

## **Federal Law of Transparency and Access to Public Government Information.**

### **FIRST HEADING**

#### **GENERAL REGULATIONS FOR OBLIGATED PERSONS**

##### **Chapter I**

##### **General Regulations**

Article 1. This Law is public. Its purpose is to provide what is necessary to guarantee every person has access to information that is in the hands of the Powers of the Union, autonomous, or legally autonomous constitutional organizations, and any other federal entity.

Article 2. All government information referred to by this Law is public, and private individuals will have access thereto in accordance with the terms hereunder.

Article 3. For the purposes of the Law, the words listed hereunder shall be understood as follows:

I. Committees: Information committees of each agency and entity mentioned in Article 29 of this Law, or the head of those referred to in Article 31.

II. Personal data: The information concerning an identified, or identifiable person, including his/her ethnic or racial origin, physical, moral or emotional characteristics, sentimental or family life, address, telephone number, assets, ideology and political opinions, religious or philosophical beliefs or convictions, physical or mental state of health, sexual preferences or similar intimate preferences.

III. Documents: Files, reports, studies, acts, resolutions, letters, correspondence, agreements, instructions, circulars, contracts, accords, notes, memoranda, statistics or any other register that documents the exercising of faculties or activity of obligated persons and their civil servants, regardless of their source or the date on which they are compiled. Documents may be in any form, whether written, printed, audio, visual, electronic, or holographic.

IV. Agencies and entities: Those mentioned in the Organic Law of Federal Public Administration, including the Mexican Presidency and decentralized administrative agencies such as the Attorney General's Office.

V. Information: The content of the documents which obligated persons generate, obtain, acquire, transform or conserve under any title.

VI. Reserved information: Information temporarily subject to any of the exceptions provided for in Articles 13 and 14 of this Law.

VII. Institute: The Federal Institute of Access to Information established in Article 33 of this Law.

VIII. Law: The Federal Law of Transparency and Access to Public Government Information.

IX. Autonomous constitutional agencies: The Federal Electoral Institute, National Human Rights Commission, Banco de México, universities and other higher learning institutions granted autonomy by law, and any others established in the Political Constitution of Mexico

X. Regulations: The regulations of the Federal Law of Transparency and Access to Public Government Information.

XI. Civil servants: Those mentioned in the first paragraph of Article 108 of the Constitution, and all persons who handle or apply public federal funds.

XII. National security: Actions designed to protect the integrity, stability and permanence of the Mexican State, democratic governability, foreign defense and the national security of the Federation; that focus on the general well-being of the population and permit compliance with the purposes of the constitutional State.

XIII. Personal data system: The organized collection of personal data that are in the possession of an obligated person.

XIV. Obligated persons:

a. The Federal Executive Power, Federal Public Administration and the Attorney General's Office.

b. The Federal Legislative Power, comprising the House of Representatives, the Senate, the Permanent Commission and any of its agencies; the Federal Judicial Power and the Federal Judicature Council. Autonomous constitutional organizations.

c. The federal administrative courts, and

d. Any other federal organization.

XV. Administrative units: Those which, depending upon the regulations binding each of the obligated persons, possess the

information in accordance with their corresponding faculties.

Article 4. The objectives of this Law are:

- I. To provide whatever is needed for every person to access information via simple, quick procedures.
- II. To make public administration transparent by publicizing the information produced by obligated persons;
- III. Guarantee protection of personal data in the possession of obligated persons.
- IV. Advocate accountability to citizens so they can evaluate the job being done by the obligated persons.
- V. To improve the organization, sorting and handling of documents, and
- VI. To contribute to the democratization of the Mexican society and total enforcement of the Rule of Law.

Article 5. This Law must be obeyed by federal civil servants.

Article 6. This Law shall be interpreted as advocating the principle of publicizing information possessed by obligated persons.

## Chapter II

### Obligations regarding transparency

Article 7. Except for the reserved or confidential information provided for by this Law, obligated persons shall update and place the following information at the disposal of the public, within the terms of the regulations and guidelines issued by the Institute or equivalent thereof referred to by:

Article 61:

