

Freedom of Information Access (FOIA): Key Challenges, Lessons Learned and Strategies for Effective Implementation in Public Agencies

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I. Background

Implementation of the right to information as established in a Freedom of Information Access (FOIA) Law provides a foundation for institutionalization of transparency and support for anti-corruption efforts. Passage of a FOIA law is only a first step toward accessibility of data and documents held by public agencies, however. Effective implementation of a FOIA requires that public agencies take additional steps to put laws into practice and overcome common implementation challenges that can render FOIA laws ineffective.

This note, which builds on previous World Bank research on factors determining effective implementation of FOIA laws² (see Table 1), reviews cases of introduction of FOIA laws around the world and summarizes the main challenges, lessons learned and key strategies emerging from these experiences. Its primary aim is to inform Italian public agencies charged with implementation of the FOIA law about steps they can take toward effective implementation. As such, it focuses on areas of activity typically within the purview of public agencies, as opposed to those typically in scope of policy-makers or central agencies charged with implementation and/or legislative oversight of FOIA.

Table 1: Domains of FOIA Implementation

Enabling Conditions	Demand for Information	Institutional capacity	Oversight
<ul style="list-style-type: none"> -Legal framework -Advocacy efforts -Policy prioritization 	<ul style="list-style-type: none"> -Public Awareness -Accessibility of FOIA processes 	<ul style="list-style-type: none"> -Updated, formal practices <ul style="list-style-type: none"> <i>Request processing</i> <i>Proactive disclosure</i> <i>Records management</i> -Staffing levels -Staff capacity -Staff incentives 	<ul style="list-style-type: none"> -Monitoring of institutional capacity -Enforcement of disclosure obligations (appeals, sanctions)

II. Institutional Capacity

One of the primary challenges for any public agency to overcome in effectively implementing a FOIA law is to ensure sufficient institutional capacity to meet the demand for information.

a. Key Challenges

¹ This memo was prepared by Victoria L. Lemieux, drawing upon research conducted with Stephanie E. Trapnell.

² Victoria L., Lemieux and Stephanie E. Trapnell. 2016. *Public Access to Information for Development: A Guide to Effective Implementation of Right to Information Laws*. Washington, D.C.: World Bank.

Table 2: RIDE Indicators Pilot Survey Results on Institutional Capacity for Six Countries³

Institutional Capacity	Albania	Jordan	Scotland	South Africa	Thailand	Uganda
Updated formal practices	Moderate	Weak	Very good	Weak	Moderate	Weak
Staffing levels	Moderate	Very weak	Very good	Moderate	Moderate	Weak
Staff capacity	Moderate	Weak	Very good	Moderate	Moderate	Very weak
Staff incentives	Moderate	Weak	Very good	Weak	Weak	Weak

Comparative results of a survey of six countries around the world (Albania, Jordan, Scotland, Thailand, and Uganda) show how these countries fare in the establishment of updated, formal procedures.⁴ Their scores demonstrate a range of areas with both strengths and weaknesses (see Table 2). Aside from Scotland, internal tracking of requests was *weak* to *moderate*, while performance monitoring scores ranged from *very weak* to *moderate* (see Table 3).

Table 3: RIDE Indicators Pilot Survey Results on Updated, Formal Procedures for Six Countries⁵

Updated, Formal Procedures	Albania	Jordan	Scotland	South Africa	Thailand	Uganda
Logging and tracking requests	Moderate	Weak	Very good	Moderate	Moderate	Weak
Timeliness of response	Weak	Moderate	Very good	Moderate	Very good	Very weak
Proactive disclosure procedures	Moderate	Moderate	Very good	Moderate	Very good	Weak
Performance monitoring	Moderate	Weak	Excellent	Weak	Moderate	Very weak
Records management	Moderate	Weak	Moderate	Weak	Weak	Weak

Updated, formal practices. Mechanisms for tracking requests to support the timely response and effective monitoring of requests for information; procedures for proactive disclosure; and records management are three of the most critical of formal practices that must be in place to achieve effective implementation of FOIA law within a public agency.⁶ In the laws of many jurisdictions, including the Italian FOIA law⁷, there are specific provisions that establish the time frame in which responses must be

³ Trapnell and Lemieux, RIDE Report.

⁴ Stephanie Trapnell and Victoria L. Lemieux, 16 April, 2015. "Report on a Pilot Study for Right to Information Indicators on Drivers of Effectiveness (RIDE), World Bank (hereinafter referred to as the RIDE Report). In each country, one independent researcher was employed to collect and analyze data. Country researchers provided scores (0-10) on indicators, using qualitative and quantitative evidence, including interviews, government reports, third-party evaluations, and direct online observation. Aside from Scotland, none of these researchers sat within a government agency charged with overseeing or implementing FOIA laws in their country. Quality control was performed by the World Bank team overseeing the pilot, using the previous case studies as reference, and inquiring with researchers to clarify scores if necessary.

⁵ Ibid.

⁶ Ibid.

⁷ Decreto Legislativo 25 maggio 2016, n. 97 Revisione e semplificazione delle disposizioni in materia di prevenzione della corruzione, pubblicit  e trasparenza, correttivo della legge 6 novembre 2012, n. 190 e del decreto legislativo 14 marzo 2013, n. 33, ai sensi dell'articolo 7 della legge 7 agosto 2015, n. 124, in materia di riorganizzazione delle amministrazioni pubbliche.

delivered to requesters. Studies of FOIA implementation undertaken by the World Bank show that it is very difficult to monitor compliance with these time frames if public agencies lack effective means to receive and track requests for data and documents (See Box 1).

Box 1: Weak Data Collection and Reporting on Tracking of Requests can Lead to Weak Monitoring of FOIA Performance and a Break Down in Trust⁸

*An analysis of data about requests and appeals carried out by the World Bank in 2015 demonstrates that the state of data collection and reporting on the operation of the responsive provisions of FOIA laws is far from complete or standard. For the eight countries in the sample (**Brazil, India, Jordan, Mexico, South Africa, Thailand, United Kingdom and United States**), in most cases it was impossible to ascertain whether the data collected by agencies were comprehensive—including all of the government agencies that fall within the scope of a FOIA law—as this information is not made available in reports or online (e.g. **Thailand and Jordan**). **Thailand and Jordan** also had the least data collected across all the areas assessed. While nearly all countries, with the exception of Thailand, made data available on the volume of national requests and the rate of responses, either in an annual report or via an online portal, data on the use of exemptions was less prevalent, as were the reasons for appeals, or how they were resolved. Data about requests and appeals were not available readily online for multiple years and discrete statistics on, for example, the type of agency which received the most requests per year, were not reported consistently in most countries. Data on the type of information requested were almost always aggregated at the agency or Ministry level. Weak data collection and reporting practices in most countries prevents effective monitoring of compliance with FOIA provisions and identification of areas of the law that are non-functioning, and, in extreme cases, can lead to a break down in trust between public agencies and civil society. In **Nigeria**, for example, the Media Initiative Against Injustice, Violence and Corruption has recently criticized the government for poor compliance with the FOIA law and demanded annual compliance reports from them for the past five years. The group is threatening legal action if the compliance reports are not received.*

Records management (i.e., gestione dei documenti). Records management scored poorly across the entire range of countries, suggesting that this area is an overlooked and weakly functioning foundation for right to information implementation. Even as technology makes it easier to initiate transparency reforms, lack of attention to the quality and management of public sector data and documents can undermine the impact of FOIA reforms (See Box 2). A reliable and accessible evidence base is vital for all aspects of open government, particularly the right to information and open data. Unless digital data and documents are protected, their value as evidence diminishes rapidly from the point that they are created. Data and documents may be stored on personal drives, personal accounts on commercially available e-mail or social media platforms, isolated computers, or unmanaged network drives, making them difficult to access and unlikely to survive through time. Many countries have found that weak digital records management (i.e., gestione dei documenti) especially undermines effective implementation of FOIA laws.⁹

(16G00108) (GU Serie Generale n.132 del 8-6-2016), Article 6, paragraph 5-11 (Amendments to Article 5 of Legislative Decree n. 33 of 2013)

⁸ Victoria L. Lemieux, Stephanie E. Trapnell, Jesse Worker, and Carole Excel, 2015, "Transparency and Open Government: Reporting on the Disclosure of Information," *JeDEM - eJournal of eDemocracy and Open Government* 7, 2: 75-93. <http://www.jedem.org>; and Opeyemi Kehinde, February 13, 2017, "CSO decries poor compliance to FOI Act, demands 5-year reports from govt. agencies," *Daily Trust*, <http://www.dailytrust.com.ng/news/law/cso-decries-poor-compliance-to-foi-act-demands-5-year-reports-from-govt-agencies/185054.html#wLHpp7mlmIFGPW5a.99>.

