro (RJ)	●	●	●
Rio G. do Norte (RN)	●	●	●
Rio G. do Sul (RS)	●	●	●
Rondônia (RO)	●	●	●
Roraima (RR)	●	●	●
Santa Catarina (SC)	●	●	●
São Paulo (SP)	●	●	●
Sergipe (SE)	●	●	●
Tocantins (TO)	●	●	●

received a response and only three of these responses proved satisfactory.

We would like to draw attention to the content of some responses, such as that of the Court of Rio Grande do Norte. The court's Department of Information, Technology and

Figure 26 Request Response Rate and Accuracy

Communications reported that the format requested was not recommended “due to security issues, considering the information would be presented in an editable format, making potential manipulations possible”. This response is not only contrary to Resolution 102 of the National Council of Justice (CNJ), and the ATI law, but it is also internally inconsistent, as any digital format permits potential manipulation, including non-editable formats. Making such data publicly available is an efficient mechanism to avoid the dissemination of false data; that way fraudulent alterations could easily be detected.

Positive cases also deserve particular attention. In the case of the Court of Santa Catarina, the president of the court issued an administrative decision in little over a week, ordering that all data be produced as requested in order to comply with their transparency obligations. Another positive example

is the Court of Amapá, which not only made the data available in a processable format but also made changes to its Transparency Portal in order to enhance its functionality for other users.

4.4.1.B.i Appeals

We filed four appeals in total, in Boa Vista (RR), Campo Grande (MS), Curitiba (PR), and Fortaleza (CE). Campo Grande and Curitiba did not respond to the appeals filed. None of the municipalities responded within the five-day timeframe established in the ATI law (art. 15). We received an email directly from the Superintendent of Communications in Boa Vista, reporting that they were working on the implementation of a feature and would be in contact when they finished. Similarly, the administration of Campo Grande reported, “the Municipal Institute of Information Technology (IMTI), is implementing new features to the citizen’s information service,

Table 16 Passive Transparency Evaluation of Courts of Appeal and Capitals

Recipient	Days to Respond	Average Accuracy of Response
Prefeitura de Belém	-*	-*
Prefeitura de Boa Vista	4	0
Prefeitura de Campo Grande	22	0
Prefeitura de Cuiabá	7	0
Prefeitura de Curitiba	29	0
Prefeitura de Florianópolis	26	0
Prefeitura de Fortaleza	21	0
Prefeitura de Goiânia	36	0
Prefeitura de Palmas	54	0
Prefeitura de Porto Alegre	34	75
Prefeitura de Rio Branco	12	50
Prefeitura de Vitória	5	75
Tribunal de Justiça - Amapá (AP)	42	100
Tribunal de Justiça - Amazonas (AM)	-	-
Tribunal de Justiça - Bahia (BA)	-	-
Tribunal de Justiça - Distrito Federal (DF)	-*	-*
Tribunal de Justiça - Espírito Santo (ES)	17	50
Tribunal de Justiça - Goiás (GO)	-	-
Tribunal de Justiça - Mato Grosso (MT)	8	0
Tribunal de Justiça - Mato Grosso do Sul (MS)	-	-
Tribunal de Justiça - Minas Gerais (MG)	-	-
Tribunal de Justiça - Pará (PA)	-	-
Tribunal de Justiça - Paraíba (PB)	15	25
Tribunal de Justiça - Paraná (PR)	15	0
Tribunal de Justiça - Pernambuco (PE)	31	0
Tribunal de Justiça - Piauí (PI)	-	-
Tribunal de Justiça - Rio Grande do Norte (RN)	86	0
Tribunal de Justiça - Rio Grande do Sul (RS)	2	0
Tribunal de Justiça - Rondônia (RO)	-	-
Tribunal de Justiça - Santa Catarina (SC)	15	50
Tribunal de Justiça - São Paulo (SP)	-	-
Tribunal de Justiça - Sergipe (SE)	-	-
Tribunal de Justiça - Tocantins (TO)	-	-

* Not sent because of error on portal

seeking to fulfill its legal obligations". Fortaleza responded to the request stating it did not possess additional information and wishing us good luck.

4.4.2. Quantitative analysis of employees and their remuneration

4.4.2.A Employee count

At the end of the process described in "4.3.2 Processing the information" in the methodology section, the data archive showed a total of 507,945 employees in the following federative entities: Acre (State Court of Appeals), Roraima (State Court of Appeals and Executive Power), Pernambuco (Executive Power), Santa Catarina (State Court of Appeals), Mato Grosso do Sul (Executive Power), Federal District (Executive Power), Rio Branco (Executive Power), Teresina (Executive Power), Recife (Executive Power), and Maceió (Executive Power). Table 17 contains the number of employees within each entity.

It is important to note that the values refer to professionals associated with each branch of power analyzed (Executive or Judiciary). In other words, if the table states a certain state or municipality has N doctors, it means

that N doctors have been registered in that state or municipality's payroll.

Table 17 Total Number of Public Servants Analyzed in Each Entity

Federative Entity	Number of Public Servants Analyzed
TJAC	242
RR	18.635
TJRR	483
PE	124.981
TJSC	499
MS	68.407
DF	211.570
Rio Branco	6.243
Teresina	19.319
Recife	36.043
Maceió	17.264

Table 18 shows the number of employees in each entity by profession. It should be noted that only those positions used in the new nomenclature, described in the methodology section, are included. Thus, it is possible that some professionals were not counted if the previous nomenclature was not included in the final unified nomenclature.

Table 18 Number of Positions after Standardization with New Nomenclature

Entity	Teacher	Police/ Firefighter	Doctor	Judge	Lawyer	Prosecutor
AC	0	0	0	131	0	0
RR	4.318	2.775	310	55	0	1
PE	40.510	26.002	6.128	0	147	181
ES	0	0	0	392	0	0
SC	0	0	0	499	0	0
MS	24.085	9.815	0	0	104	226
DF	43.545	41.959	7.590	0	11	262
Rio Branco	1.714	0	90	0	0	24
Teresina	4.696	0	1.320	0	2	43
Recife	9.898	0	1.549	0	43	95
Maceió	5.358	5	510	0	3	83

Entity	Nurse	Public Defender	Dentist	Auditor	Engineer
AC	0	0	0	0	0
RR	0	0	0	0	15
PE	381	0	55	0	152
ES	0	0	0	0	0
SC	0	0	0	0	0
MS	0	0	0	250	0
DF	3.909	214	429	3.270	154
Rio Branco	144	0	0	181	55
Teresina	448	0	359	104	127
Recife	965	0	1	0	246
Maceió	242	0	236	125	97

4.4.2.B Average Wages

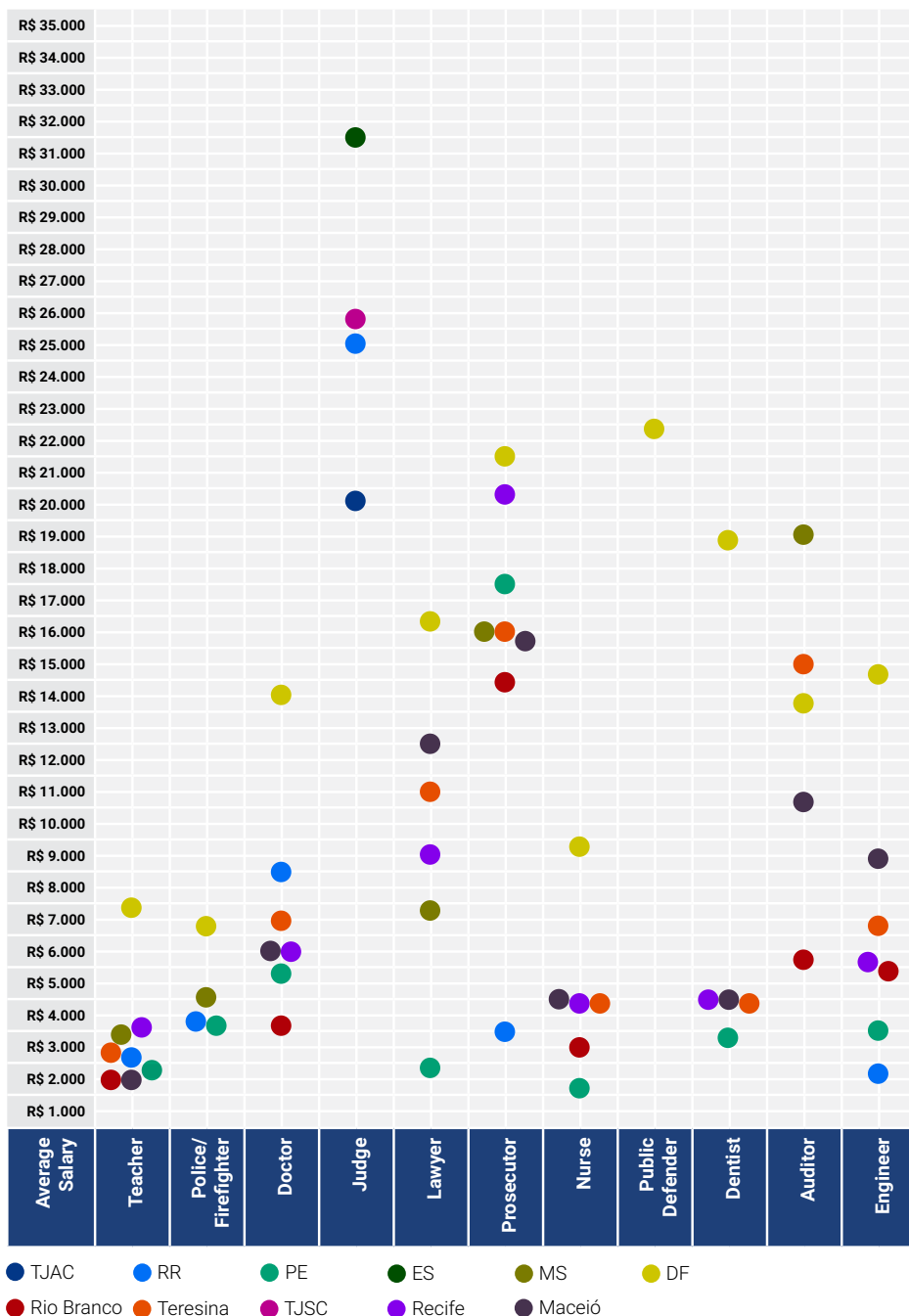
We calculated the average wage for each profession. The calculated values referred to the net annual sum. Each result was divided by 13, referring to the 12 monthly payments and the Christmas bonus. The final values are presented in Table 19.

It is interesting to note that, firstly, the averages are very close to the

legal ceiling for 2015 public servant salaries, which are established by the constitution as being the salaries of Supreme Court Judges. In order to better understand the concept of a 'ceiling', it is necessary to look in Article 37, paragraph XI of Brazil's Federal Constitution, which establishes:

XI - the remuneration of holders of public offices, functions

Table 19 Average Net Salary* for Each Profession in Each Analyzed Entity



*Value obtained by the division of annual net salary by 13 (12 monthly salary payments + Christmas Bonus)

and positions in governmental entities, associate government agencies and foundations; of the members of any of the Powers of the Federal Government, of the States, the Federal District, and the Municipalities; of holders of elected offices and other political agents, as well as the salary, pensions or other type of remuneration, earned on a cumulative basis or not, including advantages of a personal nature or of any other nature, may not exceed the monthly remuneration, in legal tender, of the Justices of the Supreme Federal Court, and the following limits shall be applied: in Municipalities, the remuneration of the Mayor; in the States and in the Federal district, the monthly remuneration of the Governor in the Executive branch and the remuneration of state and federal district deputies in the legislative branch, and the remuneration of the Judges of the state Court of Law, limited to ninety and twenty-five hundredths percent of the monthly remuneration, in legal tender, of the Justices of the supreme federal court in the sphere of the Judicial Branch, this limit being applicable to the members of the Office of the Public Prosecutor, Attorneys, and Public Legal Defenders;

With this in mind, it would make sense to assume that the remuneration earned by Federal Supreme Court

Justices would be one of the highest figures in the public administration. However, the analysis of the data reveals a different scenario.

According to data from the STF's transparency portal, the active judge with the highest annual net income in 2015 was Judge Luiz Fux, who received a total of R\$338,262.95. If we divide this number by 13 (12 months, plus Brazil's traditional Christmas 'extra salary'), as we did above, we obtain R\$ 26,020.22. This value is below the average remuneration received by the judges of the Court of Espírito Santo (TJES), of R\$ 31,535.75. It is important to note that several reasons may justify an income above the salary cap, as discussed in the methodology section. The column "INDENIZAÇÕES (Auxílios)" ("indemnities" (Benefits)) shows considerably high values. The largest of these values occurred in February, with a total disbursement of R\$ 20,405.49. This value is paid on top of gross remuneration and other benefits. Yet given that the analysis of the full number of judges in the TJES revealed an average wage considerably higher than the values established by the Constitution, these figures deserve greater scrutiny.