- I. Organic structure of the entity;
- II. Faculties of each administrative unit;
- III. Directory of civil servants, upwards of the level of departmental head or equivalent thereof;
- IV. Monthly salary per position, including compensation system as established by the corresponding regulations;
- V. Address of connection unit, plus e-mail address for receiving requests for information. VI. Goals of administrative units according to their operational programs.
- VII. Services offered;
- VIII. Formalities, requirements and forms. If these are registered in the Federal Register of Formalities and Services or in the register for fiscal matters established by the Ministry of Finance, they must be published exactly as registered.
- IX. Information about assigned budget and its application, within the terms established by the Budget of Federal Expenditure. In the case of the Federal Executive Power, this information shall be given for each agency and entity by the Ministry of Finance, which shall also inform about the situation of the economy, public finances and the public debt, as per the terms of this budget.
- X. Results of audits of each obligated person's use of the budget, carried out, as the case may be, by the Ministry of Public Function, internal control departments or the Federal Auditorship, and, if applicable, the corresponding clarifications.
- XI. Design, implementation, assigned amounts and criteria for accessing subsidy programs. Also employers of beneficiaries of such social programs as may be established by the Decree of the Budget of Federal Expenditure.
- XII. Concessions, permits or authorizations granted, specifying holders thereof.
- XIII. Contracts made as per applicable legislation, detailing for each contract:
  - a. Public works, purchased or leased assets and services contracted. In the case of surveys or research, the specific subject should be indicated.
  - b. The amount
  - c. Name of the supplier, contractor, person or company with whom the agreement has been made, and
  - d. Deadlines for fulfillment of contracts.
- XIV. Regulations applicable to each obligated person;
- XV. Reports that are, by law, made by obligated persons;
- XVI. If applicable, mechanisms for citizens' participation,
- XVII. Any other useful or relevant information, plus that which answers what statistics claim to be questions most frequently asked by the population.

The information referred to by this Article shall be published in an easy-to-understand format that enables people to corroborate its veracity, promptness and reliability. Agencies and entities must attend to any recommendations issued by this Institute in this respect.

Article 8. The Federal Judicial Power shall make public all sentences with a writ of execution. Parties thereto may oppose the publication of their personal data.

Article 9. The information referred to in Article 7 shall be made available to the general public via remote or local electronic communications media. Obligated persons shall make a computer available to interested parties, so that the latter may

obtain the information directly or from a printout. They shall also give support to users who need it, and provide all manner of assistance with regard to formalities and services they handle.

Agencies and entities shall prepare the content and presentation of their information on computers, and also include it on line, under the terms of the respective regulations and guidelines issued by the Institute.

Article 10. The agencies and entities shall make public any drafts of laws and general administrative regulations referred to in

Article 4 of the Federal Law of Administrative Procedure, either directly or through the Legal Council of the Federal Executive Power or the Federal Commission of Better Regulations, under the terms established by the Regulation, and at least 20 working days prior to the date they are to be published or submitted to the President for signature, unless the Council or Federal Commission of Better Regulations decides that their publication might jeopardize the sought-after result of the ruling, or an emergency situation is at hand.

Article 11. Reports presented by political parties and national political bodies to the Federal Electoral Institute, such as audits and inspections of political parties and groups ordered by the Commission of Supervision of Public Resources, shall be made public upon completion of the respective inspection. Any citizen may request from the Federal Electoral Institute information about the use of public resources received by the political parties and national political ensembles.

Article 12. Obligated persons shall make public all information regarding amounts and persons to whom they give, for whatever reason, public resources, as well as the reports said persons give them regarding the use of such resources.

### Chapter III

#### Reserved and confidential information

Article 13. Information would possibly be classified as reserved if its divulgence could:

- I. Jeopardize national security, public security or national defense.
- II. Impair negotiations or international relations, including information that other states or international organizations disclose confidentially to the Mexican government.
- III. Damage the financial, economic or monetary stability of the country.
- IV. Place the life, security or health of any person at risk,
- V. Seriously jeopardize activities to verify compliance with the laws; prevention or investigation of crimes; the serving of justice; tax collection; immigration control operations; strategies for judicial trials or administrative proceedings as long as the verdicts do not prescribe.

Article 14. Also considered as reserved information:

I. Whatever, by express stipulation of any Law, is considered confidential, reserved, commercially reserved or governmentally confidential.

II. Commercial, industrial, fiscal, banking, fiduciary secrets, or any other considered as such by a legal disposition,

III. Investigations;

IV. Legal files or those of administrative proceedings kept for the purposes of a lawsuit, as long as they have not prescribed.

V. Proceedings against civil servants concerning responsibility, as long as no final administrative or jurisdictional verdict has been reached, or

VI. Opinions, recommendations or view points that form part of the deliberative process of civil servants, as long as no final decision has been reached, which shall then be documented.

When the reservation period ends, or the reasons that gave rise to the reserved information referred to in parts III and IV of this Article no longer exist, the information may be made public, provided the confidential content thereof is protected.