⁹ Anne Thurston and Victoria L. Lemieux, 5 May, 2016. "African Countries Come Together to Address Gaps in Managing Digital Information for Open Government," World Bank blogpost, <http://blogs.worldbank.org/governance/ogp-african-countries-come-together-address-gaps-managing-digital-information-open-government> Victoria L. Lemieux and Anne Thurston, 31 March, 2016. "Great Ideas for OGP Action Plans: Bridging Access to Information and Open Data with Effective Records Management," Open Government Partnership blogpost, <http://www.opengovpartnership.org/blog/victoria-l-lemieux/2016/03/31/great-ideas-ogp-action-plans-bridging-access-information-and-open>.

Box 2: Weak Records Management is a Barrier to Effective FOIA Implementation in Many Countries¹⁰

All countries currently struggle with records management challenges to varying degrees.

- A survey on records management in **Cote d'Ivoire, Ghana, Kenya, Liberia, Malawi, Sierra Leone, South Africa, and Tanzania** conducted by the World Bank in 2016 indicates that:
 - 85 percent of participating countries have digitized their public records, but only 16 percent are storing digitized records and information in secure, professionally managed digital repositories that will ensure they can access to good quality information over time.
 - 71 percent of countries recognize that e-mail is being used to conduct government business but, in an equal number of countries, public officials are using their personal email accounts and there are no policies in place to capture e-mails.
 - 85 percent of countries felt that they did not have sufficient policies and procedures in place to manage records in digital format in support of FOIA and open government.
 - More than half the countries reported that their staff had had no training in managing and preserving digital records and recognized an urgent need for technical assistance to provide such training. They also pointed to the need to raise awareness across civil society organizations about records and information management challenges and their link to open government.
- According to World Bank Open Data Readiness Assessments, in many countries (e.g., **Kazakhstan, Serbia, and Sierra Leone**) success of proactive disclosure and open data initiatives is prevented by weak records management.
- if records management weaknesses are not addressed, they may erupt into a government scandal, as in a recent example from the **Canadian province of British Columbia**, where public officials were found to have "triple deleted" emails to avoid responding to FOIA requests.

Staffing levels, capacity and incentives. Many agencies do not devote sufficient staff and/or staff time to FOIA tasks, citing a lack of commitment from management or a lack of human resources. This can cause bottlenecks in the processing of requests that lead to public perception that agencies are deliberately thwarting access to information, which may, in turn, cause a deterioration in public trust of government agencies. For FOIA implementation to be effective, there must be sufficient staff in place to be responsive and proactively disclose information. In the early phases of FOIA implementation it can be a particular challenge to assess the number of staff needed to deal with FOIA requests and obligations. However, if effective tracking and monitoring of requests is put in place, over time there will be sufficient information about demand to determine how many staff are needed to support its supply.

Staff also must be properly trained in the handling of requests for information. With the exception of Scotland, the results of the RIDE survey of six countries (see Table 4) demonstrates that staff knowledge of FOIA scored very poorly, despite moderately high scores on training and availability of guidance materials to staff.

¹⁰ Anne Thurston and Victoria L. Lemieux. 5 May, 2016. African Countries Come Together to Address Gaps in Managing Digital Information for Open Government. World Bank blogpost, <http://blogs.worldbank.org/governance/ogp-african-countries-come-together-address-gaps-managing-digital-information-open-government>; World Bank Open Data Readiness Assessments, <http://opendatatoolkit.worldbank.org/en/odra.html#available-assessments>; and Lien Yeung, July 15, 2015, "Former ministry staffer fined \$2,500 in connection with triple-delete scandal," *CBC News*, <http://www.cbc.ca/news/canada/british-columbia/triple-delete-fine-2500-george-cretes-1.3680536>.

Table 4: RIDE Indicators Pilot Survey Results on Staff Capacity for Six Countries¹¹

Staff Capacity Indicators	Albania	Jordan	Scotland	South Africa	Thailand	Uganda
Staff knowledge	Moderate	Weak	Very good	Weak	Weak	Weak
Training	Moderate	Moderate	Very good	Moderate	Very good	Weak
Availability of guidance materials	Moderate	Moderate	Excellent	Excellent	Very good	Very weak

Staff Incentives. Updated, formal practices and adequate levels of well-trained staff still will be insufficient for effective implementation of FOIA laws if staff are not incentivized to provide access. Staff may continue to refuse access even when the provisions of a FOIA law allow for its release (see Box 3). They may also narrowly interpret exemption provisions, and, in some cases, take deliberate actions to frustrate access by avoiding the recording of decisions, using communication channels that fall outside the scope of a FOIA law, or destroying documents that are requested under the law.¹² In the state of Rio de Janeiro, Brazil, for example procedural obstacles discourage requests – such as a disclaimer form that must be printed and submitted with requests.¹³ Establishing the proper incentives for disclosure is therefore of critical importance. This often requires a fundamental change in organizational culture from one of secrecy to one of transparency and openness. As Table 5 illustrates, many countries still struggle to achieve this cultural shift.

Box 3: Traditional Cultures of Secrecy can Remain Resistant to the Introduction of FOIA Laws¹⁴

“Qualitative data from all the countries [Kenya, Malawi, and Uganda] shows that the government/public officials treat public information as ‘secret’ and therefore not accessible by anybody. Journalists are considered by public officials to be the main beneficiaries of ATI legislation and not those they represent namely the public, thus the need to enhance public officials’ knowledge of the RTI as being a right for all not just journalists.”

a. Lessons Learned and Strategies for Effective Implementation

¹¹ Trapnell and Lemieux, RIDE Report.

¹² Elizabeth Denham, 2015. Investigation Report F15-03: Access Denied: Record Retention Practices of the Government of British Columbia. Victoria BC: Office of the Information and Privacy Commissioner.

¹³ Gregory Michener, 18 July, 2014. “Encouraging Freedom of Information Improvements in Brazil,” Open Government Partnership Blogpost, <http://www.opengovpartnership.org/blog/gregory-michener/2014/07/18/encouraging-freedom-information-improvements-brazil>.

¹⁴ Firminus Mugumya, Richard Asaba Bagonza, Anthony Kadoma, and Andrew Ainebyona, August 2016. “Baseline Study on the Promotion and Use of the Right to Information by Civil Society and Public Institutions in Kenya, Malawi and Uganda,” Africa Freedom of Information Centre.

Updated, formal procedures. Clear procedures ensure that requests to access information are not handled informally. Without clear guidance on the methods to evaluate information requests, public officials may fail to distinguish between FOIA requests and routine information inquiries. Requests that are treated as routine information inquiries then will not be subject to FOIA deadlines nor benefit from protections under law, including appeals and assistance. The combination of extensive informality in practices or a lack of clear distinction between normal business operations and FOIA requests also leads to poor tracking of requests.

Formal requests may involve several levels of management, however, and official disclosure may require approval of the most senior levels of a public agency.¹⁵ This can motivate public officials to treat requests informally, because of the time and effort involved with processing an official request. Although this tactic may be useful in terms of efficiency of response, and there will always be an important role for informal provision of information (including for journalists), it can be abused and result in discarded requests or informal refusals that do not provide a basis for appeal (see Box 4).

Box 4: Informality in Handling FOI Requests: Learning from Experience¹⁶

In Jordan, which passed its FOIA law in 2007, a large proportion of all of requests from 2007-2012 were addressed to the Department of Statistics and not made with formal request forms, causing civil society groups to question whether these requests really were RTI requests. More formality in handling RTI requests often leads to greater trust in the RTI system on the part of civil society.