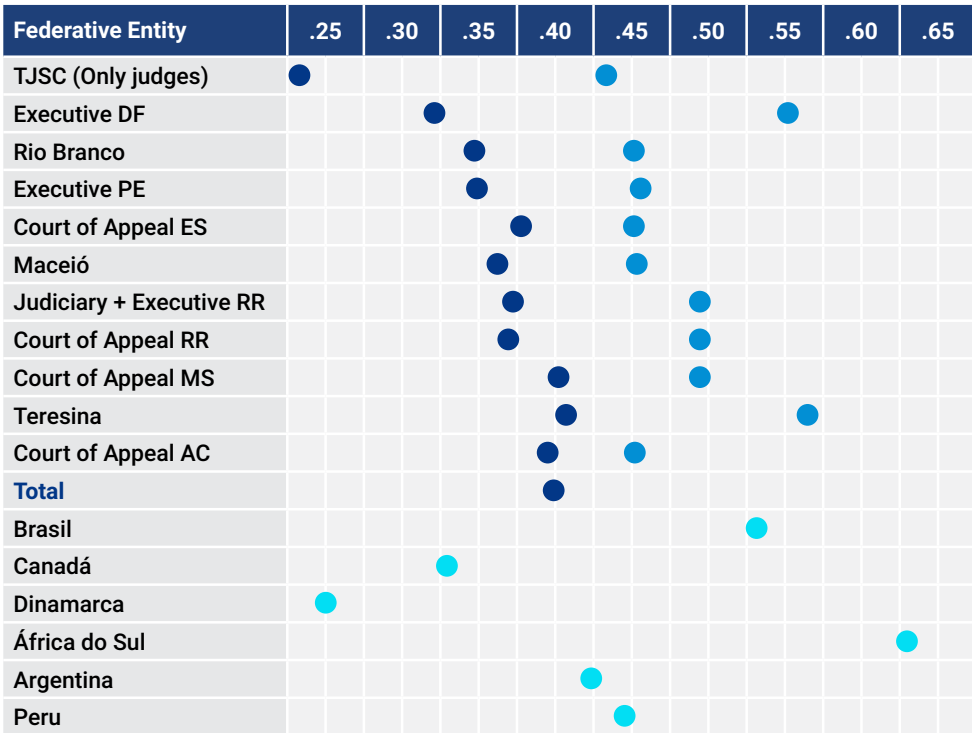
According to the glossary provided by the court itself, these values relate to: "indemnities (meal allowance, transport allowance, pre-school allowance, health allowance, birth allowance, housing allowance, subsistence

allowance, besides other things of this nature): judge and public servant meal allowance (State law n° 7.048, published 01/11/2002); judge's health allowance (TJES resolution n° 001, published 05/02/2007); public servant health allowance (Resolution n° 36, published 07/18/2011), illness aid (Art. 217, LC 46/94), transport remuneration (Res. 14/2001 and LC 46/94 Art. 90), subsistence compensatory allowance (Complementary State Law n° 234, art. 128, XII e LOMAN LC 35/79, Art. 65, I), housing allowance for judges (CNJ resolution 199/2014 and the decision of presidency proc. adm. n.º 2014.01.279.321)".

Another observation that merits attention is the stark disparity between regions. While a teacher's position earned, on average, R\$2085.41 in Rio

Branco, the average net wage for the same career was three times higher in the Federal District. This pattern of regional differences characterizes nearly all professions. It is also important to mention the wage gaps between some careers. While the average net salary of Maceió is R\$2428.68 for teachers, the salaries for public prosecutors are six times higher. Rather than representing an irregularity, these data reveal the skewed nature of public policy spending. It is also worth noting, however, that an increase in teachers' wages constitutes a significantly larger burden on the public budget because of the sheer number of teachers. Teachers in Maceió outnumber public prosecutors 220 to one (181 prosecutors against 40,510 teachers).

Table 20 Gini Coefficient - Distribution of Public Servants' Annual Income



● Gini Coefficient of Public Administration ● Gini Coefficient of State ● Gini Coefficient of Country

4.4.2.C The Gini Coefficient in the Public Service

Table 20 shows the Gini coefficient for distributions of annual public servant income, as compared with the Gini coefficient of the monthly income of all working people aged 15 or older (from the National Household Sample Survey).

The Gini coefficient is used to compute the degree of concentration of a given distribution. It is computed

based on the area of the diagram named the Lorenz Curve, a graph whose X axis is the frequency of individuals in the sample and the Y axis represents the income of the population. The 45° diagonal represents zero distance between the diagonal and the curve, a scenario of perfect equality and ranges up to a distance of one, perfect inequality.

The largest inequality can be seen in the Federal District. The overall

Gini coefficient of the Federal District is nearly 76% more than that computed within the administration of the executive. Even though the Federal District is the most unequal state in the sample, in the small sample size analyzed, its administration had the most equal income (the smallest wage gaps).

Although they are below the general value for the state, the numbers are not surprising. The highest values obtained, 0.412 and 0.417, are similar to those of countries such as Côte d'Ivoire, Djibouti, and Morocco. The surprising fact is not the size of the values, but that in the case of these countries, the Gini coefficient is calculated for the entire population, from poorest to richest, while our study only included those working for one employer, the Public Administration, whose earnings should therefore be more homogeneous. Unsurprisingly, the analysis conducted only among judges in the Court of Santa Catarina (TJSC) showed a considerable degree of equality, as all employees considered belonged to the same category.

It should also be noted that the amounts considered here are the net values, which include tax deductions. Considering income taxes in Brazil, the net values should, in theory, be significantly more equal than the gross values. In the case of Gini analyses of a complete population, the values used, in general, are

gross values. Thus, there are several reasons that might cause the Gini index in this study to be significantly lower than it might otherwise be.

4.5 Conclusion

Law 12.537/2011 on Access to Public Information (ATI) can serve as a powerful tool for the collection of data from public authorities. In the case of public remuneration, transparency mechanisms are opening new lines of dialogue between government and citizens. The vast sums spent on personnel are finally within the reach of accountability, and the opacity of data on public remuneration has become akin to an admission of rent-seeking and corruption, rather than an administrative omission.

Several advances can still be made in this area. Among the difficulties encountered in this research, the greatest constraint was the lack of standardization of data provided. Given that Brazil has more than 5,000 municipalities distributed across 27 states, the lack of agreed-upon standards for displaying remuneration constitutes a significant obstacle to policy analysis at the national level. A standardized approach to compiling wage databases for all federative entities would facilitate research and ensuring greater accountability. Resolution 102/2009

of the National Council of Justice (CNJ), which creates standards for disclosing remuneration, provides a first step in this direction, but much remains to be done both within the judiciary and among the other branches and levels of government.

Although the current analysis revealed low compliance with the ATI law, we did observe improvements compared with other similar evaluations. Furthermore, although the response rate was low, the data obtained revealed information of great relevance. Finally, we did not exhaust all recourses, such as second-stage appeals and legal action in the courts. Greater persistence might have resulted in greater rates of data acquisition. In terms of comparing inequality within agencies versus the inequality of working populations

in corresponding states, we used relatively small samples and employed net rather than gross income for public servants. Further analyses need to expand the analyses, using gross income to better understand the extent of inequality within Brazilian public administrations.

Finally, the analysis of collected data illustrated that while social inequality is greater than inequality within the public administration, the difference is often surprisingly small. Moreover, salient variation among rates of inequality among similar institutions in different jurisdictions suggests that Brazil still has far to go in realizing the Republic's fundamental objective of reducing social and regional inequalities, as set out in article 3 of the Constitution.

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ANNEX VIII –Personnel Wage Slip Details

Month/Year:

Name	Location	Position	INCOME						REDUCTIONS					"Net Income 11"	"Compensation from Original Agency 12"	"Travel expenses 13"	
			"Compensation (I)"	"Personal Advantages (II)"	Subsidies, Subsidy Difference, Position of Trust or commissioned post	"Indemnities (III)"	Occasional Advantages (IV)	"Total Credit (V)"	"Social Security (VI)"	"Income Tax (VII)"	"Reductions (VIII)"	"Retention because of Constitutional Limit (IX)"	"Total Reductions (X)"				
								0.00						0.00			
								0.00						0.00			
								0.00						0.00			
...								0.00						0.00			
TOTAL:			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			

[i] Compensation from effective position- Salary, G: A: J, V.P.I. Qualification Extras, G.A.E and G.A.S, and others of this nature.

[ii] V.P.N.I. Extra for time of service, fifths, tenths, and advantages resulting from judiciary decision or administrative extension, bonus for continued service

[iii] Meal, Transport, Preschool, Health Natality and Cost allowances, as well as others of this nature.

[iv] Constitutional bonus of 1/3 vacation, vacation indemnity, anticipated vacation, Christmas bonus, anticipation of Christmas bonus, extraordinary service, substitution, retroactive payment, and others of this nature.

[v] Total Income Received on Month.

[vi] Contribution to Official Retirement (Social Security Plans for Public Servant and General Social Security).

[vii] Income Tax Withheld at Source.

[viii] Participation Fee for Preschool, Transport and other Extraordinary Non-personal Allowances.

[ix] Values Retained for Exceeding Constitutional Compensation Limit According to CNJ Resolution n° 13 and 14

[x] Total Discounts Per Month

[xi] Net Income after Discounts Referred to Previously.

[xii] Compensation Perceived in Agency of Origin by Judges and Servants Transferred or Solicited Opting for that Remuneration.

[xiii] Daily Extras Effectively Paid on Month of Reference, even if Period of Absence Extends Beyond it.

Chapter 5

PUBLIC MONEY AND NONPROFIT ORGANIZATIONS: EVALUATING TRANSPARENCY AND ACCOUNTABILITY

Rodolfo Pires, Gregory Michener

5.1 Introduction

Over the last ten years, nonprofit organizations received almost R\$60 billion in transfers from the federal government, typically to provide public services. In 2015 alone, more than R\$8 billion was transferred to nonprofit organizations through partnership agreements. In Brazil, there are approximately 444,000 nonprofits and 78,134 of them had direct or indirect relationships with the federal government between 2009 and 2015. How are these partnership agreements monitored? What are the criteria used for evaluating the execution of these

agreements? Are nonprofits being transparent in their use of public funds?

From educational foundations to civil society organizations, nonprofits have become indispensable providers of public services. Nonprofits have a certain sense of legitimacy as service providers. They do not distribute profits like traditional companies and, as they benefit from streamlined regulations, nonprofits tend to experience fewer transaction costs than governments or for-profit companies. However, as the number of nonprofit-government partnerships has increased, so too has nonprofit involvement in corruption scandals. Given this context and the current financial crisis, an analysis of nonprofit-government partnership agreements deserve greater scrutiny and evaluation.

Two flagship pieces of legislation provide the means to shed light on the use of public funds by and for nonprofits, namely, the Law 12.527/2011 on Access to Public Information (ATI law) and the new Regulatory Framework for Civil Society Organizations (Marco Regulatório das Organizações da Sociedade Civil –or MROSC– in Portuguese). However, there is still limited public information regarding partnership agreements. The current research asks questions about governmental decision-making processes in the evaluation and allocation of funds to nonprofits, and oversight and compliance with these agreements by nonprofits.

The current study is based on two statutory regulations. The first provision governing nonprofit transparency is Article 2 of the ATI Law, which is detailed in Article 63 of Decree 7724/12. The second more extensive provision is Article 11 of the MROSC, which is in turn detailed by article 78 of Decree 8726/16. These provisions establish the transparency obligations for nonprofits and specify the information that must be published. The current study undertakes an active transparency analysis of a sample of 104 (N=104) nonprofit organizations. This sample consists of those nonprofits that received the largest partnership agreements, in financial terms, in each of the two most populous cities for each of Brazil's 26 states.

Overall, the results show that government agencies responsible for allocating these partnership agreements have no designated public servant responsible for oversight, nor are committees established within different ministries to manage active partnership contracts. The absence of an oversight body or official is a cause for concern, especially considering the fact that irregular accounting practices constitute the single most common reason for breaking agreements with nonprofits. This study finds that of the 104 largest partnership agreements in Brazilian municipal cities in 2015, only 22% of nonprofits provide complete information on their websites, as required to be fully compliant with the ATI law.

This chapter is organized into four sections. The first section examines the importance and relevance of transparency in partnership agreements. It describes legal norms and provides an overview of the current situation in Brazil. The second section describes the methodology used in the active transparency evaluation of nonprofit websites, and the submission of ATI requests to federal ministries. The third section presents the results of the study, as well as a selection of notable cases. The fourth section provides an analysis of the results and sets out recommendations and guidelines for future studies.

5.2 Importance and Relevance

This study investigates the transparency of public financing for nonprofit organizations, which include non-government organizations, civil society organizations, public interest civil society organizations, private associations, private foundations, religious organizations, foreign associations or foundations, Brazilian foundations or associations domiciled abroad, and indigenous communities.

The study examined partnership agreements, those agreements made between public agencies and other institutions, either public or private, in order to pursue a common goal of forming a partnership. The

partnership agreement is distinct from a procurement contract in that it is based on mutual cooperation between the public power and the nonprofit organization. The agreement establishes obligations for both partners. The obligations generally consist of a transfer of resources and the application of resources in accordance to the object of the agreement.

5.2.1 Relevant regulations

Among the rules regulating partnerships between the public administration and nonprofit organizations, those that establish transparency obligations for entities receiving public resources are:

- Partnership and transfer contracts – Interministerial Ordinance 507/2011;
- Regulatory Framework for Civil Society Organizations 13.019/2014 and Decree 8.726/2016;
- Law 12.527/2011 on Access to Public Information Law (ATI law) and Decree 7724/2012.

The Interministerial ordinance (Portaria Interministerial) 507/2011 regulates transfer contracts and terms of cooperation between public agencies and public or private nonprofit entities for contracts that involve a transfer of federal funds. Law n° 13.019/14, known as the Regulatory Framework for Civil

Society Organizations (MROSC), comes into effect for municipalities in 2017 and will be regulated by Decree 8.726/16. The MROSC establishes the legal framework for partnerships between the public administration and nonprofits and contains some modifications relative to the current rules legislating the topic. In addition to the rules regulating the execution of partnership contracts, nonprofits that take part in partnerships with the federal government are subject to the obligations for transparency set out in the ATI law, as well as the decree regulating it, Decree 7724/12. Article 47 of Interministerial Ordinance 507/11 specifies that different topics should be published in the Partnership Portal (Portal dos Convênios). This rule makes nonprofits responsible for updating the SICONV (Partnership and Transfer Contract Management System), but does not stipulate anything regarding the disclosure of information on the websites of the organizations themselves.

Article 11 of MROSC makes it mandatory to publish the following items on the Internet:

- All partnerships made with the government;
- Disclosure of the total value of the work team's remuneration;
- Services provided by team members and remuneration foreseen;

- Implementation of the agreement (Article 80 of Decree 8.726/16).

An important aspect of the Decree is that it gives the Institute for Applied Economic Research (IPEA) the responsibility of managing the Map of Civil Society Organizations.

Article 63 of Decree 7724/12 regulating the ATI law stipulates that nonprofits that receive public funds for actions of public interest must publish the following information (BRASIL, 2012):

- Copy of the institution's current registration numbers;
- Names of the organization's directors;
- Complete copy of partnership agreements, contracts, partnership terms, adjustments or similar instruments entered into with the federal executive power;
- Respective addenda and final accountability reports, in the form established by the current legislation.

According to the decree, the information must be published on the private organization's website as well as in publicly accessible bulletin boards in its head offices. If the organization does not possess the means to publish the information on the Internet it may, upon decision of the public agency or entity and explicit justification on behalf of the nonprofit, be exempt from doing so (BRASIL, 2012).