Information may not be classified as reserved in the case of an investigation of serious violations of fundamental rights, or crimes involving human injury.

Article 15. Information classified as reserved under Articles 13 and 14 may remain as such for a period of up to 12 years.

This information may be declassified when the reasons that gave rise to its classification cease to exist or when the reservation period has elapsed.

The availability of said information must not have detrimental repercussions on the stipulations of other laws.

In accordance with the Regulation, the Institute or equivalent entity referred to in Article 61, shall establish the criteria for classifying and de-classifying reserved information.

As an exception, obligated persons may request from the Institute or entity established under Article 61, as the case may be,

an extension of the reservation period, provided they can justify that the reasons that gave rise to such classification continue to exist.

Article 16. The heads of the administrative units will be responsible for classifying information as per the criteria established under this Law, its regulations and the guidelines issued by the Institute or equivalent entity referred to in Article 61, as the case may be.

Article 17. Every six months the administrative units shall compile an index of files classified as reserved information, separated into categories according to subject matter. The index shall indicate the administrative unit that generated the information, date of classification, basis for classification, reserved period and, if applicable, the parts of the documents being reserved. Under no circumstances shall the index be deemed as reserved information.

The head of each agency or entity shall adopt the necessary measures to ensure custody and preservation of the classified files.

The Institute shall have access to the reserved or confidential information at any time, to determine its due classification, de-classification or proceed to grant access thereto.

Article 18. The following shall be considered as confidential information:

I. That which is given to obligated persons by private individuals, in accordance with stipulations under Article 19, and  
II. Personal information that requires the consent of the individual concerned for its divulgence, distribution or marketing under the terms of this Law. Information available in public registers or publicly-accessible sites shall not be considered confidential.

Article 19. When private individuals give obligated persons the information referred to in part I of the aforementioned Article, they must indicate which documents contain confidential, reserved or commercially-reserved information, provided they are entitled to reserve the information by virtue of applicable regulations. If a request for access includes confidential information, the obligated persons shall divulge it only with the express consent of the individual to whom the confidential information refers.

#### Chapter IV

##### Protection of personal data

Article 20. Obligated persons shall be responsible for personal data and shall:

I. Adopt the proper procedures to receive and respond to requests for access and correction of data. They shall train civil servants and divulge information about their policies for protecting such data, as per the respective guidelines established by the Institute or prescribed equivalent entities in Article 61.

II. Take personal data only when fitting, relative and not excessive for the purpose for which they are taken.

III. Make available to individuals, from the time their personal data is taken, the document stating the purpose for recording said data, within the terms of the guidelines established by the Institute or equivalent entity referred to in Article 61.

IV. Make sure that all personal data are accurate and up to date.

V. Substitute, rectify or complete, in writing, either totally or partially, any inaccurate or incomplete personal data, at the time such situation is noticed.

VI. Adopt the required measures to guarantee safekeeping of the personal data and prevent their alteration, loss, transmission and non-authorized access thereto.

Article 21. Obligated persons may not divulge, distribute or market the personal data contained in the data systems they build during the performance of their duties, barring expressly-negotiated written consent or similar means of authorization from the individuals to whom the data refer.

Article 22. No consent shall be required from individuals in order to divulge their personal data in the following cases:

I. In cases where preventive medical treatment, diagnosis or assistance or health services are required and the person's authorization is unobtainable;

II. In cases essential for statistical reasons of scientific or general interest provided the personal data cannot be associated with the person referred to;

III. When the information is transferred among obligated persons or agencies and entities, provided it is used in the exercise of their personal faculties.

IV. If a judicial order exists.

V. The data may pass into the hands of third parties when hiring a service that requires handling of personal data. Said third parties may not use the personal data for purposes other than those for which they received them.

VI. In other cases indicated by Law.

Article 23. Obligated persons who have personal data systems shall, regardless of rank, notify the Institute or equivalent entities stipulated in Article 61 of this fact. The latter will keep an updated list of the personal data systems.

Article 24. Without affecting other laws, only interested parties or their representatives may, upon presenting credentials, ask a connection unit or equivalent thereof to give them the personal data contained in a personal data system. The unit shall then extend to party concerned the corresponding information in a comprehensible format, within ten working days from the time the request was made, or communicate in writing that said personal data system does not contain the requested data. Personal data will be given out gratuitously. The person concerned only has to pay forwarding costs as per the applicable rates. However, if the same person makes a new request for information from the same personal data system in a period of less than 12 months, the costs will be determined in accordance with the stipulations of Article 27.