Canada has begun experimenting with an approach to increase efficiency without sacrificing formality of procedures (see Box 5). Some agencies in the United States employ a “multi-track” approach to reviewing and responding to requests to improve efficiency where FOIA requests are placed in one of three tracks. Track one is for those requests which seek and receive expedited processing pursuant to subsection (a)(6)(E) of the FOIA. The second track is for those requests which do not involve voluminous records or lengthy consultations with other entities. Track three is for those requests which involve voluminous records and for which lengthy or numerous consultations are required, or those requests which may involve sensitive records.¹⁷

Box 5: Block Review in Support of Access to Information in the Government of Canada¹⁸

To increase efficiency of request handling without resorting to informality, Canada has been experimenting with an approach – called Block Review – to systematically review blocks of government records in Library and Archives Canada’s (LAC) archival holdings using a proactive risk-based approach to analyze both the age of a document and its subject. Block Review is completed by using various sampling strategies in order to determine whether documents can be opened under Canada’s access and privacy legislation. This risk-based approach relieves pressure on LAC officials, who no longer need to review individual documents on demand to determine if they can be released to the public.

¹⁵ Stephanie E. Trapnell, ed., 2014. *Right to Information: Case Studies on Implementation*. World Bank, pp. 34, 164, 252, and 305-6, <http://hdl.handle.net/10986/22527>.

¹⁶ Victoria L. Lemieux, Stephanie E. Trapnell, Jesse Worker, and Carole Excel, 2015, “Transparency and Open Government: Reporting on the Disclosure of Information,” *JeDEM - eJournal of eDemocracy and Open Government* 7, 2: 75-93. <http://www.jedem.org>.

¹⁷ United States, Department of Justice, Energy and Natural Resources Division, 2016, “ENRD FOIA,” <https://www.justice.gov/enrd/enrd-foia>.

¹⁸ Paulette Dozois, 2015, “Making Archives Available under Canada’s Open Government Initiative – Library and Archives Canada’s Block Review Project,” 3rd International Council on Archives Annual Conference, 28-29 September, 2015, Reykjavik, Iceland.

Electronic and Online Request Submission. Most countries allow electronic means of submitting formal requests (online and e-mail) but require an official form to be completed and sent by requesters. Online submission, as opposed to e-mail requests, is available in some countries, but it is not always equally available across agencies. In the case of Thailand and the United States, electronic submission of requests is developed by each agency and made available on their websites.¹⁹ In contrast, India, Mexico and the European Commission have a centralized portal for the submission of requests that is used for access to information for any agency in scope of the law.²⁰ Online submission allows for automatic recording and tracking of requests. For example, Mexico's portal serves as the internal tracking system for all requests and responses. This has enabled the information commission and others to identify patterns and trends in information flows that contribute to improved practices and staffing. Mexico has created a searchable database for all requests and responses, which also allows for tracking of highly popular information and identification of information that should be proactively released.²¹ Although online submission of requests can support effective tracking and monitoring, country cases revealed that investment in design and maintenance is required to ensure sustainability.

Records Management (i.e., gestione dei documenti). Records management establishes a framework of control over information that is essential to respond to FOIA requests, but equally enables protection of information when it is necessary to do so. The absence of effective records management can lead to higher staffing costs to support FOIA regimes, longer response times, and a breakdown in public trust even when a government is doing its best to enable public access to information. The Italian government has a long tradition of managing its records in accordance with a set of controls established by law.²² The Italian legal framework for the management of data and documents requires that each public agency establish a register of its documents (i.e., *protocollo*), which can serve as an invaluable tool in making data and documents accessible under the FOIA law. For example, in the case of the European Commission, the document register has been made available for search online to help the public identify documents they would like to access.

Staff working on FOIA requests and those working on records management benefit from working closely together, since records management staff are familiar with the nature and location of data and documents that may be requested under FOIA laws. As examples, in the Canadian province of British Columbia, the Chief Records Officer has overall responsibility for driving changes to the management of records to support more effective implementation of the province's FOIA law and, at the World Bank, the chief archivist of the World Bank Group has responsibility for implementation of the access to information policy.²³

Even countries with strong records management capacity struggle to keep up with the challenges to effective records management brought about by technological change. Efforts must be made, therefore, to clarify the status of new forms of documents, such as e-mails and social media, and to bring legal and

¹⁹ See the case studies by Alexander and Nicro, Vornpien and Chancharoen in Stephanie E. Trapnell, ed., 2014. *Right to Information: Case Studies on Implementation*. World Bank, pp. 34, 164, 252, and 305-6, <http://hdl.handle.net/10986/22527>.

²⁰ See the case studies by Devasher, Surie and Aiyar and Mizrahi and Mendiburu in Stephanie E. Trapnell, ed., 2014. *Right to Information: Case Studies on Implementation*. World Bank, pp. 34, 164, 252, and 305-6, <http://hdl.handle.net/10986/22527>; See also, European Commission, 2017. "Access to Documents," http://ec.europa.eu/transparency/access_documents/index_en.htm.

²¹ See, Plataforma Nacional de Transparencia, <https://www.infomex.org.mx/gobiernofederal/home.action>

²² Fiorella Foscarini, 2005. "Archival Legislation in Italy," InterPARES 2 Project.

²³ See, <http://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/central-government-agencies/corporate-information-records-management-office/chief-records-officer> and

regulatory frameworks for the management of records and FOIA regulations into alignment with technological realities. A recent example comes from the US, where laws and policies were updated in 2016 to clarify guidance on how digital records, such as e-mails, must be handled in order to support the public's right to information.²⁴

Given the cost and complexity of introducing new or enhanced data and document controls, there is general agreement that a risk-based approach works best.²⁵ This entails focusing on strengthening management of data and documents for which there is a specific proactive legal requirement for release or for which demand for public access is high. The World Bank has developed a tool that can be used to enable rapid, high-level assessments of the strength or weakness of records management systems. The tool identifies essential factors that predict whether the records created and held in records systems will be available and trustworthy through time to support development goals, and it provides simple tests to determine whether or not these factors are in place. Annex A provides an overview of this diagnostic tool.

Staff levels, capacity, and incentives. There is no one model for agency level FOIA staffing that will suit all contexts and demands. However, there is a high degree of consensus that an information officer should be appointed within each agency to handle information requests. Additional officers may be required in larger administrative units within agencies that experience higher demand or more complex requests. Table 5 illustrates the variation among countries in regard to the specific arrangements for FOIA units at the agency level.

Table 5: FOIA Units at the Agency Level²⁶

	Albania	Jordan	South Africa	Thailand	Uganda	United Kingdom
De Facto Unit/Committee solely for FOIA	Varies by agency	No	No	Yes	No	Varies by agency
Unit with FOIA responsibilities but not separate	Public relations/ Communications	Public relations/ Communications	N/A	One Stop Service Center	N/A	FOIA Unit
Information officers appointed in most if not all agencies	Yes	No	No	Yes	No	Yes

Poor scores in the RIDE survey on staff incentives (shown in Table 6) demonstrates that countries are often failing to change public agencies' organizational culture from secrecy to transparency and openness. Such a fundamental cultural shift entails internal training, setting appropriate job demands, clear rules, clear lines of accountability, and strong career prospects for officials responsible for FOIA

²⁴ See, for example, United States. The Freedom of Information Act, 5 USC, Chapter 552 and the FOIA Improvement Law, 2016, Public Law No. 114-185, <https://www.justice.gov/oip/freedom-information-act-5-usc-552>.

²⁵ International Standards Organization. 2014. ISO/TR 18128:2014. *Information and documentation -- Risk assessment for records processes and systems*. Geneva, Switzerland: International Standards Organization.