5.2.2 The Importance of Nonprofit Transparency

Traditionally, nonprofit organizations have received little detailed attention, particularly in terms of their external accountability (BURGER; OWENS, 2008). According to Rangel (2010), the exercise of transparency is crucial as it promotes the legitimacy of these organizations through external oversight. This legitimacy is a matter of urgency, considering that both nonprofits and governments are threatened by numerous cases of fraud, which have become more common over the years (RODRÍGUEZ; PÉREZ: GODOY, 2012).

The academic community has realized that the issue of transparency should be urgently addressed and nonprofits are now under pressure to provide information not only about their results but also regarding their administrative practices. Being transparent helps nonprofits be more accountable to society by proving the quality of their work, and helps guard against any potential abuse of power. The literature on the subject states that transparency increases the credibility of the organizations as donors and users can obtain more information about an organization's decisions (PÉREZ et al., 2011). According to Eggert and Helm (2003), transparency is important not only to keep all parties informed, but also to allow for

greater participation of these parties in the decision-making process.

Nonprofits are now subject to transparency and accountability standards virtually on par with those of governmental organizations and private companies (DOLSAK; PRAKASH, 2016). Donors demand proof that resources are being used in an efficient and effective manner. However, nonprofits have prioritized accountability for large donors rather than for the general public (DOLSAK; PRAKASH, 2016).

Table 21 Expenditures on Nonprofit Organizations

Year	Expenditure on Non-Profit Organizations
2015	R\$ 8.265.850.139,85
2014	R\$ 10.539.464.686,46
2013	R\$ 9.582.561.317,49
2012	R\$ 7.187.439.254,42
2011	R\$ 5.401.112.708,56
2010	R\$ 5.390.872.610,35
2009	R\$ 3.844.950.930,95
2008	R\$ 3.452.959.149,01
2007	R\$ 3.338.964.540,86
2006	R\$ 2.885.399.226,56
Total	R\$ 59.889.574.564,51

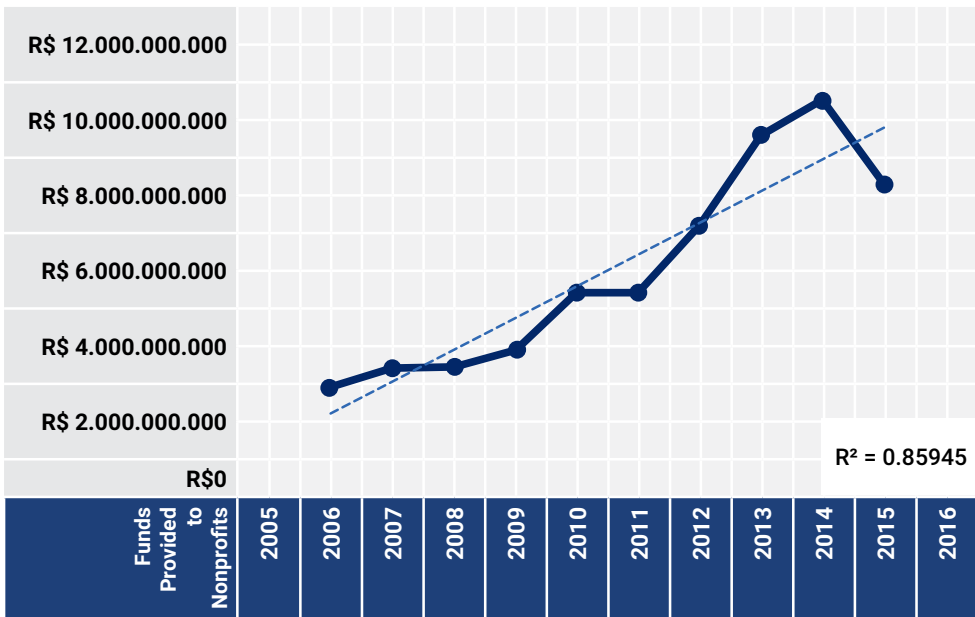
According to Gross Domestic Product (GDP) figures produced by the International Monetary Fund (IMF), the Brazilian government's expenditures on nonprofit organizations in 2015 was larger than the entire GDP of Iceland (R\$ 54 billion) and Nicaragua

(R\$ 39 billion). As shown in Table 21 and Figure 27, outlays of public funds to nonprofits have significantly increased over the last decade, with 2015 showing the first decrease in spending during this period. Even so, non-governmental organizations received more than R\$8 billion from the federal government in this year. With the increase in the number of these agreements horizontal accountability and transparency have become all the more urgent.

5.2.3 Examples of Irregularities in Partnership Agreements

Nonprofits in Brazil have gained infamy for their use in concealing corruption, misuse of public funds, as well as being used as mechanisms to circumvent the Fiscal Responsibility Law, for example, when hiring workers (DURÃO, 2007). The Parliamentary (Commission) Inquiry (CPI) known as the “CPI das ONGs” (2003-06) produced a report of more than 1,400 pages. The commission extended its activities four times and the inquiry lasted three years. However, the report was never voted on, no indictments were filed for illegal activities, and no

Figure 27 Expenditures on Nonprofits



proposals were made to change the legislation (GOMES, 2015; GUERREIRO, 2010). Soon after the end of the “*CPI das ONGs*”, the Federal Police started “Operation Voucher” which undertook a survey of the Federal Court of Auditors (TCU). Irregularities of R\$4.445 million were identified in an agreement between the Ministry of Tourism and a nonprofit, which could have led to the diversion of almost R\$ 3 million.

The municipality of Rio de Janeiro deserves particular attention for the scope of the investigations into partnership agreements. Rio de Janeiro outsourced basic healthcare by implementing Family Clinics managed by civil society organization. This model of management received much praise, but its detractors have raised concerns about irregularities. Irregularities were identified in nine contracts with different nonprofits, totaling almost R\$80 million (CARVALHO; COELHO, 2016). The main irregularity was overpricing of medical equipment, which, according to the Municipal Court of Auditors (TCM), ranged from between 70% and 300% above market value. The TCM report also pointed to irregularities in social security liabilities, ghost suppliers, and unnecessary service providers. Of the 10 nonprofits that signed contracts with Rio’s Municipal Department of Health, at least eight were cited in the TCM report or in action brought up by the State Public Prosecutor’s Office (Ministério

Público). These entities managed 7 hospitals, 11 emergency care units, and the entire Family Health Strategy.

Rio de Janeiro’s Public Prosecutor questioned the transparency of the entities and issued a recommendation that Rio de Janeiro suspend new contracts with nonprofits for the provision of health services (CARVALHO; COELHO, 2016). In order to improve transparency, Rio’s Municipal Legislative Chamber approved Law 6048/2016 that enshrines the duty of transparency on behalf of entities that receive public resources. Organizations contracting with the municipality must publish a report every two months containing values paid to suppliers and service providers, as well as a payroll report, and a report of transfers received from the municipal administration. The law stipulates the publication be made on the nonprofit’s online webpage. If the nonprofit fails to comply with the law, transfers to the organization are immediately suspended until the entity complies. The mayor, Eduardo Paes, tried to bar the proposal, and vetoed it upon its approval by the City Council. The councilors overturned the mayor’s veto in February of 2016, and the mayor said he would take the issue to court on the grounds that it is unconstitutional.

5.2.4 The Value-Added of this Study

Most nonprofit analyses investigate

the presence or absence of information tools on their websites, as well as their ethical procedures. For example, Kang and Norton (2004) evaluated the websites of the 100 largest nonprofits in the United States in order to determine the extent to which tools such as discussion forums, contact e-mails, calendars and annual reports were present on the websites. Burger and Owens (2008) conducted a study on approximately 300 nonprofits operating in Uganda to show the discrepancy between what the organizations reported and what they were actually doing (BURGER; OWENS, 2008).

In Brazil, nonprofit transparency is still rare. Rangel (2010), together with the Brazilian Association of Non-Governmental Organizations (ABONG), developed a study to verify the implementation of transparency in the websites of 226 Brazilian organizations. The results show that 62.39% of these organizations listed their employees, while 17.26% presented annual reports, 9.29% made their accounts balances available and only 2.65% of nonprofits published fiscal and legal details on their websites, such as their Legal Entity Registry Number (CNPJ) or their Municipal and State Inscription Number (RANGEL, 2010). This study concluded that the adoption of transparency at that time was still in an “embryonic development stage”.

Brazil is not an exception at the international level. Waters (2009), with

the help of a team of four analysts, evaluated the content of 160 nonprofit websites, selected from the ranking made by the Chronicle of Philanthropy. Only 47.5% of them contained the names of the directors of the board and only 11.9% presented the objectives of the organization. Based upon the importance of practicing transparency and using the Internet as a means of communication, Rodriguez, Pérez and Godoy (2012) conducted an online transparency evaluation of nonprofit websites in Spain. The study shows that the majority of the websites contain the projects undertaken by the nonprofit (52%), but that there is little financial information (23%), or information on organizational activities (14%). The list of directors appeared in 78% of websites (RODRÍGUEZ, PÉREZ; GODOY, 2012).

Raupp and Godoy (2013) suggest nonprofits prioritize social rather than financial information, following a tendency observed in previous studies by other researchers. Their study on the transparency of financial information showed 79,79% of websites contained information about the entity’s annual revenue, but only 2.13% contained information about how the funds raised for each activity were allocated (RAUPP; GODOY, 2013). They concluded that the nonprofit portals analyzed did not provide high levels of transparency.

The literature on nonprofit

transparency is still limited. Few studies address the topic and even fewer address the specific case of use of public resources by these organizations. This study was undertaken with the intent of filling this gap and advancing the policy discussion about the use of public money by nonprofits.

5.3 Methodology

5.3.1 Units of analysis

We chose the two largest municipalities for each state and analyzed the two largest transfers of funds in each city from the federal government to nonprofits during 2015. The municipalities corresponded to the state capital and the second most populous city, based on population estimates made by the Brazilian Institute of Geography and Statistics (IBGE) in 2014. Table 22 presents the cities selected:

We selected only three legal status classifications from the 14 subgroups of Special Legal Status – Non-Profit Entities. We followed the methodology used by the Institute of Applied Economic Research (IPEA) for producing the Map of Civil Society Organizations. The legal status classifications for nonprofits are Private Foundations (306-9), Religious Organizations (322-0) and Private Associations (399-9). This makes

it possible to compare the results of this study with those of IPEA's Map of Civil Society Organizations.

From the data collected, the city of Várzea Grande in Mato Grosso was the only one in the sample that did not report any resource transfers to nonprofits during the period evaluated. We excluded political parties and entities belonging to international agencies from the sample and, when one nonprofit received among the largest samples in more than one municipality, it was replaced by the entity that received the next largest transfer. The list of nonprofits analyzed in the present study can be found in Appendix 1, at the end of this chapter.

We obtained the organizations' web addresses through a simple Internet search for the organizations' names. If the website was not identified in this search, we used the nonprofit's CNPJ, a Brazilian tax identification number, and the address of its headquarters. As a last resort, we searched for an e-mail address or a website in the entity's registry in the System of Management of Agreements and Forwarding Contracts (SICONV) system. If a web address was not found within 15 minutes of searching, the organization was classified as not having a website. Of the 104 entities analyzed, only 73 had a website.

During August 2016, two coders accessed each organization's website to carry out an evaluation

Table 22 List of Selected Cities

Federative Unit	Capital	Largest City Excluding Capital
Acre	Rio Branco	Cruzeiro do Sul
Alagoas	Maceió	Arapiraca
Amapá	Macapá	Santana
Amazonas	Manaus	Parintins
Bahia	Salvador	Feira de Santana
Ceará	Fortaleza	Caucaia
Distrito Federal	Brasília	-
Espírito Santo	Vitória	Serra
Goiás	Goiânia	Aparecida de Goiânia
Maranhão	São Luís	Imperatriz
Mato Grosso	Cuiabá	Várzea Grande
Mato Grosso do Sul	Campo Grande	Dourados
Minas Gerais	Belo Horizonte	Uberlândia
Pará	Belém	Ananindeua
Paraíba	João Pessoa	Campina Grande
Paraná	Curitiba	Londrina
Pernambuco	Recife	Jaboatão dos Guararapes
Piauí	Teresina	Parnaíba
Rio de Janeiro	Rio de Janeiro	São Gonçalo
Rio Grande do Norte	Natal	Mossoró
Rio Grande do Sul	Porto Alegre	Caxias do Sul
Rondônia	Porto Velho	Ji-Paraná
Roraima	Boa Vista	Rorainópolis
Santa Catarina	Florianópolis	Joinville
São Paulo	São Paulo	Guarulhos
Sergipe	Aracaju	Nossa Senhora do Socorro
Tocantins	Palmas	Araguaína

based on the active transparency methodology created by the Getúlio Vargas Foundation's (FGV) Public

Transparency Program (PTP). This methodology was adapted to the criteria of partnership agreements.

The results of two coders were compared in order to evaluate the reliability of scores. This comparison showed an intercoder reliability of 97.37% on the binary-scale criteria and 98.63% on the trinary-scale criteria, with a Kappa statistic of 0.94 (s.e.=0.03, $p<0.001$) and 0.98 (s.e.=0.07, $p<0.001$) respectively. These results show near perfect congruence levels, according to the interpretation proposed by Landis & Koch (1977), and are statistically significant. The scores are therefore highly reliable and consistent, meaning that it is very unlikely that the scores attributed by the coders are the result of a subjective opinion. If there were discrepancies between attributed scores on the same item from the same website, we systematically accepted the higher score in order to give the website the benefit of the doubt.

5.3.2 Evaluation

The evaluation covers the eight principles of open data, which we used as a base for our active transparency analyses. Each coder sought to find the relevant information on each website and, if the tool was in development or if it was not possible to access it, a score of 0 was attributed to all items. The “completeness” criterion evaluates both the comprehensiveness of information listed as well as the degree of disaggregation (the degree

to which data is primary). Identical to the standard active transparency evaluation available in this report’s appendix, the completeness evaluation was divided into “essential completeness” and “nonessential completeness”. Essential completeness refers to information that, in its absence, the evaluation would make little if any sense – they are minimum requirements for transparency.

Essential Information includes:

- i) The name of civil society organization and their Legal Entity Registry Number (CNPJ);
- ii) Current registration certificates;
- iii) List of current directors;
- iv) Full copy of partnership agreements, contracts, partnership terms and arrangements, or similar instruments;
- v) Accounts and financial statements;
- vi) The function and total remuneration of personnel.