Article 25. Interested persons or their representatives may, upon presentation of their credentials, ask the connection unit or equivalent thereof to modify their data contained in any personal data system. To this end, the interested party shall submit a modifications application to the connection unit or equivalent thereof, indicating the personal data system and the changes to be made, accompanied by the documentation that motivates his/her petition. The unit shall extend to the applicant, within 30 working days from the time the application is made, a communication attesting to the changes or informing him/her of the valid reasons why said changes could not be made.

Article 26. In the event of refusal to give out or correct personal data, the applicant can resort to filing an appeal, as mentioned in

Article 50, which is also an option when no reply is forthcoming within the times referred to in articles 24 and 25.

#### Chapter V Access costs

Article 27. The costs for obtaining information may not exceed the sum of:

- I. The cost of the materials used to reproduce the information, and
- II. The cost of forwarding.

The charges for applicable rights shall be established in the Federal Rights Law.

Obligated persons shall make efforts to reduce the costs of delivering information.

## **SECOND HEADING ACCESS TO GOVERNMENT INFORMATION**

### Chapter 1 Connection units and information committees

Article 28. The heads of each agency and entity shall appoint a connection unit which will have the following functions:

- II. Obtain and divulge the information referred to in Article 7, and see that the administrative units periodically update it.
- II. Receive and process the requests for access to information referred to in Articles 24, 25 and 40;
- III. Assist private individuals to complete applications and, if applicable, inform them of the agencies or entities or other organization that might have the information they are requesting.
- IV. Complete the necessary internal formalities of each agency or entity in order to deliver the requested information, in addition to notifying the private individuals.
- V. Propose to the committee the internal procedures that guarantee the greatest efficiency in handling requests for access to information.
- VI. Train as many civil servants of the agency or entity as are needed to receive and process the requests for access to information.
- VII. Keep a register of requests for access to information, their results and costs, and
- VIII. Other controls necessary to guarantee and expedite the flow of information between the agency or entity and private individuals.

Article 29. An Information Committee with the following functions will be incorporated into each agency or entity:

- I. To coordinate and supervise the actions of the agency or entity responsible for furnishing the information stipulated in this Law.
- II. Set up, per the Regulation, the procedures to ensure the greatest efficiency in the handling of requests for access to information.
- III. Confirm, modify or revoke the classification of information made by the heads of the administrative units of the agency or entity.
- IV. Take the necessary steps, through the connection unit, to locate the administrative documents which contain the requested information.
- V. Establish and supervise the application of the specific criteria for the agency or entity with regard to classification and conservation of administrative documents; also organize archives in accordance with the guidelines issued by the institute and the National General Archives.

- VI. Prepare a program to make it easy to obtain information from the agency or entity. This program should be periodically updated and include the necessary measures for organizing the archives.
- VII. Prepare and forward to the Institute, as per all guidelines it issues, the data needed to prepare the annual report referred to by

Article 39.

Article 30. Each committee shall consist of:

- I. A civil servant appointed by the head of the agency or entity;
  - II. The head of the connection unit, and
  - III. The head of the internal control organization of each agency or entity.
- The committee shall adopt its decisions by way of a majority vote.

Article 31. The Investigation and National Security Center, Drug Control Planning Center, Federal Preventive Police Intelligence Coordination Department, Anti-Organized Crime Unit, Presidential Staff, National Defense Staff, General Army Staff or the administrative units that may replace them, shall not be subject to the authority of the committees referred to in Article 29, their functions being the exclusive responsibility of the head of the administrative unit itself.

Article 32. The National General Archive shall be responsible for establishing, in coordination with the Institute, the criteria for cataloging, classifying and conserving the administrative documents, as well as organizing the archives of the agencies and entities. Said criteria shall take into account the standards and best international standards in the matter.

The heads of the agencies and entities, in accordance with applicable regulations, shall ensure that the archives function adequately. They shall also prepare and make available to the general public a simple guide to their systems of classifying, cataloging and arranging the archives.

## Chapter II

### Federal Institute of Access to Public Information

Article 33. The Federal Institute of Access to Public Information is a Federal Public Administration agency that is autonomous in operations, budget- and decision-making, and is in charge of encouraging people to use their right to access of information, resolving denied requests for access to information, and protecting personal data in the hands of agencies and entities.

Article 34. The Institute will be composed of five commissioners, named by the President. The Senate may object to these appointments with a majority vote, and when in recess, the Permanent Commission with the same vote. At any rate, the legislative body will have thirty days to decide. If no decision is forthcoming by the end of this period, it shall be understood that there is no objection to the appointments made by the President.