²⁶ Adapted from Victoria L., Lemieux and Stephanie E. Trapnell. 2016. *Public Access to Information for Development: A Guide to Effective Implementation of Right to Information Laws*. Washington, D.C.: World Bank.

implementation on the front lines. FOIA systems are often failing to include FOIA tasks in performance evaluations, thereby undermining the importance of FOIA performance among staff. In the Canadian province of British Columbia, following an incident where a public official was found to have destroyed documents to avoid making them available in response to a FOIA request, a government-wide program now exists to provide FOIA training and establish new lines of accountability, including setting FOIA-related performance objectives for all staff.²⁷ Initiatives aimed at changing organizational culture will be most successful if supported at the policy-making and senior executive levels of public agencies.²⁸

Table 6: RIDE Indicators Pilot Survey Results on Staff Incentives for Six Countries ²⁹

Staff Incentives Indicators	Albania	Jordan	Scotland	South Africa	Thailand	Uganda
Protection from penalties for disclosure of information	Moderate	Weak	Excellent	Very good	Weak	Weak
Appropriate job demands	Moderate	Weak	Very good	Moderate	Moderate	Very Weak
Clarity of rules	Moderate	Weak	Very good	Weak	Weak	Moderate
Performance evaluation	Weak	Weak	Not available	Weak	Moderate	Very weak
Lines of accountability	Moderate	Weak	Very good	Moderate	Weak	Moderate
Career Prospects	Weak	Moderate	Very good	Very weak	Moderate	Weak

III. Demand for Information

Demand for information is a critical factor in the effectiveness of FOIA systems, as underutilized systems tend to be underdeveloped and exhibit poor performance. The accessibility of FOIA systems is significantly influenced by the extent of public awareness about information rights and FOIA processes. In turn, knowledge of FOIA processes is enhanced through repeated interactions with agencies concerning information disclosure. Effective FOIA performance depends upon sufficient institutional capacity to support these interactions.

Box 6: Effective FOIA Implementations Depend on a Balance between Demand and Supply³⁰

India has a vibrant civil society that engages with the FOIA system regularly and at all levels and sectors of implementation, yet it still struggles with effective implementation in part due to low levels of capacity within the public sector.

²⁷ See Government of British Columbia, 2016. "A Practitioner's Guide to the Information Management Act," <http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/crown-corporations/central-agencies/practitioners-guide-information-management-act.pdf>.

²⁸ For a study on this issue, see Paul G. Thomas, 2010. "Advancing Access to Information Principles through Performance Management Mechanisms: The Case of Canada," World Bank Institute, http://foiadvocates.net/wp-content/uploads/Publication_WBI_AdvancingATIPPrinciples.pdf

²⁹ Lemieux and Trapnell, RIDE Report.

³⁰ Victoria L., Lemieux and Stephanie E. Trapnell. 2016. *Public Access to Information for Development: A Guide to Effective Implementation of Right to Information Laws*. Washington, D.C.: World Bank.

a. Key Challenges

Demand for information emerged as a weak point for nearly all the countries included in the RIDE pilot study. In many countries with FOIA laws, members of the public continue to have a low level of awareness about their information rights. A number of obstacles can prevent access to information through the FOIA system, including petty corruption, informal networks, lack of request forms, absent information officers, language difficulties, and overly complex appeals procedures. A recent baseline study on FOIA implementation in Uganda revealed, for example, that effective implementation of the legal provisions in the law remains low even though the public's awareness of their information rights is high because members of the public do not understand the procedure for accessing information of public interest.³¹

Box 7: Implementation often Fails when Civil Society is not Involved³²

In countries where civil society has not been engaged in the debate, the right to information has atrophied and the law has never been fully implemented:

- **Belize** passed its Freedom of Information law in 1994, one of the first countries in Latin America and the Caribbean to do so. It was accomplished with little public or parliamentary debate and no civil society involvement. For the past decade the law has been used only a handful of times, and rarely with success. When asked, NGO leaders indicated minimal knowledge of the law and little faith in its ability to promote greater transparency.
- **Bolivia** passed its Supreme Decree for Transparency and Access in 2004. Failure to consult on implementation led to strong rejection of the law by civil society groups, with key groups publicly denouncing the decree.

Low demand for access to information can lead to low supply. In Canada, where public education was not carried out when the FOIA law was first introduced, very low request rates resulted. This can create a dangerous dynamic if officials have been specially recruited and trained, and if public agencies have put resources into FOIA preparedness in anticipation of high demand.³³ Low initial demand may lead to the loss of qualified staff and to dissipation of support and resources, as happened in the United Kingdom.³⁴ This suggests the need to strike a careful balance in the early stages of FOIA implementation between building institutional capacity and encouraging public demand for information.

b. Lessons Learned and Strategies for Effective Implementation

Carry out institutional capacity building and activities aimed at increasing demand in parallel. In general, lessons from experience suggest that public agencies should carry out activities in parallel that

³¹ Firminus Mugumya, Richard Asaba Bagonza, Anthony Kadoma, and Andrew Ainebyona, August 2016. "Baseline Study on the Promotion and Use of the Right to Information by Civil Society and Public Institutions in Kenya, Malawi and Uganda," Africa Freedom of Information Centre.

³² Laura Neuman and Richard Calland, 2007, "Making Access to Information Laws Work: The Challenges of Implementation," in Ann Florini. *The Right to Know* (NY: Columbia University Press).

³³ Victoria L., Lemieux and Stephanie E. Trapnell. 2016. *Public Access to Information for Development: A Guide to Effective Implementation of Right to Information Laws*. Washington, D.C.: World Bank.

³⁴ Ibid.

focus on institutional capacity building and raising demand. Doing so will avoid unhealthy dynamics where either demand or supply of access to information is out of balance.

Public Awareness Training. Healthy demand for access to information is driven by public awareness of the right to access information and a clear understanding of the mechanisms for gaining access. India, Mexico, Peru, and South Africa have all mandated that government agencies regularly conduct activities aimed at FOIA education and outreach. Box 8 provides examples of innovative awareness raising campaigns. As public agencies may lack resources or may need to focus on institutional capacity building, a key strategy can be to partner with civil society organizations in raising the public's level of awareness about their right to information and the mechanisms for making requests under a FOIA law.

Box 8: Awareness Raising Campaigns in Selected Countries

- In Australia, the State of Queensland Information Commissioner has produced FOIA posters, an infographic and YouTube animation to publicize the right to information (See <https://www.oic.qld.gov.au/training-and-events/right-to-information-day>)
- In Canada, in March 2017, the Office of the Information Commissioner, along with the Department of Justice, Treasury Board of Canada Secretariat, and Library and Archives Canada will host a conference on "Transparency for the 21st Century" (See <http://www.oic.gc.ca/transparencyconference/program.html>)
- "India Needs a Superhero" is a public service film about access to information by Skylark Production, directed by Reema Sengupta (See <https://www.oic.qld.gov.au/training-and-events/right-to-information-day>)
- In Mexico, the central authority on transparency and access to information (INAI) has issued its first call for participation in a competition for children to be Commissioner and Child Commissioner as part of its plenary for children (See <http://concurso.inai.org.mx/plenoninos/>)
- In Uganda, there are Joint campaigns and collaborations between the civil society organizations that promote the right to access information and some government ministries such as the Ministry of Information and National Guidance in Uganda (See Carter Center, <https://www.cartercenter.org/resources/pdfs/peace/ati/uganda-iat-country-report.pdf>)

Assistance to Requesters. Providing assistance to requesters is increasingly recognized as good practice and is even mandated by law or included in policy guidelines in Mexico, Moldova, South Africa, United Kingdom, and the United States. The practice of assisting requesters is not uniform or regular, however. In some countries, such as Albania and Thailand, assistance may be provided as specified by public administration laws, but there is no guarantee that FOIA requesters will benefit from this practice.³⁵

IV. Toward a Roadmap for Implementation

From the discussion on key challenges, lessons learned, and strategies relating to effective implementation of access to information in countries around the world, it is possible to extract high-level strategic goals and objectives that Italian public agencies can use to help them focus their own FOIA implementation efforts. Table 7 presents a model strategic FOIA implementation plan based on these high-level strategic goals and objectives.

³⁵ Trapnell and Lemieux, RIDE Report.