Item iv) is the most important element of the evaluation. This item is particularly relevant as it fulfills the requirements present in article 11 of the Regulatory Framework of Civil Society Organizations (MROSC), which requires that nonprofits disclose the date of signature, the identification of the partnership instrument, the responsible public administration agency, the description

of the partnership objective and the total value. Graded in accordance with the items listed above, the websites were scored as follows:

If the website contains only item iv), it receives a score of 50.

If it contains 2 of 6 items, including item iv), it receives a score of 60.

If it contains 3 out of 6 items, including item iv), it receives a score of 70.

If it contains 4 out of 6 items, including item iv), it receives a score of 80.

If it contains 5 out of 6 items, including item iv), it receives a score of 90.

If it contains all 6 items, it receives the maximum score of 100 points.

If item iv (full copy of the contract) is not present, the website receives a score of 0, regardless of the presence of any other item, as the partnership contract represents the essential obligation for transparency.

The non-essential completeness evaluation verifies if the four important pieces of information from Rodríguez, Pérez and Godoy's (2012) research on active transparency of nonprofits are present. Two of these, the annual work plan and the social mission, are from the category of online transparency of activities. The other two, the annual report and the audit result, refer to online financial transparency.

The scoring rule for non-essential completeness is as follows:

Non-essential Completeness:

i) Social mission

ii) Annual activity report

iii) Work plan with budget forecast or goals

iv) Result of internal and external audits, inspections, and accountability controls.

Regarding the list of supplementary information:

If three of four items are present, the entity receives a score of 100.

If two of four items are present, the entity receives a score of 50.

If only one item is present, the entity receives a score of 0.

For the other eight principles, the evaluation was similar to the active transparency evaluation, presented in the appendix of this report. Finally, to obtain a final score, the essential completeness score was multiplied by the sum of the other scores, and the result converted into a percentage. The logic of multiplying the total results by essential completeness originates from the literature on concept structure and necessary and sufficient conditions. A traditional problem for compound indices is that the aggregation process does not compensate for missing essential elements. This is an issue when indexes are used to measure policy, as policies have inter-

dependent parts (MICHENER, 2015) in whose absence policies make little sense. For example, without expense values, the item 'expenditure' does not make sense even if the category has high scores for timeliness, accessibility, and nondiscrimination.

In order to properly evaluate the public agencies involved, we sent access to information (ATI) requests through the Electronic System for Citizens' Information (e-SIC) to all ministries. Ministries handle all licensing, including the granting of a title to a nonprofit, the signing of partnership contracts, and the transfer and monitoring of funds. For each request, we identified ourselves as researchers from the FGV. For responses received from the ministry, we evaluated the accuracy and timeliness of the response. Two coders analyzed each response and the results were compared to assess inter-coder reliability. For this comparison, we obtained a result of 94.2% and a Kappa statistic of 0.90 (s.e.=0.09, $p < 0.001$). These results show a near-perfect level of congruence and are statistically significant.

The ATI requests followed the template shown below:

Based on Law 12.527/2011 on Access to Public Information we would like to obtain:

(i) The full text of the existing rules regulating the selection process for choosing civil society organizations to receive funds from this agency

through a partnership agreement.

(ii) The criteria that determine which civil society organization will be selected to sign the partnership agreement with this agency.

(iii) Is there a public servant or department within this agency responsible for the coordination and/or monitoring of the selection process for the organization to receive funds through a partnership agreement?

In addition to the ATI requests, we also accessed the Registry of Banned Private Non-Profit Entities (CEPIM) – a database created by the Federal Comptroller General, with the objective of consolidating all the entities banned from receiving resource transfers. This database is a valuable reference source for public administrations to confirm that a nonprofit organization is authorized to enter into partnerships with the state. Using data extracted from the CEPIM, we analyzed which ministries had agreements with banned nonprofits and the primary reasons for the bans.

5.4 Results

In 2015, the federal government transferred R\$ 339,74,080,701.61 through partnership agreements. The expenditures on all nonprofits in 2015 amounted to R\$ 8,265,850,139.85, or 2.43% of the total spent on

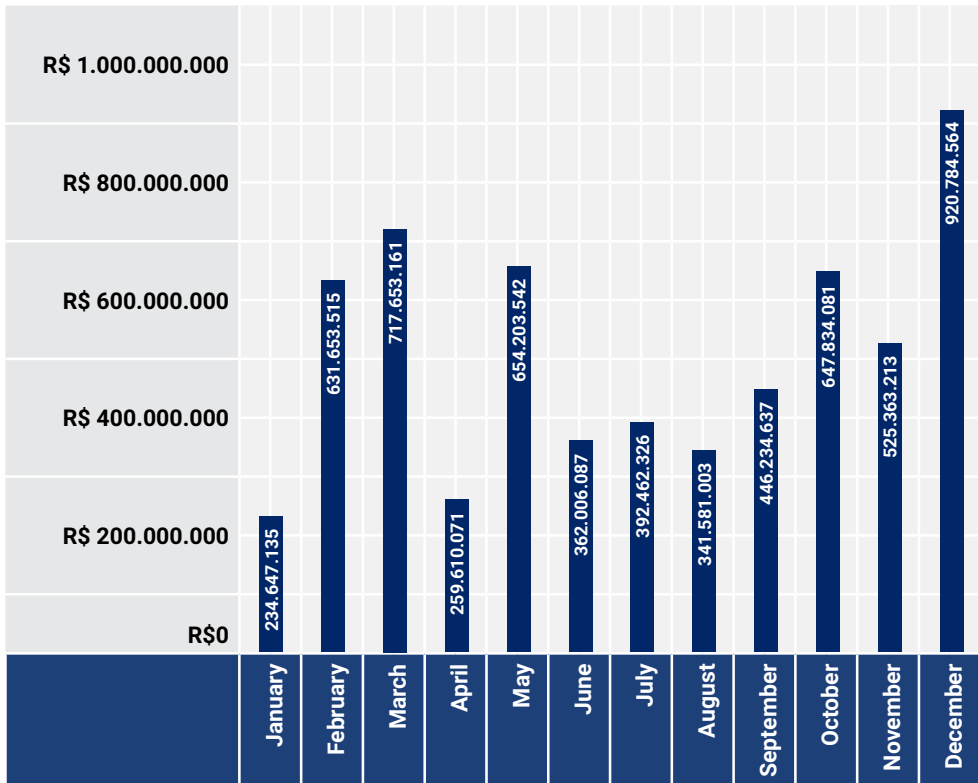
partnerships. This number is below the expected percentage. However, even if expenditures on nonprofits represent a small proportion of all government partnership spending, they still correspond to more than R\$8 billion (nearly US\$3 billion). It is crucial to point out the importance of partnership agreements between the Federal Government and municipal and state entities, as these transfers are for much higher amounts than those for nonprofits.

The three legal categories of nonprofits assessed in this study received a total of R\$6.234 billion in 2015 (about US\$2 billion). The largest release of funds occurred in the months of March and December, amounting to R\$717 million and R\$920 million, respectively. Figure 28 shows the amount spent monthly on these organizations.

Irregularities in accounts (delays, omission or legal challenge)

- Reason not specified
- Establishment of

Figure 28 Monthly Transfers to Selected Nonprofits in 2015 (R\$). Source: Transparency Portal.

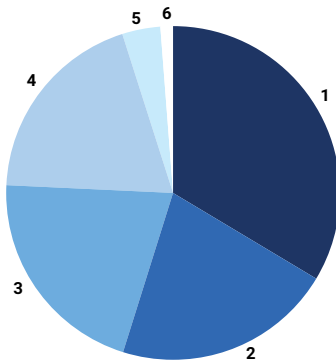


State Court of Auditors

- Irregularities in execution
- Non-execution of objective (total or partial)
- Proscription as a result of Federal Accounts Tribunal (TCU) decision
- Presented partial accounts
- Realized improper investments in financial market

Accounting irregularities constituted the primary reason for bans, including delays, omissions, and challenges. Irregularities

Figure 29 Banned Nonprofit Organizations - Reasons for Bans. Source: CEPIM Transparency Portal. Available at: <http://www.portaltransparencia.gov.br/cepim/>.



Reason	Count	Percentage
1 Irregularities in Accounts (delays, omissions or legal challenges)	866	33,68%
2 Reason not Specified	542	21,08%
3 Establishment of State Court of Auditors	541	21,04%
4 Irregularities in Execution	496	19,29%
5 Non-Executive of Objective (total or partial)	94	3,66%
6 Inscription in TCU decision	28	1,09%
Presented partial information or handed in late	3	0,12%
Illegally applied funds to financial instruments	1	0,04%

in execution were responsible for 19.29% of the bans, as shown by Figure 29. The main form of monitoring and control continues to be the review of accounts, with the Audit Courts serving as principal agent of control.

Figure 24 shows the ministries that had the greatest number of banned nonprofits in their registries. The Ministry of Agrarian Development had the largest number of banned nonprofits, followed by the Ministry of Tourism and the Ministry of Culture. Together, these three ministries accounted for 44.14% of all the banned nonprofits. The Ministry of Health, Ministry of Education, and the Ministry of Cities, which are the three ministries with the most partnership agreements, ranked 4th, 5th and 19th respectively.

5.4.1 Passive Transparency Evaluation

Table 23 presents the results of the passive transparency evaluation of federal ministries providing partnership agreements to nonprofits.

All of the ministries responded to our requests, reflecting good commitments to responsiveness. Each request received an automatically issued receipt, together with a protocol number. The average response time was 20 days, within the statutory limit.

Of the 23 ministries evaluated, 11 obtained an accuracy score of 100%; in other words, the answers were satisfactory and provided the information requested.

The Ministry of Education was the only ministry to deny the ATI request on the grounds that it was too generic, and requested us to specify the agreements we desired. The other ministries that denied the ATI request did so on the basis that the issue was outside their competence, as they did not have any active partnership agreements. These ministries include the Ministry of Social Security, the Ministry of Mines

and Energy, the Ministry of National Integration and the Ministry of Finance.

The scores assigned to the responses of each ministry are presented in Table 24, below. The average accuracy for each response was obtained by excluding the denied requests. In response to Item I, which related to the regulations governing selection of nonprofits for partnership agreements, ministries sent the full texts of the

Figure 30 Justification for Ban on Organization. Source: CEPIM Transparency Portal. Available at: <http://www.portaltransparencia.gov.br/cepim/>.

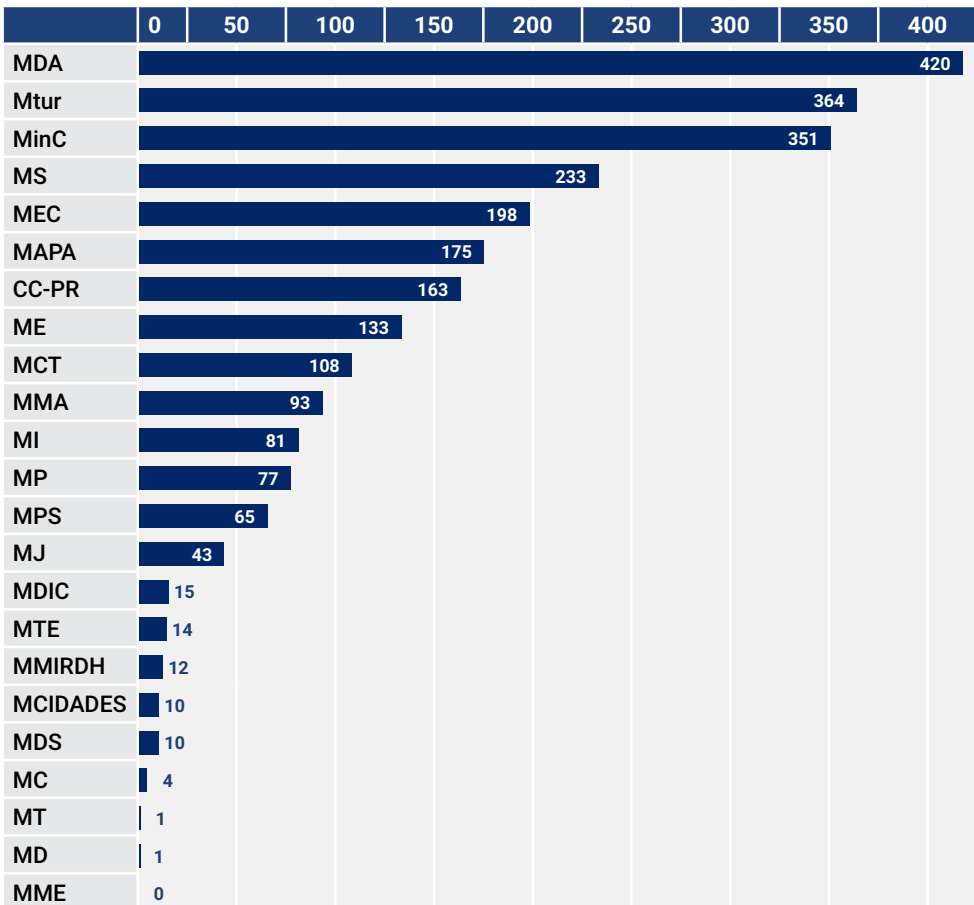


Table 23 Passive Transparency Evaluation of the Executive Branch in 2015

Entity Evaluated	Days to Response	Extension Requested	Request Denied	Average Accuracy of Response
Ministry of Agriculture, Livestock and Supply	3	-	No	50,00%
Ministry of Communications	24	No	No	100,00%
Ministry of Cities	24	No	No	100,00%
Ministry of Science and Technology	18	-	No	100,00%
Ministry of Defense	13	-	No	83,33%
Ministry of Agrarian Development	4	-	No	100,00%
Ministry of Development, Industry and Foreign Trade	24	No	No	100,00%
Ministry of Social Development and Fight Against Hunger	34	Yes	No	100,00%
Ministry of Sport	33	Yes	No	100,00%
Ministry of Education	32	Yes	Yes*	0,00%
Ministry of Finance	18	-	Yes*	0,00%
Ministry of National Integration	19	-	Yes*	0,00%
Ministry of Culture	24	No	No	100,00%
Ministry of Justice	7	-	Yes	33,33%
Ministry of the Environment	17	-	No	100,00%
Ministry of Mines and Energy	24	No	Yes*	0,00%
Ministry of Planning, Budget and Management	5	-	No	100,00%
Ministry of Social Security	25	No	Yes*	16,67%
Ministry of Foreign Relations	32	Yes	No	66,67%
Ministry of Health	24	Yes	No	66,67%

Table 23 Continuation

Entity Evaluated	Days to Response	Extension Requested	Request Denied	Average Accuracy of Response
Ministry of Transport	24	No	No	50,00%
Ministry of Labour and Employment	24	No	No	100,00%
Ministry of Tourism	10	-	No	66,67%

regulations either by attaching documents in .pdf format, or as a link to the legislation available on the Internet. The average accuracy of the first item was 100% for those who answered, and all responses received were considered satisfactory.