The commissioners can only be relieved of their functions if they seriously or repeatedly violate the regulations contained in the Constitution and this Law, if they have been sentenced for a serious crime that merits corporal punishment, or if their acts or omissions affect the authority of the Institute.

They shall remain in their post for seven years, with no chance of reelection, and during that time they may not have any other employment, job or commission, except in teaching, scientific or charity institutions.

The Institute will not be subordinated to any authority; it will make its decisions independently and will have the necessary human and material resources to perform its functions.

Article 35. To be a Commissioner it is necessary:

- I. to be a Mexican citizen;
- II. not to have been sentenced by the Commission for some fraudulent crime;
- III. to be at least thirty-five years old on the day of one's appointment;
- IV. to have excelled in professional, civil-service or academic activities related to the subject matter of this Law, and
- V. not to have held the post of government minister, head of administrative department, national attorney general, senator, congressperson or local representative, leader of a political party or association, state governor or head of the Mexico City government, during the year prior to the day of appointment.

Article 36. The Institute shall be presided over by a Commissioner, who will be its legal representative. He will remain two years in his post, which is renewable one time, and will be elected by the Commissioners.

Article 37. The Institute shall have the power to:

- I. Interpret this Law from an administrative standpoint, in accordance with Article 6;
- II. Resolve revision appeals sought by applicants;
- III. Establish and revise criteria for classification, declassification and safekeeping of reserved and confidential information.
- IV. Collaborate with the National General Archives in preparing and applying criteria for cataloging and preserving documents, as well as organizing the archives of agencies and entities.

V. Keep a watchful eye and, in case of non-compliance, make recommendations to agencies and entities for complying with the stipulations in Article 7.

VI. Give guidance and counseling to private individuals on applications for access to information.

VII. Provide technical support to agencies and entities for the preparation and functioning of their information programs established in part VI of Article 29.

VIII. Prepare application forms for access to information and access to and correction of personal data.

IX. Establish guidelines and general policies for the handling, maintenance, safety and protection of personal data which is in the hands of the agencies and entities.

X. Inform the internal control organization of each agency and entity, as per the last paragraph of Article 56, of the presumed violations of this Law and its regulations. Any final decisions issued in this respect by the internal control organizations and which have prescribed, must be reported to the Institute. The Institute must then divulge them to the public in its annual report.

XI. Prepare the guide referred to in Article 38

XII. Promote and, if applicable, personally conduct the training of civil servants in the handling of access to information and protection of personal data.

XIII. Inform civil servants and private individuals of the benefits of public data handling, as well as their responsibilities in the proper use and conservation thereof.

XIV. Prepare and publish surveys and investigations so as to broaden people's knowledge of the content of this Law.

XV. Cooperate with other obligated persons, federal entities, municipalities or their access-to-information units on the content of this Law by creating agreements or programs.

XVI. Prepare its Interior Regulation and other operating norms.

XVII. Appoint the civil servants that work for it.

XVIII. Prepare its annual budget, which shall be sent to the Ministry of Finance for its incorporation into the Federal Expenditure Budget, and

XIX. Attend to other duties conferred upon it by this Law, its Regulation and any other applicable stipulation.

Article 38. The Institute shall prepare a guide that describes, clearly and simply, the agencies' and entities' procedures for accessing information.

Article 39. The Institute shall deliver an annual public report to the Union Congress on access to information, based on data it receives from the agencies and entities as indicated in Article 29, part VII. The report will include the number of applications for access to information submitted to each agency and entity, along with its result and response time; the number and results of matters attended by the Institute; the status of accusations submitted to the internal control organizations and the difficulties observed in the compliance of the Law.

To this end, the Institute will issue whatever guidelines it considers necessary.

### Chapter III

#### Access procedure at an agency or entity

Article 40. Any person or his representative may submit to the connection unit a request for access to information in a freely-written letter or by using the forms approved by the Institute.

The request must contain:

I. Name of applicant and address or other medium for receiving notifications such as e-mail address, plus general data of his/her representative, if applicable.

II. Clear and exact description of the documents required.

III. Any other data that can facilitate the search and location of the information required.

IV. The applicant has the option to suggest the mode in which he/she prefers to receive the accessed information. This may be verbal and vis-à-vis if needed for the purposes of orientation, or via simple copies, certified copies or some other medium. If details provided by the applicant are not sufficient to locate the documents, or they are erroneous, the connection unit may require the applicant to provide further indicators or to correct said details within ten working days of having submitted his application. This requirement will interrupt the period established in Article 44.