Table 7: A Model Strategic FOIA Implementation Plan at the Agency Level

Strategic Goal	Strategic Objective	Expected Benefits	Risk of Inaction
Establish FOIA Organization (Governance Structure and Operating Model)	Establish FOIA units Appoint key staff (e.g., FOIA officers) Establish agency FOIA Commission Establish FOIA responsibilities and accountabilities Update performance management system to reflect FOIA responsibilities and accountabilities	Ensures sufficient staffing to meet FOIA requirements Ensures coordination of FOIA activities and effective knowledge sharing Establishes clear lines of authority and accountability to achieve culture of openness	Insufficient staff to respond to FOIA requests or proactively disclose may fuel perception that agency is not transparent Lack of coordination and knowledge sharing may prevent staff from performing FOIA procedures effectively Lack of clear lines of authority and accountability may prevent effective implementation of FOIA policies, standards, procedures and practices and culture of secrecy may persist
Establish Formal Policies, Standards, Processes and Practices	Develop agency FOIA policies and standards Develop FOIA workflow processes (e.g., request handling, proactive disclosure, appeals) Develop FOIA Operational Procedures Manual	Helps to ensure compliance with FOIA law Ensures efficient response to FOIA requests Ensures that FOIA processes are structured and repeatable reducing discretionary decision making	Informal practices can lead to oversights that cause FOIA compliance failures Informal practices lead to inefficiencies Informal practices lead to discretionary decision making that can be perceived as unfair or default to culture of secrecy



Strategic Goal	Strategic Objective	Expected Benefits	Risk of Inaction
Implement Technology Support FOIA	<p>Develop/implement transparency portal to communicate information about the FOIA law and processes, and for receipt of FOIA requests and proactive disclosure of information</p> <p>Develop/implement FOIA electronic request tracking system</p>	<p>Information that the public needs to request information or access proactively disclosed information can more easily be found in one place</p> <p>Requests for information can be submitted electronically online</p> <p>Electronic request tracking system ensures that requests are not lost and that metrics on compliance with legally established response time lines can be tracked and monitored</p>	<p>Information about how to submit a FOIA request, open data or other transparency information may be difficult to locate</p> <p>Submitting FOIA requests may be difficult and/or time consuming, discouraging people from exercising their FOIA rights</p> <p>Requests may be misplaced and/or response time lines may exceed those established by law</p> <p>It may be difficult to monitor compliance with FOIA provisions and FOIA performance</p>
Strengthen Management Records	<p>Update records management policies, standards, procedures and practices to reflect FOIA requirements</p> <p>Survey and classify all agency records</p> <p>Put agency classification schemes/registers online via transparency portal</p> <p>Digitize priority non-digital records</p> <p>Develop/implement systems for management and preservation of digital records</p> <p>Establish policies for retention and disposition of agency records</p>	<p>Ensures that records management policies, standards, procedures and practices are in alignment with and support FOIA</p> <p>Ensures that data and documents can be more easily identified and reduces the time needed to locate requested information, making FOIA response more efficient</p> <p>Ensures that data and documents are in a form that can be easily and inexpensively disclosed and, for open data, in a format that promotes re-use</p> <p>Ensures that important agency decisions are documented, communications use official channels and documents cannot be destroyed without authorization to support public accountability</p>	<p>Data and documents may be difficult to locate</p> <p>Data and documents may not be in a form that is easy to disclose</p> <p>Public officials may be able to exploit weak records management controls to avoid creating data or documents, use communication channels that fall outside of FOIA or destroy records</p>



Strategic Goal	Strategic Objective	Expected Benefits	Risk of Inaction
Provide Training	Develop/run training for executive staff Develop/run training for FOIA operational staff	Ensures that executive staff understand their FOIA duties, responsibilities and authorities	Executives do not understand their legal duties under FOIA law
	Develop/run general training for agency staff	Ensures that FOIA and general staff understand FOIA law, policies, standards, procedures and practices and that they also understand their FOIA responsibilities and accountabilities Enables senior executives to signal a shift from secrecy to openness	FOIA staff do not understand their legal duties under FOIA law FOIA staff do not understand and follow updated FOIA policies, standards, procedures and practices Agency value shift from secrecy to openness is not signaled to staff, undermining a culture change
Engage with the Public and Civil Society	Hold consultations on FOIA implementation	Public and/or civil society groups understand and support implementation plans	Public and/or civil society groups understand and support implementation plans
	Conduct public awareness campaigns Conduct civil society awareness workshop Conduct media awareness workshop Develop online training material to support requests and appeals process	FOIA demand is sufficient to achieve effective implementation Civil society and media learn how to exercise their FOIA rights Individuals submitting FOIA requests have easy access to information about the processes of requests and appeals	FOIA demand is sufficient to achieve effective implementation Civil society and media learn how to exercise their FOIA rights Individuals submitting FOIA requests have easy access to information about the processes of requests and appeals

Strategic Goal	Strategic Objective	Expected Benefits	Risk of Inaction
Monitor progress	Establish metrics (See Annex B – RIDE Indicator metrics – for examples) Establish monitoring mechanisms Use monitoring mechanisms to track progress Formulate new strategic plan based on monitoring	Clear metrics support effective monitoring of compliance with FOIA provisions and effective implementation Feedback from monitoring processes can help in formulating revised strategic implementation plans to promote continuous improvement of FOIA processes Measurement and monitoring of FOIA effectiveness helps determine resource requirements, support budgetary requests, and communicate to the public and civil society	Without clear metrics and monitoring processes it is impossible to track compliance with FOIA provisions or the effectiveness of FOIA implementation Inability to track compliance or effective implementation can lead to over- or under-resourcing of FOIA processes, reduced budget allocations, and lack of support from the public and/or civil society

To complete the implementation strategy, agencies must customize the model strategic plan by adjusting it to suit their own needs (i.e., to address specific governance gaps, institutional weaknesses, etc.). Conducting a baseline RIDE assessment exercise will support this process by helping agencies to determine where they have specific weaknesses that may prevent effective FOIA implementation. Additional baseline assessments relating to specific areas of implementation, such as for records management (See, e.g., Annex A) or an open data readiness assessment³⁶ may complement a RIDE baseline assessment. These assessments can support the requirement under the FOIA law for preparation of a three-year program of transparency and integrity, updated annually.³⁷

A precursor to conducting the baseline assessment is to establish a FOIA implementation commission (i.e., a task force) within each public agency. For example, after passage of its law in 2013, Spain established a Transparency Council to aid with implementation.³⁸ Research on country experiences suggests that an implementation commission will benefit from executive-level sponsorship and leadership (e.g., at the level of a Director General, together with chiefs of Departments). The individual charged with leading access to information within a public agency ideally should be sufficiently senior that he or she is confident in making difficult decisions and can carry the weight of encouraging others in promoting the objectives of transparency through the release of information.³⁹ Participation in the commission may include other staff on which successful implementation of FOIA depends, such as those responsible for records management (i.e., *gestione dei documenti*), information technology, public relations, and human resources (i.e., *ufficio del personale*).

³⁶ See <http://opendatatoolkit.worldbank.org/en/odra.html>.

³⁷ See, n. 190 e del decreto legislativo 14 marzo 2013, Art. 10 - Programma triennale per la trasparenza e l'integrità, paragraph 1 (three-year Program for Transparency and Integrity).

³⁸ Elena G. Sevillano, 10 February, 2016. "Spanish government using courts to avoid freedom of information requests," *El Pais*, http://elpais.com/elpais/2016/02/09/inenglish/1455011670_395417.html.

³⁹ Laura Neuman and Richard Calland, 2007. "Making Access to Information Laws Work: The Challenges of Implementation." In Ann Florini. *The Right to Know*. NY: Columbia University Press.

Where there are several public agencies involved in FOIA implementation from across government, a number of countries have established inter-agency FOIA commissions to exchange information on challenges and lessons learned and to improve the coordination of implementation efforts. Many countries also have found it useful to establish a central “nodal” implementation agency, usually within the executive branch of government but sometimes a role fulfilled by an independent oversight body where there is no executive branch agency to take on the role (e.g., in Italy, it might be a role taken on by the public administration agency). The nodal agency helps to promote coordination and monitor implementation progress across public agencies.⁴⁰ Implementation of the new FOIA law in Brazil, for example, is reported to have made much greater progress after the establishment of the Federal Comptroller General (CGU) to eliminate legal barriers to accessing information and to encourage implementation and compliance at all levels, but especially at the local level and within all branches of government.⁴¹

Having established an implementation commission and conducted a baseline assessment, public agencies can then establish their particular strategic plans based on those areas of weakness they most desire to address with available resources within a given time frame.

Increasingly, countries are finding it beneficial to seek the input of civil society groups and members of the public in identifying priorities for action. In the early phases of implementing the Jamaican FOIA law, the Access to Information Unit held consultancy exercises involving public officials and civil society. This process enabled government officials to share their concerns with colleagues across government and individuals from civil society, and afforded the civil society an opportunity to develop a better understanding of the obstacles facing public officials charged with implementing the law.⁴² Similarly, in Uganda, the government’s renewed commitment to strengthen communication with citizens in the Uganda Communication Strategy of 2011 is credited with noticeable improvement of implementation of the right to access information.⁴³ Within Italy, the Open Government Forum, established for the purpose of public consultation on a new Open Government Partnership plan, provides an opportunity for public consultation on agencies’ FOIA implementation plans and priorities.⁴⁴

It is important to monitor progress against strategic goals and objectives. Even after initial strategic goals have been met, components of FOIA implementation will need to be fine-tuned based on feedback on the performance of the FOIA system (e.g., from tracking data, public officials, and civil society), which will lead to new, updated strategic goals and objectives. Figure 1 illustrates this as an ongoing cycle of improvement to FOIA implementation within public agencies.