Item II, which addresses the eligibility criteria for nonprofits to receive resources, received less accurate responses. According to responses, the selection process for private entities occurs through a public tender (Article 24 of Law 13.019/2014 and article 8 of Decree 8.726/2016) or, if a public tender is unviable, its absence must be justified by the manager (Art. 32 of Law 13.019/2014). Every notice for public tender is specific to one partnership agreement and there is no standard model. The average accuracy of responses was

82.35%, and only the Ministry of Transport received a grade of zero.

Item III asks whether ministries assign public servants or specific sectors to monitor the use of public funds by nonprofit. The average accuracy of responses to this question was 79.41%. Although three-quarters of the responses were satisfactory, none of the responses specified the person responsible or identified an entity or sector responsible for partnership agreements. Selection committees are organized for each individual contract, and there is no fixed group of employees within the ministries in charge of this task. This question obtained the most null scores, with the Ministry of Health and the Ministry of Agriculture, Livestock and Supply providing unsatisfactory responses.

Table 24 Passive Transparency Evaluation of Ministries, Segregated by Item in ATI Request

Entity Audited	Item I	Item II	Item III
Ministry of Agriculture, Livestock and Supply	●	◎	○
Ministry of Communications	●	●	●
Ministry of Cities	●	●	●
Ministry of Science and Technology	●	●	●
Ministry of Defense	●	◎	●
Ministry of Agrarian Development	●	●	●
Ministry of Development, Industry and Foreign Trade	●	●	●
Ministry of Social Development and Fight Against Hunger	●	●	●
Ministry of Sport	●	●	●
Ministry of Education	●	●	●
Ministry of Finance	●	●	●
Ministry of National Integration	●	●	●
Ministry of Culture	●	●	●
Ministry of Justice	●	○	○
Ministry of the Environment	●	●	●
Ministry of Mines and Energy	●	●	●
Ministry of Planning, Budget and Management	●	●	●
Ministry of Social Security	●	●	●
Ministry of Foreign Relations	●	◎	◎
Ministry of Health	●	●	○
Ministry of Transport	●	○	◎
Ministry of Labour and Employment	●	●	●
Ministry of Tourism	●	◎	◎
Average Accuracy	100%	82.35%	79.41%

● 100 ◎ 50 ○ 0 ● denied

5.4.2 Active Transparency Evaluation

In 2015, R\$1,779,994,753.98 was transferred to the 104 nonprofits evaluated. This represents 29.02% of

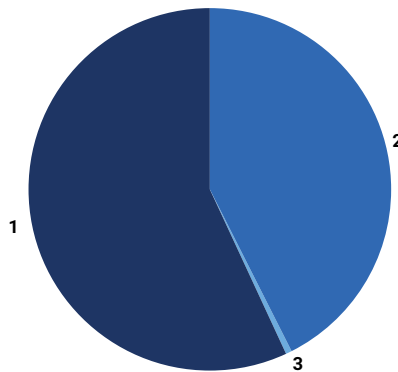
all funds transferred in Brazil by the public administration to the nonprofits selected in this study. Of these 104 entities, only 73 (70.19%) had a

website, and of the 73, only 18 obtained a score higher than 0 (24.66% of the nonprofits with a website). This means the websites of 55 of the nonprofits (75.34% of all evaluated) did not fulfill the minimum criteria for receiving a score in the evaluation. These entities received R\$ 991,945,264.82 in public funds, corresponding to 55.73% of all funds for the entities evaluated in this study. Another 31 nonprofits (29.81% of the 104 evaluated) did not have a webpage, but received only 0.36% of total funds transferred to the nonprofits selected. In total, 86 entities did not properly disclose information regarding receipt and execution of public resources. In total, 56.09% of public resources allocated to the

nonprofits analyzed did not appear in any transparency registry at all. Figure 31 presents data on resources allocated to the nonprofits evaluated.

Of the 31 entities that did not have a website, 27 held partnership agreements with the Ministry of Education, three with the Ministry of Health and one with the Ministry of Justice. Nonprofits that had agreements with the Ministry of Education were mostly school management organizations (caixa escolar), school councils, and parent teacher associations. According to the ATI law, a nonprofit can declare that it does not have the means to publish its information on a webpage. During the study, we observed two cases

Figure 31 Resources Allocated to Evaluated Nonprofits in 2015



1	55.73%	Does not Fulfill Minimum Criteria	R\$991.945.264,82
2	43.91%	Fulfills Minimum Criteria	R\$781.559.544,69
3	0.36%	Does not Possess Website	R\$6.489.944,47

where schools adopted a blog model, one of which had received more than 3,500 visits while the other had created a specific section for transparency. Unfortunately, neither of the two blogs met the minimum criteria, but their existence demonstrates the interest of these school administrations in publicizing information.

Of the 54 entities that did not meet the minimum criteria for receiving a score higher than zero, 32 had contracts with the Ministry of Health, while seven held contracts with the

Ministry of Education and six with the Ministry of Science and Technology. These nonprofits represent 55.73% of the resources evaluated in this study. A large part of these funds are utilized for outpatient and hospital care, in this case R\$ 629,570,566.45. The nonprofits that perform health services do not meet the minimum levels of active transparency.

Table 25 shows the evaluation of the 72 nonprofits that had available websites.

Table 25 Active Transparency Evaluation of Nonprofit Organizations

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Associação Beneficente De Campo Grande [Santa Casa]	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Associação Beneficente Douradense [Hospital Evangélico Dr. E Sra. Goldsby King]	●	●	●	●	●	●	●	●	●	●	○	○	○	○
Associação Da Escola Municipal Benedito Canuto Braga [Associação Bom Viver]	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Associação De Pais E Amigos Dos Excepcionais De S. Luiz	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Associação De Proteção A Maternidade E A Infância De Cuiabá [Hospital Geral E Maternidade De Cuiabá]	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Associação Evangélica Beneficente De Londrina [Hospital Evangélico De Londrina]	●	●	●	●	●	●	●	●	●	●	○	●	○	●
Associação Evangélica Beneficente Espiritantense - AEBES [Hospital Evangélico De Vila Velha]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Associação Piauiense De Combate Ao Câncer	●	●	●	●	●	●	●	●	●	●	○	○	○	○
Associação Programa Um Milhão De Cisternas Para O Semiárido [AP1MC]	●	●	●	●	●	●	●	●	●	●	○	○	●	●

● possui atributo ● não possui atributo ● 100 ○ 50 ○ 0

Table 25 Continuation

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Benemérita Sociedade Portuguesa Beneficente Do Para [Hospital D Luiz I]	●	●	●		●	●	●	●	●	●	○	○	○	●
Caixa Escolar Francisco Rafael Campos	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Caixa Escolar Municipal Professora Olga Del Favero	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Casa De Saúde Santa Marcelina [Hospital Santa Marcelina De Rondônia]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Centro De Defesa Dos Direitos Da Criança E Do Adolescente Gloria De Ivone [CEDECA]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Centro de Gestão e Estudos Estratégicos	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Centro Espirita Nosso Lar Casas André Luiz	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Confederação Brasileira De Atletismo	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Congregação Das Filhas De Nossa Senhora Stella Maris	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Conselho de Escola Da E.M.E.F. Governador Carlos Lindemberg	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Conselho De Escola Da E.M.E.F. Ismenio De Almeida Vidigal	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Conselho Escolar Da E.E.I.E.F. Economista Rubens Vaz Da Costa	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Conselho Nacional De Secretarias Municipais De Saúde [CONASEMS]	●	●	●	●	●	●	●	●	●	●	○	○	●	○
Fund. Centro De Análise Pesq. e Inovação Tecnológica [FUCAPI]	●	●	●	●	●	●	●	●	●	●	○	○	●	●

Table 25 Continuation

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Fund. Centros de Referência em Tecnologias Inovadoras [Fundação CERTI]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fund. Hospital Da Agro-Ind Do Açúcar e do Álcool de AL	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Antônio Jorge Dino [Instituto Maranhense De Oncologia Aldenora Bello]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Assistencial Da Paraíba- FAP [Hospital Escola da FAP]	●	●	●	●	●	●	●	●	●	●	○	○	○	○
Fundação Cearense De Pesquisa E Cultura [FCPC]	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Fundação Cultural E De Fomento A Pesquisa, Ensino E Extensão - FADEX	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Da Universidade Federal Do Paraná Para O Desenvolvimento Da Ciência, Tecnologia E Da Cultura [FUNPAR]	●	●	●	●	●	●	●	●	●	●	○	○	●	○
Fundação De Amparo A Pesquisa E Extensão Universitária	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação De Amparo E Desenvolvimento Da Pesquisa [FADES]	●	●	●	●	●	●	●	●	●	●	○	○	●	○
Fundação De Apoio A Pesquisa [FUNAPE]	●	●	●	●	●	●	●	●	●	●	○	○	●	○
Fundação De Apoio A Pesquisa Ao Ensino E A Cultura [FAPEC]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação De Apoio Científico E Tecnológico Do Tocantins [FAPTO]	●	●	●	●	●	●	●	●	●	●	○	○	●	●

Table 25 Continuation

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Fundação de Apoio da Universidade Federal do RGS [FAURGS]	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Fundação de Apoio e Desenvolvimento ao Ensino, Pesquisa e Extensão Universitária no Acre [FUNDAPE]	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Fundação De Apoio Universitário	●	●	●	●	●	●	●	●	●	●	○	●	○	●
Fundação De Beneficência Hospital De Cirurgia [Hospital De Cirurgia]	●	●	●	●	●	●	●	●	●	●	○	○	○	○
Fundação De Desenvolvimento Da Pesquisa	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Fundação Guimarães Duque	●	●	●	●	●	●	●	●	●	●	○	●	○	●
Fundação Napoleão Laureano [Hospital Napoleão Laureano Mantido Pela Fund. Laureano]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Parque Tecnológico Da Paraíba [PAQTC-PB]	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Fundação Universidade De Caxias Do Sul [Hospital Geral De Caxias Do Sul]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Universidade De Caxias Do Sul [UCS]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Fundação Universitária Mendes Pimentel [FUMP - Estabelecimento Unificado]	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Instituição Bethesda	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Instituto Alcides D' Andrade Lima [Hospital Memorial Guarapes]	●	●	●	●	●	●	●	●	●	●	○	○	●	○

Table 25 Continuation

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Instituto Alcides D' Andrade Lima [Hospital Memorial Jaboatão]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Instituto Brasileiro Do Mar [IBRAMAR]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Instituto De Medicina Integral Professor Fernando Figueira [IMIP]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Instituto de Proteção e Assistência a Infância do RN [Hospital Infantil Varela Santiago]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Instituto De Tecnologia E Pesquisa [ITP]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Instituto Walfredo Guedes Pereira	●	●	●	●	●	●	●	●	●	●	○	●	○	●
Irmandade Beneficente da Santa Casa da Misericórdia de Fortaleza [Santa Casa]	●	●	●	●	●	●	●	●	●	●	●	○	●	●
Irmandade Da Santa Casa De Londrina [Hospital Santa Casa]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Irmandade Da Santa Casa De Misericórdia De Porto Alegre	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Liga Alagoana Contra a Tuberculose	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Liga Álvaro Bahia Contra a Mortalidade Infantil	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Liga Norte Rio-grandense Contra O Câncer [Liga Norte Rio-grandense Contra O Câncer]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Missão Evangélica Caiua [Missão Caiua]	●	●	●	●	●	●	●	●	●	●	○	●	○	○

Table 25 Continuation

Legal Name	CNPJ	Bylaws	List of Directors	Full Copy of Partnership Agreement	Accounts and Financial Statements	Team Remuneration	Social Objective	Annual Activity Report	Work Plans with Goals	Audit Reports	Access for People with Disabilities	Link to Transparency Portal	Timeliness	Nondiscrimination
Monte Tabor Centro Ítalo Brasileiro de Promoção Sanitária [Hospital São Rafael]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Movimento de Organização Comunitária [MOC]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Organização Brasileira para o Desenvolvimento Científico e Tecnológico do Controle do Espaço Aéreo - CTCEA	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Pastoral da Criança	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Rede Nacional De Ensino E Pesquisa [RNP]	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Santa Casa de Misericórdia [Hospital D Pedro De Alcântara]	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Santa Casa De Misericórdia De Goiânia [Santa Casa De Misericórdia De Goiânia]	●	●	●	●	●	●	●	●	●	●	○	○	○	○
Sociedade Beneficente Da Santa Casa De Misericórdia	●	●	●	●	●	●	●	●	●	●	○	○	●	●
Sociedade Brasileira Para O Progresso Da Ciência [SBPC]	●	●	●	●	●	●	●	●	●	●	○	●	●	●
Sociedade De Proteção A Maternidade E A Infância De Parnaíba	●	●	●	●	●	●	●	●	●	●	○	○	○	●
Sociedade Educacional De Santa Catarina [SOCIESC]	●	●	●	●	●	●	●	●	●	●	○	○	○	●
SPDM - Associação Paulista Para O Desenvolvimento da Medicina [Hospital São Paulo]	●	●	●	●	●	●	●	●	●	●	○	●	●	●

● contains data

● no data

● 100

○ 50

○ 0

Of the nonprofits analyzed, 31.15% presented a Legal Entity Registry Number (CNPJ) on their webpage. The best example was Fundação Antônio Jorge Dino, which presented its CNPJ on the bottom of the main page. Another good alternative was to present all of the organization's administrative data (name, CNPJ, address and contact details) on a single page.

In 38.36% of websites, the registration numbers of organizations were available either in a .pdf format or as a specific part of the website. The list of directors was present in 68.49% of the websites analyzed, with an organizational chart also available in the best examples. Some scientific research nonprofits also provided their director's curriculum vitae and list of publications.

The most important item, the presence of the full text of the partnership agreements or similar instrument, was only present in 24.66% of the organizations' websites. The websites that did present copies of the contracts, in all cases, had a page dedicated exclusively to transparency. Information available regarding current accounts or financial statements was slightly more common, with this information being present in 34.25% of nonprofit websites.