The connection units will assist private individuals to prepare applications for access to information, particularly in cases where the applicant cannot read or write. If the information is requested from an agency or entity not qualified to provide it, the connection unit will duly direct the individual to the qualified agency or entity.

If the application is submitted to a different administrative unit from the connection unit, the former must indicate to the applicant the physical location of the connection unit.

Under no circumstances shall delivery of information be conditioned to the applicant having to give a reason or justify its use, nor shall the applicant have to explain his interest in it.

Article 41. The connection unit will act as the liaison between applicant and agency or entity because it is responsible for giving out the notifications referred to in this Law. It must also take all the necessary steps in the agency or entity to facilitate access to the information.

Article 42. Agencies and entities will only be obliged to furnish documents that are in their archives. The obligation of accessing information shall be considered fulfilled when the respective documents are made available to the applicant for him to consult in the place where they are located; or issued to him in plain or certified copies or via some other medium. Access will be given only in the form permitted by the document concerned, which will be delivered totally or partially, at the applicant's request. If the requested information is already available to the public in the printed media, such as in books,

compendia, triptychs, public archives, on the Internet or in any other medium, the applicant will be notified in writing of the source, place and manner in which he/she can consult, copy or acquire such information.

Article 43. The connection unit will turn the request over to the administrative unit which has or might have the information, so that the latter may locate it, check its classification and notify the former of the access source and the form in which the information is available, in order to determine the cost, if applicable.

The administrative units may give out documents containing information classified as reserved or confidential, provided the classified parts or sections can be deleted. In such cases, an indication must be made of the deleted parts or sections.

Article 44. The answer to the request shall be given to the applicant in as short a time as possible, which must not exceed twenty working days from the time the request is presented. The exact cost and manner in which the information will be delivered shall be determined, and the applicant's request shall be attended to as far as is possible. This period may, as an exception, be extended up to another twenty days if there are reasons that justify it, provided these are explained to the applicant.

The information shall be delivered within ten working days of the connection unit having notified its availability if the applicant proves he has paid the corresponding fee.

The Regulation will establish the manner and terms for the internal procedure regarding requests for access to information.

Article 45. If the head of the administrative unit has classified the documents as reserved or confidential, he shall immediately remit the request to the Committee of the agency or entity explaining in an accompanying letter the reasons behind said classification. The Committee must decide whether:

- I. To confirm the classification and deny access to the information, or
- II. Revoke the classification and grant access to the information.

The Committee may have access to the documents that are in the administrative unit. The Committee's decision will be notified to the applicant within the period established in Article 44. In the case of a negative decision, the Committee must give reasons for the classification and inform the applicant of what recourse he has to appeal to the Institute.

Article 46. If the administrative unit does not find the documents in its archives, it shall forward the access application together with a letter explaining this fact to the Committee of the agency or entity. The Committee shall then analyze the case, take steps to locate the requested document in the agency or entity, and ultimately come to a decision.

If the Committee cannot find the document, it shall issue a resolution confirming the inexistence of the requested document, and shall notify the applicant, through the connection unit, within the period established in Article 44.

Article 47. All applications for access to information and their replies, including, if applicable, the delivered information, shall be made public. Also, agencies and entities shall make this information available to the public as far as is possible through remote or local electronic communications media.

Article 48. Connection units are not obliged to attend to invasive requests for information: for instance, if they have already delivered information that is substantially identical in response to a previous application by the same person, or if the information is publicly available. In this case they shall indicate to the applicant the place where the information may be found.

#### Chapter IV

##### The procedure with the Institute

Article 49. An applicant who has been denied access to information or notified through a Committee resolution of the inexistence of the requested documents may appeal, of his own accord or through his representative, for a revision by the Institute or the connection unit that is familiar with the matter, within fifteen working days of his receiving said notification. The connection unit shall pass the matter on to the Institute the day after it is approached on this matter.

Article 50. The appeal is also valid along the same lines if:

- I. the agency or entity does not deliver to the applicant the personal data requested, or it does so in an incomprehensible format;
- II. the agency or entity refuses to make changes or corrections to the personal data;
- III. The applicant disagrees with the time, the cost or the form of delivery, or
- IV. the applicant considers the information delivered is incomplete or does not correspond to the information requested in the application.

Article 51. The appeal provided for in Articles 49 and 50 shall replace the appeal established in Article 83 of the Federal Law of Administrative Procedure.

Article 52. The Institute shall excuse any deficient appeals filed by private individuals.