⁴⁰ Victoria L., Lemieux and Stephanie E. Trapnell. 2016. *Public Access to Information for Development: A Guide to Effective Implementation of Right to Information Laws*. Washington, D.C.: World Bank.

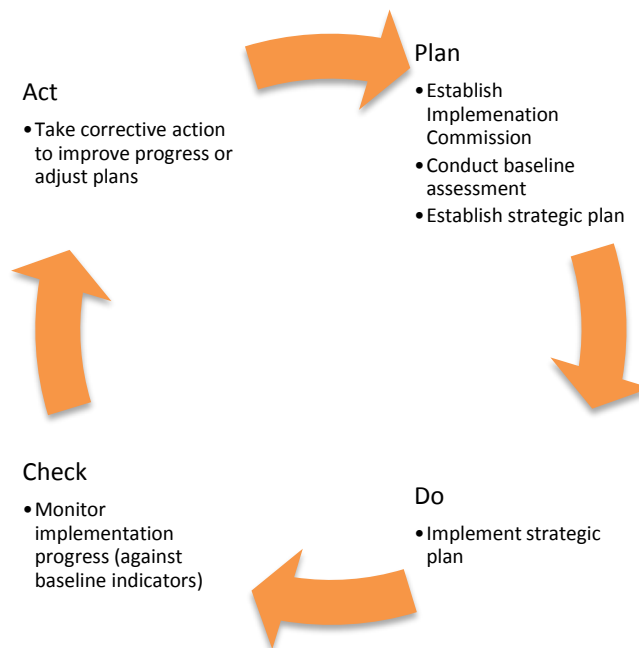
⁴¹ Gregory Michener, 18 July, 2014. “Encouraging Freedom of Information Improvements in Brazil,” Open Government Partnership Blogpost, <http://www.opengovpartnership.org/blog/gregory-michener/2014/07/18/encouraging-freedom-information-improvements-brazil>.

⁴² Op cit.

⁴³ Carter Center, 2016. “Findings from Select Agencies: Uganda,” Report on the Carter Center’s Access to Information Legislation Implementation Assessment Tool, <https://www.cartercenter.org/resources/pdfs/peace/ati/uganda-iat-country-report.pdf>.

⁴⁴ See, Ministro per la semplificazione e la Pubblica Amministrazione, 2016. Open Government in Italia, 3 piano d’ azione, 2016-2018, http://www.opengovpartnership.org/sites/default/files/Italy_NAP3_2016-18_IT.pdf

Figure 1: FOIA implementation improvement cycle



V. Conclusion

This note has reviewed cases of recent introduction of FOIA laws around the world and summarized the main challenges, lessons learned and key strategies emerging from these experiences. Its main purpose has been to inform public agencies charged with implementation of the FOIA law about steps they can take toward effective implementation. Given its aim, the note focuses on those factors that are within scope of public agencies to address. For best FOIA implementation results, both the demand and supply side need to be targeted simultaneously, systematically, and consistently. In particular, experience suggests that public agencies benefit from focusing on establishing updated formal procedures, especially in relation to submission, receipt, tracking and monitoring of requests; making available options for electronic submission, receipt and tracking of requests; strengthening records management, especially digital records management; providing adequate staffing, training staff on FOIA rules and procedures; and making changes to organizational culture and accountability structures to incentivize staff to act in compliance with FOIA laws. Thus, even when conditions are not favorable to address broad policy issues that may affect the enabling environment for FOIA implementation or when government-wide coordination is difficult to achieve, there is still much that individual public agencies can do to achieve more effective implementation of FOIA laws.

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Annex A: Rapid Risk Assessment Diagnostic for Records Systems

The Rapid Risk Assessment Diagnostic for Records Systems enables high-level assessments of the strength or weakness of record systems, as defined in international standards, and in relation to ICT implementation. It identifies essential factors that predict whether the records created and held in these systems will be available and trustworthy through time to support development goals, and it provides simple tests to determine whether or not these factors are in place.



The risks for the ability to deliver governance goals as a result of non-availability and lack of integrity of records are high. The simple tests that follow provide a high level means of determining whether the necessary framework for managing records as evidence is in place and on track to meet governance requirements, or whether there are deviations that are likely to put governance goals at risk. Risk is defined here as a deviation from the expected goal attainment.

Policy

- Has an information governance policy been developed to mandate the creation, management and preservation of digital records and associated metadata across the government or the organization?
- Has the policy been approved at the highest level of government?
- Has it been disseminated at all levels of government?

Standards

- Are international or national standards used to provide consistent guidance on the structure and management of records and on metadata capture?

- Are the standards understood and applied?

Roles and Responsibilities

- Has responsibility for the management of records been defined and assigned?
- Is there a central government agency or authority with oversight for the delivery of an information governance program across all media?
- Do ICT and records authorities collaborate to define, implement and audit good practices for managing records and metadata?
- Do system planners define and document systematic processes for records and metadata capture when ICT systems are defined?

Systems and Practices

Can the five categories of metadata listed below be retrieved to provide evidence of actions and transactions for records that are one year old? Three years old? Five years old?

- Is there an access control list specifying who may access the records and for what purpose?
- Is there a robust event history that provides an audit trail of how a record has been viewed, accessed, and used through time?
- Are disposition requirements for records defined and applied in relation to legal, regulatory, fiscal, and operational needs?
- Is authority for disposition documented whenever records are destroyed?
- Are there measures and structures in place to ensure the secure preservation of records and their metadata across time and across technological change?

Capacity

- Are records professionals trained, in universities or management institutes, to understand national policy and international standards for creating, managing, and preserving digital records as evidence?
- Are they trained to implement good practice for managing records as defined in national or international standards?

- Are they trained to communicate effectively with relevant government stakeholders, particularly ICT professionals and auditors?

Annex B: RIDE indicators (5 assessment domains, 14 categories, 83 underlying indicators) specifically relevant to public agency implementation plans and priorities.

Shaded/Greyed areas represent aspects of implementation not typically within the purview of public agencies.

Table 1: Overview of RIDE indicators

1	Enabling conditions	Description
A	Legal framework for RTI	Quality of legal framework assessed against international standards
B	Advocacy efforts	Extent and nature of roles that civil society plays in the shaping of RTI laws and policies.
C	Policy prioritization	Strength of the signaling mechanisms from government that set RTI as a critical policy initiative
2	Demand for information	
A	Public Awareness of RTI	Extent of citizen knowledge about RTI as a right, and as a set of procedures for access to information
B	Accessibility	Accessibility of request and appeals process and proactively disclosed information
3	Institutional capacity	
A	Updated, formal practices	Existence of practices (not rules) that public officials engage request processing, proactive disclosure, and records management.
B	Staffing levels	Assessment of whether the number of staff is sufficient to cope with RTI obligations, and how this number is arrived at.
C	Staff capacity	The knowledge of staff about RTI, and the resources at the disposal for meeting those obligations.
D	Staff incentives	Nature of the incentive structure governing the behavior of staff and management with regard to RTI.
4	Oversight	
A	Monitoring of institutional capacity	Extent and nature of activities that support RTI implementation across government.
B	Enforcement of disclosure obligations	Strength and nature of methods used to enforce RTI obligations.
5	Transformative factors	
A	State-Society Collaboration	Extent of opportunities for civil society to engage with government to jointly contribute to RTI implementation (agency specific)
B	Technology	Types and extent of technology used in RTI implementation (agency specific)
C	Intra-governmental collaboration	Extent of collaboration between records management, RTI management, and technology specialists (agency specific)

Table 2: Scoring Sheet for RIDE Indicators

	Score 0	Score 5	Score 10
A.1-8 Proactive disclosure	Proactive disclosure is not mandated in any laws or regulations, nor in any government policy document or decree.	Proactive disclosure is mandated in some agencies by regulation or policy document.	Proactive disclosure is mandated by law, regulation, or decree across all of government.
A.2-1 Passage of law	Civil society and/or private sector groups did not participate in the drafting of the initial RTI law.	Civil society and/or private sector groups provided feedback on the law but did not participate in official working groups.	Civil society and/or private sector groups actively participated in working groups and committees on the drafting of the RTI law.