Disclosure of team remuneration

is mandatory under the new Regulatory Framework of Civil Society Organizations (MROSC) law. However, this item was the least frequently presented of all the essential completeness items, included in only 15.07% of the websites. 39.73% of nonprofits presented their annual reports. For the most part these reports described the activities undertaken by organizations and are still the primary method for obtaining information about nonprofits.

Similar to Rodríguez, Pérez and Godoy (2012), we found that most websites included the social mission of the organization. A description of their objectives and programs was present in 65.3% of the cases. As also found by Rodríguez, Pérez & Godoy (2012), the disclosure of a work plan was rare. In this study, the work plan was present in only 13.7% of the cases, the least frequently present of all completeness item in the evaluation. The "Fundação de Apoio à Pesquisa" serves as a rare good example in this case, providing a complete and up-to-date workplan. Finally, regarding the question of completeness, only 19.18% of websites presented the results of internal and external audits, usually found together with the accountability reports and financial statements.

Accessibility functions for people with disabilities were available for only 2.84% of websites. Only two

portals presented full functionality, those of the “Fundação de Desenvolvimento da Pesquisa” and the “Rede Nacional de Ensino e Pesquisa”. These two nonprofits also obtained the highest scores on the consolidated evaluation.

It was hypothesized that most nonprofit websites did not contain the

information required by law because they are not regularly updated. However, this hypothesis can be discarded as our results showed that 66.7% of the websites had been updated within 30 days of our visit, and a further 13.7% had been updated within 90 days. Non-compliance with the law cannot be justified by

Table 26 Ranking of Nonprofit Organizations with Best Evaluation Scores in 2015

Legal Name	Evaluation
Rede Nacional de Ensino e Pesquisa - RNP	90,00%
SPDM - Associação Paulista para o Desenvolvimento da Medicina [Hospital São Paulo]	81,00%
Centro de Gestão e Estudos Estratégicos	72,00%
Pastoral da Criança	72,00%
Fundação Universitária Mendes Pimentel [FUMP - Estabelecimento Unificado]	64,00%
Fundação Parque Tecnológico da Paraíba [PAQTC-PB]	63,00%
Fundação de Amparo à Pesquisa e Extensão Universitária	60,00%
Fundação de Apoio da Universidade Federal do RGS [FAURGS]	60,00%
Associação Beneficente de Campo Grande [Santa Casa]	56,00%
Fundação Cultural e de Fomento à Pesquisa, Ensino e Extensão - FADEX	45,00%
Liga Alagoana Contra a Tuberculose	42,00%
Fundação Guimaraes Duque	40,00%
Fundação de Apoio a Pesquisa [FUNAPE]	36,00%
Fundação de Apoio Científico e Tecnológico do Tocantins [FAPTO]	36,00%
Irmandade Beneficente da Santa Casa da Misericórdia de Fortaleza [Santa Casa]	36,00%
Fundação de Amparo e Desenvolvimento da Pesquisa [FADESP]	28,00%
Instituto de Medicina Integral Professor Fernando Figueira [IMIP]	24,00%
Instituto de Tecnologia e Pesquisa [ITP]	20,00%

difficulties in updating their websites, considering most of the entities did update them periodically with news and publicity of their activities.

Finally, the majority of nonprofits met the criteria for nondiscrimination. Of the websites analyzed, 84.7% did not require that personal data be disclosed. Two cases relevant to the discussion, however, are the “Centro Espírita Nosso Lar Casas André Luiz” that required a personal e-mail address to obtain access to the file containing registration numbers, and the “Fundação de Amparo e Desenvolvimento da Pesquisa”, that denied access to one of the Vice-Dean’s projects, displaying the error message: “Error detected: Your access has been forbidden”. Table 26 shows the nonprofits with the best evaluations.

The National Education and Research Network had the highest ranking. In addition to being one of only two sites to present full accessibility criteria for disabled people, it also had a forum for discussion, opening up an opportunity for civil society to express their opinions and participate in the organization’s decisions. Another good example is Pastoral da Criança, which provided the full text of the ATI law on its website and in relation to each item of mandatory public access, created a link to a page with the desired information.

5.5 Conclusion

This study explored the transparency of partnership agreements between nonprofit organizations and government. Specifically, this research examined the processes of resource allocation and monitoring of non-profit-federal government partnerships, as well as the extent to which nonprofits comply with the Law 12.527/2011 on Access to Public Information (ATI law) and the new Regulatory Framework for Civil Society Organizations (MROSC). In 2015, nonprofits accounted for 2.43% of all transfers made through partnership agreements, receiving a total of more than R\$ 8 billion in public funds. Though this study brought to light certain good examples of transparency compliance, the vast majority of entities analyzed do not appear concerned about their legal obligations for transparency.

Based on the responses received from federal ministries to ATI requests, it is possible to say the rules of selecting nonprofits are widely known, but that the process is vague, permitting considerable discretion, and monitoring practices by the ministries that allocate public money are practically nonexistent. This lacuna is one of the issues that the MROSC law sought to resolve, establishing rules for the selection, monitoring, and control of nonprofits, following consultation with public, private, and civil society

entities. The implementation of the System for Managing Agreements and Forwarding Contracts (SICONV) is still underway, and this study found that it does not yet include all of the partnership agreements entered into by the federal public administration.

This study encountered several difficulties in collecting data. Obstacles include the lack of standardization for information on nonprofit websites and the difficulty of extracting information from Transparency Portals and the SICONV. In order to access this data, it was necessary to individually download all the expenditures that the government made with nonprofits for each month of 2015. It was then necessary to add up the values, obtain the legal names of all organizations, and associate each one to the resources received during the process, in order to finally consolidate the organizations that would form the sample. The complexity of this process presents a significant obstacle to citizens who are not proficient with computers.

Some limitations to this study should be acknowledged. The sample used is relatively small and the methodology – developed by FGV’s Public Transparency Program – is very rigorous, which led to extremely low scores for some entities that did not present basic elements such as full copies of governmental contracts. This study is also prospective, in the sense that several points refer to the MROSC, a law that will only come into effect in January 2017. Nonetheless, the fact that only 18 of 73 nonprofits with the largest partnership agreements in Brazil achieved a score above zero on the evaluation – and that 32 of the nonprofits analyzed did not even have a website – proves that there are serious deficiencies in the current system of transparency.

It is our hope that this important topic is further developed by researchers. This study indicates that a wealth of data on huge outlays of public spending remains poorly scrutinized, which represents a valuable opportunity for both research and advocacy.

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Appendix 1 List of nonprofits analyzed in this study. Source: Transparency Portal.

UF	Name of Municipality	Name of Beneficiary	Website
AC	Rio Branco	Fundação de Apoio e Desenvolvimento ao Ensino, Pesquisa e Extensão Universitária no Acre [FUNDAPE]	http://fundape.ufac.br/
AC	Cruzeiro Do Sul	Conselho Escolar Marcelino Champagnat	Não disponível
AC	Rio Branco	Conselho Escolar/Unidade Executora Chico Mendes	Não disponível
AC	Cruzeiro Do Sul	Conselho Escolar Leidimar Ferreira De Souza	Não disponível
AL	Maceió	Fund. Hospital Da Agro-Ind Do Açúcar e do Álcool de AL	http://www.hospitaldoacucar.com.br/
AL	Maceió	Liga Alagoana Contra a Tuberculose	http://www.hospitalsanatorio.com.br
AL	Arapiraca	Sociedade Beneficente Nossa Senhora Do Bom Conselho	Não disponível
AL	Arapiraca	Conselho Escolar Enéas Benedito Dos Santos	Não disponível
AP	Macapá	Caixa Escolar Maestro Miguel	Não disponível
AP	Macapá	Caixa Escolar Lucia Neves Deniur	Não disponível
AP	Santana	Caixa Escolar Padre Ângelo Birachi	Não disponível
AP	Santana	Caixa Escolar Iranilde de Araújo Ferreira	Não disponível
AM	Manaus	Confederação Brasileira De Atletismo	http://www.cbat.org.br/
AM	Manaus	Fund. Centro De Analise Pesq. e Inovação Tecnológica [FUCAPI]	http://www.fucapi.br/
AM	Parintins	Associação de Pais, Mestres e Comunitários [APMC] Da Municipal Walkiria Viana Goncalves	Não disponível
AM	Parintins	Asso. De Pais, Mestres e Comunitários da Escola Estadual Luiz Gonzaga [APMC Luiz Gonzaga]	Não disponível
BA	Salvador	Monte Tabor Centro Ítalo Brasileiro de Promoção Sanitária [Hospital São Rafael]	http://www.portalhsr.com.br/
BA	Salvador	Liga Álvaro Bahia Contra a Mortalidade Infantil	http://www.saude.ba.gov.br/hec/
BA	Feira De Santana	Santa Casa de Misericórdia [Hospital D Pedro De Alcantara]	http://www.hdpa.com.br/hospital.php
BA	Feira De Santana	Movimento de Organização Comunitária [MOC]	http://www.moc.org.br/
CE	Fortaleza	Fundação Cearense De Pesquisa E Cultura [FCPC]	http://www.fcpc.ufc.br/
CE	Fortaleza	Irmandade Beneficente da Santa Casa da Misericórdia de Fortaleza [Santa Casa]	http://www.santacasace.org.br/
CE	Caucaia	Conselho Escolar da E.E.I.E.F. Antônio Miranda De Melo [Escola Antônio Miranda De Melo]	Não disponível
CE	Caucaia	Conselho Escolar Da E.E.I.E.F. Economista Rubens Vaz Da Costa	http://rubensvazdacosta.blogspot.com.br/

UF	Name of Municipality	Name of Beneficiary	Website
DF	Brasília	Conselho Nacional De Secretarias Municipais De Saúde [CONASEMS]	http://www.conasems.org.br/
DF	Brasília	Centro de Gestão e Estudos Estratégicos	https://www.cgee.org.br/
ES	Vila Velha	Associação Evangélica Beneficente Espírito-santense - AEBES [Hospital Evangélico De Vila Velha]	http://www.evangelicovv.com.br/
ES	Vila Velha	Instituto Brasileiro Do Mar [IBRAMAR]	http://ibramar.org/pt/
ES	Serra	Conselho de Escola Da E.M.E.F. Governador Carlos Lindemberg	http://liedlindemberg.blogspot.com.br/
ES	Serra	Conselho De Escola Da E.M.E.F. Ismenio De Almeida Vidigal	http://emef-ismenio.blogspot.com.br/
GO	Goiânia	Fundação De Apoio A Pesquisa [FUNAPE]	http://www.funape.org.br/site/
GO	Goiânia	Santa Casa De Misericórdia De Goiânia [Santa Casa De Misericórdia De Goiânia]	http://www.santacasago.org.br/
GO	Aparecida De Goiânia	Caixa Escolar Francisco Rafael Campos	http://emfrc.blogspot.com.br/
GO	Aparecida De Goiânia	Caixa Escolar Marista Sul	Não disponível
MA	São Luís	Fundação Antônio Jorge Dino [Instituto Maranhense De Oncologia Aldenora Bello]	http://fundacaoantoniodino.org.br/
MA	São Luís	Associação De Pais E Amigos Dos Excepcionais De S Luiz	http://www.apaesaluis.org.br/
MA	Imperatriz	Conselho Escolar Da Escola Municipal Santa Rita [Escola Municipal Santa Rita]	Não disponível
MA	Imperatriz	Escola Municipal Maria Das Neves Marques De Sousa	Não disponível
MG	Belo Horizonte	Fundação Universitária Mendes Pimentel [FUMP - Estabelecimento Unificado]	http://www.fump.ufmg.br/
MG	Belo Horizonte	Fundação De Desenvolvimento Da Pesquisa	http://www.fundep.ufmg.br/pagina/94/home.aspx
MG	Uberlândia	Fundação De Apoio Universitário	http://eventos.fau.ufu.br/portal30/
MG	Uberlândia	Caixa Escolar Municipal Professora Olga Del Favero	http://emolgadelfavero.ntecemepe.com/home/historico
MS	Dourados	Missão Evangélica Caiua [Missão Caiua]	http://www.missaocaiua.org.br/atual/
MS	Campo Grande	Associação Beneficente De Campo Grande [Santa Casa]	http://www.santacasacampogrande.org.br/
MS	Dourados	Associação Beneficente Douradense [Hospital Evangélico Dr. E Sra. Goldsby King]	http://www.hospitalevangelicocom.br/novo/
MS	Campo Grande	Fundação De Apoio A Pesquisa Ao Ensino E A Cultura [FAPEC]	http://www.fapec.org/site/
MT	Cuiabá	Associação De Proteção A Maternidade E A Infância De Cuiabá [Hospital Geral E Maternidade De Cuiabá]	http://hgucuiaba.blogspot.com.br/p/quem-somos.html

UF	Name of Municipality	Name of Beneficiary	Website
MT	Cuiabá	Sociedade Beneficente Da Santa Casa De Misericórdia	http://www.santacasacuiaba.com.br/portal/
PA	Belém	Benemérita Sociedade Portuguesa Beneficente Do Para [Hospital D Luiz I]	http://www.beneficenteportuguesa.com.br/
PA	Belém	Fundação De Amparo E Desenvolvimento Da Pesquisa [FADES]	https://www.portalfadesp.org.br/
PA	Ananindeua	Associação De Pais E Mestres Da E.M. de Gabriel Bulgarelli	Não disponível
PA	Ananindeua	Conselho Escolar da Escola em Regime de Convênio "D. Alberto Ramos"	Não disponível
PB	Campina Grande	Fundação Parque Tecnológico Da Paraíba [PAQTC-PB]	http://www.paqtc.org.br/
PB	Joao Pessoa	Fundação Napoleão Laureano [Hospital Napoleão Laureano Mantido Pela Fund. Laureano]	http://www.hlaureano.org.br/
PB	Joao Pessoa	Instituto Walfredo Guedes Pereira	http://www.iwgp.com.br/
PB	Campina Grande	Fundação Assistencial Da Paraíba- FAP [Hospital Escola da FAP]	http://www.hospitaldafap.org.br/
PE	Recife	Instituto De Medicina Integral Professor Fernando Figueira [IMIP]	http://www1.imip.org.br/imip/home/
PE	Recife	Associação Programa Um Milhão De Cisternas Para O Semiárido [AP1MC]	http://www.asabrazil.org.br/
PE	Jaboatão Dos Guararapes	Instituto Alcides D' Andrade Lima [Hospital Memorial Guararapes]	http://www.hmgpe.org/
PE	Jaboatão Dos Guararapes	Instituto Alcides D' Andrade Lima [Hospital Memorial Jaboatão]	http://www.hmjpe.org/
PI	Parnaíba	Sociedade De Proteção A Maternidade E A Infância De Parnaíba	http://www.spmip.org.br/
PI	Teresina	Associação Piauiense De Combate Ao Câncer	http://www.saomarcos.org.br/web/xhtml/menu/apcc.xhtml
PI	Teresina	Fundação Cultural E De Fomento A Pesquisa, Ensino E Extensão - FADEX	http://www.fundacaofadex.org/
PI	Parnaíba	Santa Casa De Misericórdia De Parnaíba	Não disponível
PR	Curitiba	Fundação Da Universidade Federal Do Paraná Para O Desenvolvimento Da Ciência, Tecnologia E Da Cultura [FUNPAR]	http://www.funpar.ufpr.br/
PR	Curitiba	Pastoral da Criança	https://www.pastoraldacrianca.org.br/
PR	Londrina	Associação Evangélica Beneficente De Londrina [Hospital Evangélico De Londrina]	http://www.aebel.org.br/
PR	Londrina	Irmandade Da Santa Casa De Londrina [Hospital Santa Casa]	http://www.iscal.com.br/
RJ	Rio De Janeiro	Rede Nacional De Ensino E Pesquisa [RNP]	https://www.rnp.br/
RJ	Rio De Janeiro	Organização Brasileira para o Desenvolvimento Científico e Tecnológico do Controle do Espaço Aéreo - CTCEA	http://www.ctcea.org.br/