Article 53. Failure to reply to a request for access to information within the period indicated in Article 44 shall be understood as a positive reply; therefore the agency or entity shall be obliged to grant access to information within no more than ten working days and cover all the costs involved in copying the informative material, unless the Institute decides that the documents in question are reserved or confidential. In order to comply with the stipulations of the first paragraph of this Article, the Regulation will establish a quick procedure to correct failures by agencies and entities to deliver information. To this end, private individuals may present the certificate referred to by Article 17 of the Federal Law of Administrative Procedure issued by the corresponding connection unit, or they can merely present a copy of the application showing the date it was presented to the agency or entity. In this latter case, the procedure will ensure that the agency or entity has the opportunity to prove that it replied to the applicant properly and in time.

Article 54. An appeal for revision must mention:

I. the agency or entity where the application was presented;  
II. the name of the appellant, and of interested third party if applicable, as well as address or indicated medium for receiving notifications;

III. the date the applicant was notified or had knowledge of the act he is protesting;  
IV. the act for which the appeal is being filed and the petitionary points;  
V. copy of the decision being contestable and, if applicable, of the corresponding notification, and  
VI. other factors considered valid to submit to the judgment of the Institute.

Article 55. Unless otherwise stipulated in Article 53, the Institute will attend to an appeal for revision in accordance with the following guidelines:

I. Once the appeal is filed, the president of the Institute will turn it over to the arbitrating Commissioner, who shall, within thirty working days of the appeal being filed, compile the file and present a resolution project to the General Assembly of the Institute.  
II. The General Assembly of the Institute may decide to hold hearings with the parties.  
III. During the proceeding the substitution of the complaint in the plaintiff's favor shall be applied, and it should be ensured that the parties can present, either verbally or in writing, the arguments that motivate their claims and formulate their allegations.  
IV. At the interested party's request, testimonials and letters may be received via e-mail.  
V. The General Assembly will make a final decision within twenty working days of receiving the resolution project, and  
VI. Resolutions by the General Assembly shall be made public.

When there is a just cause, the General Assembly of the Institute may extend, on one occasion only and for a like period, the deadlines established in parts I and V of this Article. Any reserved or confidential information which may be requested by the Institute as being essential for resolving the matter, shall be kept strictly confidential and shall not be available on file.

Article 56. The Institute's resolutions may:

I. Reject the appeal as invalid or dismiss it.  
II. Confirm the Committee's decision, or  
III. Revoke or modify the Committee's decisions and order the agency or entity to allow the applicant access to the requested information or personal data; or to reclassify or modify the information.  
Resolutions shall be in writing and shall establish time periods for compliance and procedure for ensuring they are carried out.

If the Institute does not issue a resolution within the period established in this Law, it shall be understood as in favor of the appellant.

If the Institute determines during the proceedings of the case that a civil servant might have shirked responsibility, it shall inform the internal control organization of the agency or entity responsible, so that the latter can initiate, if applicable, the corresponding responsibility proceeding.

Article 57. The appeal shall be rejected as invalid if:

I. it is presented after the time period indicated in Article 49;  
II. the Institute already has prior knowledge of the respective appeal and has already issued a final decision;  
III a resolution that was not issued by a Committee is being appealed, or  
IV the appellant has filed an appeal or means of defense with the Federal Judicial courts.

Article 58. The appeal will be dismissed if:

I. the appellant expressly withdraws the appeal;  
II. the appellant should die or, in the case of a company, the company should be liquidated; III. if, after the appeal has been admitted, a cause for invalidity under the terms of this Law appears; or  
IV. the agency or entity responsible for the act or resolution being appealed should modify or revoke it, in such a way that the

appeal is left without purpose or substance

Article 59. The Institute's resolutions shall be final for agencies and entities. Private individuals may contest them with the Federal Judicial Authorities. The courts will have access to the reserved or confidential information if it is essential for resolving the matter and would have been offered up at a trial. Said information shall be kept confidential and shall be made available in the legal file.

Article 60. One year after the Institute has issued a resolution confirming the decision of a Committee, the appellant may ask the same Institute to reconsider its resolution. Said reconsideration must refer to the same application and must be resolved within a maximum period of sixty working days.

### **THIRD HEADING ACCESS TO INFORMATION FOR OTHER OBLIGATED PERSONS**

Single chapter

Article 61. The Federal Legislative Power, through the Senate, House of Representatives, the Permanent Commission and Federal Auditors; the Federal Judicial Power through the National High Court of Justice, the Federal Judicature Board and the Commission for Administration of the Federal Electoral Tribunal; the autonomous constitutional organizations and the administrative courts, shall establish, in the context of their respective jurisdictions and by means of regulations or general agreements, the institutional organizations, criteria and proceedings to provide private individuals with access to information in accordance with the principles and time periods indicated in this Law.