		Participation may have been isolated or only during particular periods of the drafting of the law.	
A.2-2 Lobbying	Civil society and/or private sector groups do not attempt to influence RTI legislation or government plans in support of strengthening the RTI system. This includes amendments to the RTI law or laws that affect the RTI framework.	Civil society and/or private sector groups sometimes attempt to influence RTI legislation or government plans in support of strengthening the RTI system, but it is not done regularly or for sustained periods of time.	Civil society and/or private sector groups actively influence RTI legislation or government plans in support of strengthening the RTI system. These groups mount sustained efforts with the media, online, or in person, in order to affect the outcome of changes to the RTI system.
A.2-3 Strategic litigation	Civil society and/or private sector groups do not engage in strategic litigation through the courts in an attempt to clarify, strengthen, or bring focus to the RTI law.	Civil society and/or private sector groups sometimes engage in strategic litigation through the courts in an attempt to clarify, strengthen, or bring focus to the RTI law, but it is not done regularly or for sustained periods of time.	Civil society and/or private sector groups actively engage in strategic litigation through the courts in an attempt to clarify, strengthen, or bring focus to the RTI law. These groups may be well-resourced, with considerable expertise in the law, and are able to pursue litigation through the judicial process.
A.2-4 Monitoring of implementation	Civil society and/or private sector groups do not monitor RTI implementation.	Civil society and/or private sector groups sometimes monitor RTI implementation, such as through compliance/field testing for response rates or interviews with requesters, but it is not done regularly or for sustained periods of time.	Civil society and/or private sector groups actively monitor RTI implementation, such as through compliance/field testing for response rates or interviews with requesters. These groups may be well-resourced, with expertise in research methods.
A.3 Policy prioritization	There is no prioritization of RTI policies at any level of government, including the civil service.	There is some political support for RTI within government, perhaps through one or more high-level political champions that support continued discussions of RTI in the media, but the authority or capacity to prioritize RTI in practice is weak. Domestic funding or protection from political interference may be made available, but not on a regular basis. In general, RTI policies may be functioning at the agency level, but little funding is set aside for RTI	There is one or more RTI champions within government with the authority to ensure that RTI is a priority within the public sector. This includes public pronouncements of support, as well as support through funding and protection from political interference. Generally, agency-level leadership also sets RTI policies as priority within operational activities, which may involve appointing a chief information officer or committee to serve a



		practices.	nodal function.
B.1-1 Public Awareness of RTI	There are very low levels of knowledge about RTI in the general population. Citizens/residents may not even know that they have a right to government information, and they are not aware of their rights regarding access to information.	There are moderate levels of knowledge about RTI in the general population. Citizens/residents know that they have a right to government information, but they may not have a clear idea what the right to information means in practical terms.	There are high levels of knowledge about RTI in the general population. Citizens/residents know that they have a right to government information, and they are aware of many of their rights regarding access to information.
B.2-1 Lack of corruption/informality	There may be pervasive petty corruption by public officials, demanding bribes for access to information, or to speed up the request process. There may also be very low levels of formality, whereby requests are not treated properly, and are lost or discarded. There may be a low number of formal requests submitted because requesters are discouraged by the process.	Requesters may sometimes be expected to provide bribes in order to expedite the request process, or they must occasionally curry favor with public officials in order to receive basic RTI services.	Corruption does not characterize the request process. Submitting information requests is a straightforward process that may be marked by delays, but this is not the result of corrupt practices, lack of formality in receiving and processing requests, or preference given to certain groups of requesters.
B.2-2 Ease of submitting requests/ internal appeals	Submitting requests or internal appeals is generally a difficult process for ordinary individuals. Official forms to make information requests may not be available. Submitting requests/appeals may require an in-person visit at the agency or prohibitively high fees may be charged. Contact information for information officers may not be available, making it difficult to obtain guidance or submit requests by mail/post. There may be a significant fear factor from possibility of retaliation or social condemnation.	Submitting requests can be difficult for some groups of requesters due to travel issues, lack of forms, high fees, or lack of information on how to submit a request. These practices may be present in some agencies, but it is not widespread across government.	Submitting requests/internal appeals is generally a straightforward process for ordinary individuals. A variety of options are available for submission, including email, online, mail/post, fax, or in-person delivery. Fees are waived or applicable to minor duplication costs. Information officers are accessible for guidance and advice, and procedures are clearly explained in guidance materials.
B.2-3 Language/Comprehensibility	There is a notable lack of materials for minority language users. Comprehensibility of materials on procedures may also be low, because explanations are too complex for the ordinary citizen to easily	There are some guidance materials for minority language users, and some guidance materials may have clarified language, but this is not widespread across all of government.	In general, RTI materials and/or guidance are made comprehensible and accessible for non-majority user groups, e.g., considering literacy levels and local languages.

	understand.		
B.2-4 Assistance in formulating and clarifying requests	No assistance is available from public officials for formulating or clarifying information requests. Requests that are not worded correctly are routinely denied.	Public officials sometimes assist requesters with formulating and clarifying information requests, but this is not standard practice across government. Civil society groups may assist requesters when public officials do not provide this type of assistance.	Public officials regularly assist requesters with formulating and clarifying information requests. This includes providing guidance on what to ask for, how to formulate requests, and requesting clarification on requests that have been submitted.
B.2-5 Assistance for special needs requesters	No assistance is available from public officials for requesters with special needs, such as illiteracy, language differences, blindness, or inability to write.	Public officials sometimes assist requesters with special needs, but this is not standard practice across government. Civil society groups may assist requesters when public officials do not provide this type of assistance.	Public officials regularly assist requesters with special needs, such as illiteracy, blindness, language differences, or inability to write.
C.1-1 Logging and tracking requests	In general, formal procedures are not employed for logging and processing requests. It is nearly impossible for requesters to track the status of their request	Formal procedures for logging and processing requests are employed in only about half of agencies.	In general, formal procedures are used to log and process requests. Requesters are able to obtain the status of their request fairly easily. Tracking data may also be used by agencies as a reporting statistic on their RTI performance.
C.1-2 Timeliness of response	Responses to information requests rarely meet the maximum deadline in the law.	In general, responses to information requests sometimes meet the maximum deadline in the law, but this is not a regular occurrence.	In general, responses to information requests regularly meet the maximum deadline in the law.
C.1-3 Proactive disclosure procedures	In general, formal procedures are not used to identify and disclose information proactively. Information and documents may be posted irregularly, with no rationale or relevance to users, and are not updated on a regular basis.	Formal procedures to identify and disclose information proactively are used in only about half of agencies. Information and documents are posted with regularity by some agencies, but this practice is not widespread across government.	In general, formal procedures are used to identify and disclose information proactively. Information and documents are released on a regular schedule, in response to user demand, and are regularly updated.
C.1-4 Performance monitoring	No data on requests, appeals, and/or proactively released information is collected on a regular basis by individual government agencies.	Data on requests, appeals, and/or proactively released information is collected by individual government agencies, but this practice is not widespread across government.	Data on requests, appeals, and/or proactively released information is collected on a regular basis by all required government agencies.
C.1-5 Records management	Records management is a severe barrier to the release of information and	Records management is a moderate barrier to the release of information and	Records management is not considered a barrier at all to the release of