UF	Name of Municipality	Name of Beneficiary	Website
RJ	São Gonçalo	Conselho Escolar Da Escola Municipal Pastor Haroldo Gomes	Não disponível
RJ	São Gonçalo	Conselho Escolar Da Escola Municipal Pastor Ricardo Parise [CE/EMPRP]	Não disponível
RN	Natal	Liga Norte Rio-grandense Contra O Câncer [Liga Norte Rio-grandense Contra O Câncer]	http://www.ligacontraocancer.com.br/
RN	Mossoró	Assoc. de Assist. e Prot. a Maternidade e a Infância de Mossoró [Maternidade Almeida Castro]	Não disponível
RN	Natal	Instituto de Proteção e Assistência a Infância do RN [Hospital Infantil Varela Santiago]	http://hospitalvarelasantiago.org.br/
RN	Mossoró	Fundação Guimarães Duque	http://www.fgduque.org.br/
RO	Porto Velho	Casa De Saúde Santa Marcelina [Hospital Santa Marcelina De Rondônia]	http://santamarcelina.org/
RO	Porto Velho	Associação Beneficente Dos Enxadristas E Damistas De Rondônia [A. B. E. Da. R.]	Não disponível
RO	Ji-Paraná	Associação De Pais E Professores Ulisses Matosinho [A.P.P. Ulisses Matosinho]	Não disponível
RO	Ji-Paraná	A.P.P. Parque Dos Pioneiros [A.P.P. Parque Dos Pioneiros]	Não disponível
RR	Boa Vista	Associação de Pais e Mestres Prof. Glemiria Gonzaga Andrade	Não disponível
RR	Boa Vista	Associação De Pais E Mestres Da Escola Municipal Juslany De Souza Flores	Não disponível
RR	Rorainópolis	Associação De Pais E Mestres Da Escola Estadual Joselma Lima De Souza	Não disponível
RR	Rorainópolis	Assoc. De Pais E Mestres Da Escola Municipal Hildemar Pereira De Figueredo	Não disponível
RS	Porto Alegre	Irmandade Da Santa Casa De Misericórdia De Porto Alegre	https://www.santacasa.org.br/pt
RS	Porto Alegre	Fundação de Apoio da Universidade Federal do RGS [FAURGS]	http://portalfaurgs.ufrgs.br/
RS	Caxias Do Sul	Fundação Universidade De Caxias Do Sul [Hospital Geral De Caxias Do Sul]	http://www.hgcs.com.br/
RS	Caxias Do Sul	Fundação Universidade De Caxias Do Sul [UCS]	http://fundacao.ucs.br/
SC	Florianópolis	Fund. Centros de Referência em Tecnologias Inovadoras [Fundação CERTI]	http://www.certi.org.br/
SC	Florianópolis	Fundação De Amparo A Pesquisa E Extensão Universitária	http://www.fapeu.com.br/
SC	Joinville	Sociedade Educacional De Santa Catarina [SOCIESC]	http://sociesc.org.br/pt/home/index.php
SC	Joinville	Instituição Bethesda	http://www.portalbethesda.org.br/
SE	Aracaju	Fundação De Beneficência Hospital De Cirurgia [Hospital De Cirurgia]	http://inscricao.fbhc.org.br/
SE	Aracaju	Instituto De Tecnologia E Pesquisa [ITP]	http://www.itp.org.br/

UF	Name of Municipality	Name of Beneficiary	Website
SE	Nossa Senhora Do Socorro	Associação De Pais E Mestres Da Escola Municipal Coronel Gentil Daltro	Não disponível
SE	Nossa Senhora Do Socorro	Associação De Pais E Mestres Da Escola Municipal Nossa Senhora Do Socorro	Não disponível
SP	São Paulo	SPDM - Associação Paulista Para O Desenvolvimento da Medicina [Hospital São Paulo]	https://www.spdm.org.br/
SP	São Paulo	Sociedade Brasileira Para O Progresso Da Ciência [SBPC]	http://www.sbpcnet.org.br/site/
SP	Guarulhos	Congregação Das Filhas De Nossa Senhora Stella Maris	http://www.santaterezinha.org.br/p/filhas-nossa-senhora
SP	Guarulhos	Centro Espirita Nosso Lar Casas André Luiz	http://nossolar.org.br/site/
TO	Palmas	Fundação De Apoio Cientifico E Tecnológico Do Tocantins [FAPTO]	http://www.fapto.org.br/
TO	Palmas	Centro De Defesa Dos Direitos Da Criança E Do Adolescente Gloria De Ivone [CEDECA]	http://www.cedecato.org.br/site/
TO	Araguaína	Associação De Pais E Mestres Da Esc. Municipal Zeca Barros [Associação Céu Azul]	Não disponível
TO	Araguaína	Associação Da Escola Municipal Benedito Canuto Braga [Associação Bom Viver]	http://www.associacaoviverbem.org.br/

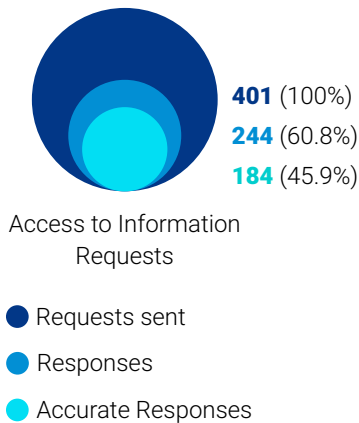
TOWARDS A CONCLUSION: POLITICAL WILL, ADMINISTRATIVE LEADERSHIP AND TRAINING

The five chapters presented in this report sought to provide an overview of the current state of compliance with Brazil's Law 12.527/2011 on Access to Public Information (ATI law) at the subnational level, with a particular focus on Brazilian municipalities. Of the five chapters, only one sought to evaluate the access to information law itself, with the remaining four chapters (2 through 5) evaluating the transparency of key administrative and public policies, using the ATI law as a tool. Concerning ATI requests, the surprisingly low response and accuracy rates of state and municipal governments diminished the extent to which we were able to shed light on these policies.

The results shown in Figure 32 indicate that of the 401 ATI requests sent for all studies represented in this report, only 244 (60.8%) received a response and only 184 (45.9%) were assessed as accurate, meaning

that the response was at least minimally congruent with what was requested. This result is significantly lower than the results obtained in *Estado Brasileiro e Transparência* (MICHENER; MONCAU; VELASCO, 2014), where the response rate was 69% and the accuracy rate was 57%.

Figure 32 Overall Results from the Report – Access to Information Requests



Although these are poor results, they surpass evaluations on the Judiciary and Public Prosecutor's Office (Ministério Público), undertaken in 2014 and 2015 by the Fundação Getúlio Vargas Public Transparency Program (PTP-FGV). In these studies, the Judiciary and Public Prosecutor responded to 61% and 51% of requests, respectively, with accuracy rates of 26% and 27% - far inferior than the current study (MONCAU et al., 2015). Ironically, if the two frontline

institutions responsible for upholding the rule of law in Brazil – the judiciary and the Public Prosecutor – so poorly comply with legal transparency obligations, we might expect little more of local governments than what we have encountered.

6.1 Seeking answers to silence

The main question that emerges from the current evaluation is whether a lack of compliance with the ATI law reflects municipalities' limited training and administrative knowledge (DARCH; UNDERWOOD, 2010; PIOTROWSKI; BORRY, 2010), a lack of leadership (BLANTON, 2003; FLORINI, 2007; RELLY; SABHARWAL, 2009), or – as frequently documented in the academic literature – a lack of political will to adhere to transparency obligations (HOOD, 2010; MICHENER, 2015; ROBERTS, 2006).

The answer to this question may find explanations in one result we found. Of the 313 ATI requests sent out, 53.4% of cases received responses (167) with an accuracy rate of 46.7% (146 accurate responses) (see Figure 33). What these numbers conceal is that when we received a response, it tended to be accurate, at least in 87.4% of cases (146 accurate responses out of 167 responses overall) (see Figure 34). This result suggests that those municipalities that

respond are purposively complying with the law and serving citizens. In Chapter 1 we observed that of the 32 federative units that received an 'A' or 'B' score for accurate responses to requests, 88% (28 of 32 agencies) had established internal administrative units dedicated to managing freedom of information. This finding supports the inference that poor compliance with the ATI law could be ameliorated through the development of access to information units. This objective in turn implies the need for increased organizational leadership, training, and capacity building.

In order to better understand the reasons for silence to requests – so-called “mute responses” (OPEN SOCIETY JUSTICE INITIATIVE, 2006) – we made telephone calls to each offending municipality. These municipalities are those that did not

Figure 33 Overall results – Municipal Access to Information Requests

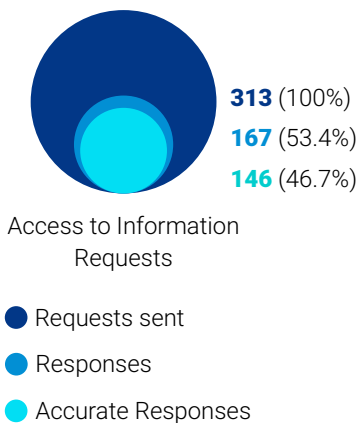
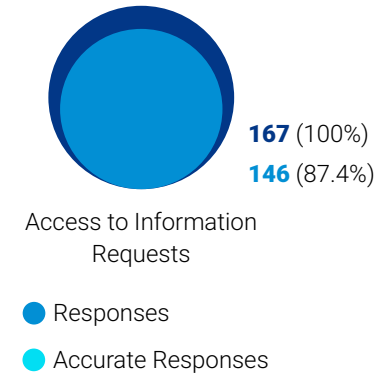


Figure 34 Overall results – Municipal Access to Information Requests



respond to one or more requests made in researching any of this report's chapters. In total, we made 73 telephone calls to the following 20 municipalities: Guarulhos (SP), São Gonçalo (RJ), Belo Horizonte (MG), Uberlândia (MG), Porto Alegre (RS), Palmas (TO), Várzea Grande (MT), Campo Grande (MS), Maceió (AL), São Luís (MA), Roraima (state), Teresina (PI), Natal (RN), João Pessoa (PB), Arapiraca (AL), Pernambuco (state), Salvador (BA), Goiânia (GO), Rio Branco (AC) and Vitoria (ES).

The telephone calls were made primarily to the comptroller of the municipal administration or, if there was no comptroller, to the transparency portal. If the transparency portal was not available, we called the ombudsman's office. Finally, if we still had not obtained a reply through these three channels, we called the mayor's office directly and asked the

responding employee to forward our call to the responsible department.

All telephone calls were made during a two-week period, from 4 August 2016 to 15 August 2016.

The researchers that participated in the process followed an identical script during all calls, introducing themselves and explaining the reason for the call as part of a research project by the Fundação Getúlio Vargas of Rio de Janeiro.

The full script is transcribed below:

Hello, good {morning}{afternoon}.

My name is {name} and I am a researcher at the Fundação Getúlio Vargas of Rio de Janeiro. I made a freedom of information request to your agency on {date of request}. The problem is that I have not received any response. Could you help me with the status of my request(s)? What is the name and the e-mail of the person responsible for handling requests made based on the law 12.521 on access to public information?

If the administrator asked “why”, or “what for?” then we proceed as follows:

This information is essential for our research project. In order to avoid the possibility of legal action through the Public Prosecutor’s Office, we would like to know if it would be possible to speak with the person responsible for managing access to information requests in

the administration, in order for us to collect the responses as soon as possible. If necessary, we can send the request once again.

As we relied on the legal timeframe, we urgently need the process to be expedited.

Thank you.

The researchers, aided by an assistant, recorded the following details during the telephone calls:

- Number of times it was necessary to call the same jurisdiction
- Numbers of transfers made within the same telephone call
- If the reason for the request was solicited
- If the employee expressed lack of knowledge regarding the ATI request process, or;
 - _ Did not know which agency was responsible;
 - _ Connected us to wrong department;
 - _ Expressed lack of knowledge regarding the Transparency Portal
- If the ATI request or protocol number had been lost
- If employee asked us to send the ATI request once again through a different channel of communication
- If the employee provided a personal telephone number or email address
- If the employee explicitly refused

to provide the information











- If the employee promised to send the information
- If the information was finally obtained

In almost 80% of the cases, the public servants showed a lack of awareness about handling ATI requests or the process of making and responding to an ATI request, either through an Electronic Service System for Citizens' Information (e-SIC) platform, or otherwise. During this brief study, we observed cases where the employees demonstrated no awareness of the

ATI process. For example, an official in the municipal administration of Uberlândia (MG) stated: "I have no idea [who manages transparency requests]". We also observed a widespread lack of awareness about which internal area of the agency was responsible for managing ATI requests. Many employees mistakenly connected the researchers to areas within the agencies that had no relation to the ATI process, in particular, researchers were frequently referred to information technology departments.