The provisions that are issued shall indicate:

- I. The administrative units responsible for publishing the information referred to in Article 7.
- II. The connection units or equivalent thereof.
- III. The information Committee or equivalent thereof.
- IV. The criteria and procedures for classifying and conserving reserved or confidential information.
- V. Procedure for access to information, including an appeal for revision, according to Articles 49 and 50, and one for reconsideration under the terms of Article 60.
- VI. Procedures for access and rectification of personal data referred to by Articles 24 and 25, and
- VII. An internal body responsible for enforcing the Law and resolving appeals, and endowed with the other faculties granted by this decree.

Article 62. The obligated persons referred to in the foregoing Article shall prepare an annual report of the activities carried out to guarantee access to information within the guidelines established in Article 39, and shall forward a copy thereof to the Institute.

### **FOURTH HEADING RESPONSIBILITIES AND PENALTIES**

Single Chapter

Article 63. The following shall be considered as a breach by civil servants of their administrative responsibility and non-fulfillment of the obligations established in this Law:

I. Improperly using, misappropriating, destroying, hiding, rendering useless, divulging or altering, either totally or partially, information which is in their safekeeping, and to which they have access or knowledge of, by reason of their job, employment or commission.

II. Acting negligently, fraudulently or in bad faith in the access-to-information proceedings or in divulging information for which they are responsible, in accordance with this Law.

III. Intentionally denying an applicant information that is not classified as reserved and not considered confidential under this Law.

IV. Fraudulently classifying as reserved information that which does not meet the characteristics indicated under this Law. A penalty shall only be valid if a prior resolution by the Committee, Institute or equivalent bodies provided for in Article 61, exists on the criterion of classifying this type of information.

V. Giving out information that is considered reserved or confidential under this Law.

VI. Intentionally giving out incomplete information requested in an application for access, and

VII. Not giving out information after being ordered to do so by the entities referred to in part IV above, or by the Federal Judicial Power.

The neglect of responsibility referred to in this Article or any other dealing with non-compliance of obligations established under this Law, will be penalized in the terms of the Federal Law of Administrative Responsibilities of Civil Servants. The violation mentioned in part VII or any repetition thereof in behavior covered under parts I to IV of this Article will, for the purposes of administrative penalty, be considered serious.

Article 64. Administrative responsibilities generated by non-fulfillment of obligations referred to in the foregoing Article are separate from any civil or penal responsibilities that may be valid.

#### **TRANSIENTS**

One. This Law will be enacted the day after its publication in the Official Federal Daily Journal, with the conditions established in the following articles.

Two. Publication of the information referred to in Article 7 must be completed, at the latest, one year after enactment of the Law.

Three. The heads of agencies and entities of the Federal Public Administration shall appoint the connection unit and Committee members referred to in this Law within, at the latest, six months from the time this decree is enforced, and these must initiate their functions within a like period. They must also notify the Ministry of Public Function that it shall, in turn, publish the list of units in the Official Federal Daily Journal. These structures shall be set up with human and material resources already budgeted and assigned, and shall not imply any additional expense.

Four. The obligated persons referred to in Article 61 shall publish the corresponding regulations no later than one year after the Law is enforced.

Five. The first five commissioners shall be appointed no later than three months after the Law is enforced. In the first work period, three commissioners will conclude their job in four years, and they may be approved for another seven-year period. The President will indicate the work period for each commissioner at the time of his/her appointment.

Six. The President will issue the Regulation of this Law during the year following its enactment.

Seven. The Institute will issue its interior regulation during the year following enactment of the Law.

Eight. Private individuals may present their applications for access to information or access to and correction of personal data one year after enactment of the Law.

Nine. Unless stipulated in Article 53, Article 17 of the Federal Law of Administrative Procedure shall not apply to this Law.

Ten. Obligated persons must complete the organization and functioning of their administrative archives, as well as publication of the guide referred to in Article 32, by no later than January 1, 2005

Eleven. The Federal Spending Budget for 2003 must provide for the funds to enable the integration and adequate functioning of the Institute.

#### **b.- Decree by Federal Institute of Access to Public Information**

The Federal Law of Transparency and Access to Public Government Information requires Federal Public Administration agencies and entities to have, among other obligations, areas in charge of attending to requests for access to information. As a result, and in accordance with data furnished by each of the agencies and entities, MINISTRY OF PUBLIC FUNCTION prepared the list of Federal Public Administration Connection Units, which was published in the Official Federal Daily Journal on December 12, 2002.