Multiple irregular practices were

Table 27 Average result by municipality of the 73 telephone calls made to follow up the null responses to the ATI requests of Chapters 1, 2, and 3

	More than two telephone calls were necessary (2 to 3 calls)
	More than two transfers per call were necessary (2 to 7 transfers)
	In 49.8% of the municipalities, public servants asked to know the reason for the request.
	In 53.5% of the municipalities, one or more of the employees lacked knowledge regarding the process for handling ATI requests
	In 56.9% of the municipalities, one or more of the employees did not know the agency responsible or connected us with the wrong agency
	In 46.5% of the municipalities, they requested we call them at a later time
	The municipalities of Mossoró, Arapiraca and Teresina lost the request protocol
	The municipality of Natal refused to provide information
	31.5% of municipalities promised to send the information to an email address provided by the researcher
	We received the requested information in only two of the cases (Salvador and Espírito Santo)

also observed. For example, the municipalities of Maceió (AL), João Pessoa (PB), and Rorainópolis (RR) all provided personal (non-institutional) email addresses or telephone numbers to the researchers, asking them to contact staff directly.

More encouragingly, researchers found that the comptrollers were already aware of the problem in Recife (PE) and Sao Luis (MA) and were taking measures to resolve the problem internally.

Despite many public servants being extremely helpful during the call, we observed that the systems for managing ATI requests as well as internal communication systems were extremely deficient. Even when e-SIC platforms existed, employees

often attempted to resolve issues by resorting to informal practices, such as providing personal email addresses, private telephone or cellular phone numbers, or sending the information in a disorganized manner to the researchers' email addresses.

These observations suggest that building the capacity of public servants to better handle information should be a priority. The lack of capacity building appears to be either a result of weak political will or a lack of administrative leadership. Among the FGV Public Transparency Program's research priorities, understanding sources of non-compliance and how to address them, will figure prominently in our future work.

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METHODOLOGY

Appendix 1 Basic Active Transparency Evaluation Procedures and Scoring

Item Principle	Organizational structure	Programs/ actions	Expenditures	Procurement	Budget Transfers
Completeness	Organizational structure, address, phone, and hours of operation. Protocol and Scoring	List and description of programs, projects, actions, and works. Protocol and Scoring	Value, ID code, date, item, contracting parties. Protocol and Scoring	Values, ID code, item, type of procurement, contracting parties Protocol and Scoring	Value, item, validity dates, contracting parties. Protocol and Scoring
Machine Processability	n/a	n/a	Usable, open format (e.g.: XLS, CSV) Protocol and Scoring	Usable, open format (e.g.: XLS, CSV) Protocol and Scoring	Usable, open format (e.g.: XLS, CSV) Protocol and Scoring
Accessibility	Links operational, information findable, and text readable by people with physical disabilities. Protocol and Scoring	Links operational, information findable, and text readable by people with physical disabilities. Protocol and Scoring	Links operational, information findable, and text readable by people with physical disabilities. Protocol and Scoring	Links operational, information findable, and text readable by people with physical disabilities. Protocol and Scoring	Links operational, information findable, and text readable by people with physical disabilities. Protocol and Scoring
Timeliness	n/a	n/a	Up to date information. Protocol and Scoring	Up to date information. Protocol and Scoring	Up to date information. Protocol and Scoring
Non-Discriminatory	Unified analysis of website.	Need to login or self-identify. Protocol and Scoring	Need to login or self-identify. Protocol and Scoring	Need to login or self-identify. Protocol and Scoring	Need to login or self-identify. Protocol and Scoring
Licence-Free	Unified analysis of website.	Unified analysis of website.	No need for special licenses or permissions. Protocol and Scoring	No need for special licenses or permissions. Protocol and Scoring	No need for special licenses or permissions. Protocol and Scoring
Primary	Subsumed by Completeness	Subsumed by Completeness	Subsumed by Completeness	Subsumed by Completeness	Subsumed by Completeness
Non-proprietary	Subsumed by Machine Processability	Subsumed by Machine Processability	Subsumed by Machine Processability	Subsumed by Machine Processability	Subsumed by Machine Processability

Completeness - Organizational structure

Protocol

The Coder should access the homepage or the transparency portal and verify the following information:

- (i) Organizational structure identifying at least a list of different parts (e.g. sub-secretaries) of the agency, if applicable.
- (ii) If hours are not indicated for the agency as a whole, hours of operation in at least 3 randomly selected parts of the agency (e.g. sub-secretaries).
- (iii) General telephone number or, if not available, telephone numbers for at least 3 different parts of the agency (e.g. sub-secretaries).
 - 100 = 3 out of 3
 - 50 = 2 out of 3
 - 0 = 1 or 0

Completeness - Programs and Actions

Protocol

The Coder should access the homepage or the transparency portal; OR, if the relevant information cannot be found, the coder should access the ministry or secretary of education in order to verify the following:

- (i) Programs, actions, or projects of the agency;
- (ii) Description that provides at least general objectives for each program/action/project.
 - 100 = 2 out of 2
 - 50 = Only contains a list, without a description containing general objectives for each program/action/project.
 - 0 = No list.

Completeness - Expenditures

Protocol

The Coder should access the expenditures section of the website and evaluate two items: the first item in {month} {year} and the second item for {month} {year}.

IF the search by date cannot be effectuated, the coder should evaluate the first and last items on the first page, ensuring that these items do not refer to internal expenditures, such as the remuneration of personnel. The Coder should also record the link and the number or name of the evaluated item

IF an item has a date, but does not explicitly say that it was paid (instead, it says committed or planned, for example), the item will be disconsidered.

Essential Items

- i) Whatsoever reference to values paid
- ii) Date paid
- iii) Object or service contracted
- iv) Agency and provider (name or identity)
- v) Identifying number
 - 100 = 5 out of 5, including value, agency and provider.
 - 50 = 4 out of 5, including value, agency and provider.
 - 0 = Fewer than 4

Non Essentials

- i) Values committed
- ii) Date of commitment
- iii) Purpose or functional category
- iv) Possibility of reordering expenditures
 - 100 = 3 out of 4
 - 50 = 2 out of 4
 - 0 = Less than 2

Longitudinal Extension

Protocol – Answer the following questions in writing:

- i) “From what date do the datasets start?”
- ii) “Are there visible gaps in the data?”
- iii) If so, record these gaps – from when to when?

Completeness - Procurement

Protocol

Coder should access the procurement section of the Secretary of Education or Health; or, for parliaments or courts, the office of the head official (e.g. chief justice). The coders should evaluate two items: the first item in {month} {year} and the second item for {month} {year}.

IF search by date cannot be effectuated, the coder should evaluate the first and last items on the first page. The Coder should also record the link and the number or name of the evaluated item.

Essential Items

- i) Contracted value
- ii) Paid value
- iii) Date contract was signed
- iiii) Object or service of the contract
- v) Category or type of procurement process
- vi) Agency and provider (name or identity)
- vii) Identifying number
 - **100 = 7 out of 7, including paid value, agency and provider.**
 - **50 = At least 6 out of 7 including paid value, agency and provider.**
 - **0 = 5 or less**

Non Essentials

- i) Search by provider
- ii) Download of contracts
- iii) Download of procurement calls
- iiii) Justification for discrepancy between contracted value and value paid
 - **100 = 3 out of 4 or better**
 - **50 = 2 out of 4**
 - **0 = 1 or none**

Longitudinal Extension

Protocol – Answer the following questions in writing:

- i) “From what date do the datasets start?”
- ii) “Are there visible gaps in the data?”
- iii) If so, record these gaps – from when to when?

Completeness - Budget Transfers and Financial Agreements

Protocol

The Coder should access the chief of staff's website (or equivalent) and evaluate two items: the first item in {month} {year} and the second item for {month} {year}. If disparities between two items exist, use the maximum score.

IF search by date cannot be effectuated, the coder should evaluate the first and last items on the first page. The Coder should also record the link and the number or name of the evaluated item.

Essentials

- i) Any reference to values paid
- ii) Date
- iii) Object of agreement
- iiii) Start date and either end date or estimated end date
- v) Parties to the agreement
 - 100 = 5 out of 5, including the parties to the agreement.
 - 50 = 4 out of 5, including the parties to the agreement.
 - 0 = less than 4

Non Essentials

- i) Value of the agreement
- ii) Value of funds yet to be released
- iii) Total funds released
- iiii) Audits and refunds of values paid
- v) Details regarding the value to be paid as compensation
- vi) Date of latest release
- vii) Ability to reorder values paid by period
- viii) Specification of amounts paid as voluntary transfers
 - 100 = 7 out of 8
 - 50 = 5 or 6 out of 8
 - 0 = Fewer than 5

Longitudinal Extension

Protocol – Answer the following questions in writing:

- i) “From what date do the datasets start?”
- ii) “Are there visible gaps in the data?”
- iii) If so, record these gaps – from when to when?

Machine Processability

Protocol

Coder should identify whether it is possible to download documents, as well as performing a test-download.

- 100 = The platform permits downloads in open formats (e.g. CSV, ODS, etc.).
- 50= The platform permits downloads in editable but proprietary formats (e.g. XLS, DOC, etc.).
- 0 = The platform only permits downloads in closed formats (e.g. PDF or JPEG); OR, the website does not permit downloads.

Accessibility

Protocol

Coder should verify that the following information is on the first page of the website or the transparency portal.

Accessibility for the Physically Disabled

- i) • 100 = Size of the text and contrast can be altered.
- ii) • 50 = Only contrast can be altered.
- iii) • 0 = Contrast cannot be altered.

Accessibility - Findability

- i) • 100 = The homepage contains a link to a transparency section or portal.
- ii) • 0 = No link to a transparency section or portal.

Protocol – Accessibility - Usability

Coders must optimally open all links on the homepage and the transparency portal and calculate the metrics below. If this process is deemed too time consuming, they should use the Google Chrome extension “Dead Link Checker” or similar, and apply it to the homepage of the entity and the transparency portal, if available. Coders must register the number of dysfunctional (dead, lost or broken) links and record results by capturing the relevant screen.

- i) Dead links: Links that do not do anything.
- ii) Broken link: Links that give an error or a 404.
- iii) Lost Link: Links that connect to irrelevant pages.

The sum of dysfunctional links will entail the following scores:

- 100 = Dysfunctional links are equal to or less than 1% of total links
- 50 = Dysfunctional links are greater than 1% but less than 3% of total links.
- 0 = Dysfunctional links are greater than 3% of total links.

Timeliness

Protocol

Coder should verify the most current data on the site.

- 100 = Current within 30 days or less.
- 50 = Current within 90 days or less.
- 0 = Older than 90 days.

Non-Discrimination

Protocol

Coder should verify whether the transparency platform requires a login or any other type of identification in order to access information.

- i) • 100 = No
- ii) • 0 = Yes

License-Free

Protocol

Coder should verify that available data is not protected by any form of license.

- i) • 100 = License listed in the appendix
- ii) • 50 = Does not mention the license
- iii) • 0 = Copyright or other private license

Appendix II Open Data Licenses

Source: <http://opendefinition.org/licenses/>

Recommended conformant licenses

These licenses conform to the Open Definition **and** are:

- Reusable: Not specific to an organization or jurisdiction.
- Compatible: Must be compatible with at least one of GPL-3.0+, CC-BY-SA-4.0, and ODbL-1.0. Permissive/attribution-only licenses must be compatible with all 3 of the aforementioned licenses, and at least one of Apache-2.0, CC-BY-4.0, and ODC-BY-1.0.
- Current: Widely used and generally considered best practice by a broad spectrum of projects and actors within the domains of applicability of the license.

License	Domain	By	SA	Comments
Creative Commons CCZero (CC0)	Content, Data	N	N	Dedicated to the Public Domain (all rights waived)
Open Data Commons Public Domain Dedication and Licence (PDDL)	Data	N	N	Dedicated to the Public Domain (all rights waived)
Creative Commons Attribution 4.0 (CC-BY-4.0)	Content, Data	Y	N	-
Open Data Commons Attribution License (ODC-BY)	Data	Y	N	Attribution for data (bases)
Creative Commons Attribution Share-Alike 4.0 (CC-BY-SA-4.0)	Content, Data	Y	Y	-
Open Data Commons Open Database License (ODbL)	Data	Y	Y	Attribution-ShareAlike for data (bases)

Other conformant licenses

These licenses conform to the Open Definition, but do not meet reusability or compatibility requirements for recommended licenses, or have been superseded by newer license versions or newer licenses with similar use cases, or are little-used. These licenses may be reasonable for the particular organization they were crafted for to use, or to use for legacy reasons. Projects outside such contexts are strongly advised to use a recommended conformant license from the list above.

License	Domain	By	SA	Comments
Against DRM	Content	Y	Y	Little used.
Creative Commons Attribution versões 1.0-3.0	Content	Y	Y	Includes all jurisdiction "ports"; Superseded by CC-BY-4.0.
Creative Commons Attribution- ShareAlike versões 1.0-3.0	Content	Y	Y	Includes all jurisdiction "ports"; Superseded by CC-BY-SA-4.0. Additionally, CC-BY-SA-1.0 is Incompatible with any other license.
Data licence Germany – attribution – version 2.0	Data	Y	N	Non-reusable. For use by Germany government licensors. Note version 1.0 is not approved as conformant.
Data licence Germany – Zero – version 2.0	Data	N	N	Non-reusable. For use by Germany government licensors. Note there is no previous version.
Design Science License	Content	Y	Y	Little used, Incompatible with any other license.
EFF Open Audio License	Content	Y	Y	Deprecated in favor of CC-BY-SA.
Free Art License (FAL)	Content	Y	Y	
GNU Free Documentation License (GNU FDL)	Content	Y	Y	Incompatible with any other license. Only conformant if used with no cover texts and no invariant sections.
MirOS License	Code, Content	Y	N	Little used.

License	Domain	By	SA	Comments
Open Government Licence Canada 2.0	Content, Data	Y	N	Non-reusable. For use by the Canadian Federal government. Note version 1.0 is not approved as conformant. Note several Canadian provinces and municipalities have developed non-reusable licenses, each with differences from the federal OGL Canada. Some of these are open, as noted on a dedicated page.
Open Government Licence United Kingdom 2.0 and 3.0	Content, Data	Y	N	Non-reusable. For use by UK government licensors; re-uses of OGL-UK-2.0 and OGL-UK-3.0 material may be released under CC-BY or ODC-BY. Note version 1.0 is not approved as conformant.
Talis Community License	Data	Y	Y	Draft only, Deprecated in favour of ODC licenses.

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