	documents. Information requests regularly fail because documents cannot be located.	documents. Information and documents are not always accessible by public officials. Records management hardware and/or software are not up-to-date and effective.	information. Both hard-copy and electronic information are easily accessible by public officials.
C.2-1 Appointment of information officers	No information officers, or very few, have been assigned in required agencies.	Information officers are appointed in a majority of agencies, but it is far from standard practice.	Information officers have been assigned in all required departments
C.2-2 Sufficient personnel	There are not enough personnel to handle the volume of information requests/internal appeals. The process may be marked by severe delays or no responses.	Some agencies may have sufficient personnel to handle the volume of information requests/appeals, but this practice is not widespread across government.	In general, the number of personnel is sufficient to handle the volume of information requests/internal appeals.
C.3-1 Staff knowledge	In general, staff knowledge of RTI obligations is low, and as a result, information disclosure is hindered.	The knowledge level of a majority of information officers is quite low, but this is not a standard circumstance across government.	In general, staff knowledge of RTI obligations is high, and information officers face little difficulty in performing job tasks.
C.3-2 Training	There is no provision of training for public officials by either a central government body or individual government agencies.	Compulsory training for public officials is provided on a one-time or sporadic basis by either a central government body or individual government agencies.	Compulsory training for public officials is provided regularly (one-time and recurrent) by either a central government body or individual government agencies.
C.3-3 Availability of guidance materials	There are no or very few guidance materials available to information officers to assist them in the daily operations of their job.	Some guidance materials are available to public officials to assist them in the daily operations of their job, but they may be outdated, inconsistent, or irrelevant to specific sectors.	Guidance materials are provided to public officials to assist them in the daily operations of their job, and materials are regularly updated. Topics include where to find information, how to determine release of information, and application of any public interest or harm tests.
C.4-1 Protection from penalties for disclosure of information	Penalties for disclosure of information by public officials exist outside of the RTI law, and discourage public officials from releasing information that is required by law.	There are some penalties that exist in law for disclosure of information by public officials, but there is a small likelihood that penalties will be applied.	There are no penalties for public officials for disclosure of information during the discharge of their duties under the RTI law. There may even be whistleblower protections and exemptions for the public interest that protect public officials from prosecution for disclosing information.



C.4-2 Appropriate job demands	In general, information officers are not allotted sufficient time, equipment, or authority to perform job tasks associated with RTI obligations.	Some information officers are allotted sufficient time, equipment, or authority to perform job tasks, but this practice is not widespread across government.	In general, information officers are allotted sufficient time, equipment, and authority to perform job tasks associated with RTI obligations.
C.4-3 Clarity of rules	Information officers are presented with contradictory or unclear rules about the disclosure of information, and often refuse to release information in response to requests or internal appeals.	Some information officers benefit from clear rules about the release of information, but this is not widespread across government. It is also possible that some rules are clearer than others, and information officers are willing to release less sensitive information on a regular basis.	Rules about the release of information are clear and information officers face little difficulty in determining the disclosure of information.
C.4-4 Performance evaluation	RTI job requirements are not included in job descriptions, nor are they included in employee performance evaluations for information officers or other staff with significant RTI tasks.	RTI job requirements may be included in job descriptions, but not taken seriously in performance evaluations.	Achievement of required RTI tasks is a serious consideration in employee performance evaluations.
C.4-5 Lines of accountability	In general, there is no clear authority within individual government agencies that is accountable for the performance of the RTI system. There may also be no strategic leadership within agencies that supports and drives implementation of RTI.	In general, clear lines of accountability exist in a majority of individual government agencies, but this is not widespread across government.	In general, there are clear lines of accountability within individual agencies regarding the performance of the RTI system. Strategic leadership is present in many individual agencies to support and drive implementation of RTI.
C.4-6 Career prospects	Information officers have little or no opportunity to further their careers as either RTI experts or other specialists within the public administration, based on their performance as information officers.	Career prospects are not hindered by serving as an information officer, but neither are they enhanced	Information officers have ample opportunity to further their careers as either RTI experts or other specialists within the public administration, based on their performance as information officers.
D.1-1 Nodal agency	There is no nodal agency within government to assist with the implementation of RTI.	A nodal agency or department exists within government that provides sporadic or minimal assistance to public bodies.	A nodal agency or department exists that regularly assists public bodies with implementation of RTI.
D.1-2 Implementing regulations/policy	Implementing regulations or policies for the RTI law have not yet been implemented.	Implementing regulations or policies for the RTI law have been implemented, but are rarely updated or revised to adapt to	Implementing regulations or policies for the RTI law have been implemented and are regularly updated or revised to reflect



		changing conditions within the legal framework or public administration.	changing conditions within the legal framework or the public administration.
D.1-3 Performance oversight	No data on requests, appeals, and/or proactively disclosed information is provided to a central government body by individual government agencies.	Data on requests, appeals, and/or proactively disclosed information is provided to a central government body by some individual government agencies, but this practice is not widespread across government, nor is it consistent.	Data on requests, appeals, and/or proactively disclosed information is provided to a central government body by all individual government agencies, on a regular basis.
D.1-4 Training oversight	There is no oversight of the quality and frequency of training for public officials by a central government body.	There may be some oversight of the quality and frequency of training for public officials by a central government body, but it is not consistent and/or effective.	There is consistent oversight of the quality and frequency of training for public officials by a central government body that results in relevant and effective course content and delivery.
D.1-5 Public outreach	No public outreach, awareness-raising, or community education initiatives are conducted by either a central government body or a majority of individual government agencies.	Public outreach, awareness-raising, or community education initiatives are conducted sporadically by either a central government body or a majority of individual government agencies.	Public outreach, awareness-raising, or community education initiatives are conducted on a regular basis by either a central government body or a majority of individual government agencies.
D.1-6 Target-setting	No guidance to public bodies is provided by a nodal agency on meeting RTI targets and achieving government-wide RTI goals.	The nodal agency sporadically provides guidance to public bodies on meeting RTI targets and achieving government-wide RTI goals. But this guidance may not be relevant or effective.	The nodal agency regularly provides guidance to public bodies on meeting targets and achieving government-wide goals regarding RTI obligations, legal requirements, or best practice models.
D.2-1 Enforcement body	There is no external enforcement body mandated to hear appeals.	There is an external enforcement body mandated to hear appeals, but it does not regularly accept cases or make decisions.	There is an external enforcement body mandated to hear appeals that actively makes decisions on cases.
D.2-2 Appeals process, internal and external	The appeals process, ranging from internal appeals in public bodies to external appeals in the enforcement body, is not effective in enforcing disclosure obligations on public bodies.	The appeals process, ranging from internal appeals in public bodies to external appeals in the enforcement body, is somewhat effective in enforcing disclosure obligations on public bodies. Decisions may not be transparent or consistent, and may not follow the spirit of disclosure in the RTI law.	In general, the appeals process, ranging from internal appeals in public bodies to external appeals in the enforcement body, is effective at enforcing disclosure obligations. It may be marked by delays, but decisions on appeals are transparent and made in a consistent fashion. Disclosure obligations are followed by public bodies and information is released as determined by



			appeal decisions.
D.2-3 Appeals process, judicial	The judicial appeals process is not effective in enforcing disclosure obligations on public bodies. Courts may not be willing to accept RTI cases, or may be weak and/or not competent in RTI law.	The judicial appeals process is somewhat effective in enforcing disclosure obligations on public bodies. Decisions may not be transparent or consistent, and may not follow the spirit of disclosure in the RTI law.	In general, the judicial appeals process is effective at enforcing disclosure obligations. It may be marked by delays, but decisions on appeals are transparent and made in a consistent fashion. Disclosure obligations are followed by public bodies and information is released as determined by appeal decisions.
D.2-4 Investigations and Monitoring	There is no body that carries out investigative activities of government agencies related to appeals/complaints.	There is a body that carries out investigative activities of government agencies related to appeals/complaints, but investigations, monitoring activities, or persuasive actions are sporadic and/or ineffectual.	There is a body that actively carries out investigative activities of government agencies related to appeals/complaints. This includes monitoring of specific activities, or actions intended to persuade public bodies to improve implementation and/or disclose information.
D.2-5 Binding decisions	Decisions made on appeals, complaints, or investigations by an enforcement body can be ignored by government agencies without consequences.	Decisions made on appeals, complaints, or investigations by an enforcement body are sometimes carried out by government agencies, but this is not widespread across government.	Decisions made on appeals, complaints, or investigations by an enforcement body that require disclosure of information or other actions are routinely carried out by government agencies.
D.2-6 Likelihood of sanctions or fines	There is no, or very little, likelihood of the imposition of sanctions or fines on government agencies or individuals that fail to disclose information required by law.	There is some likelihood of sanctions when government agencies or individuals violate disclosure provisions that are punishable by law, but this practice is sporadic and inconsistent.	The likelihood of sanctions is high when government agencies or individuals violate disclosure provisions that are punishable by law.



D.2-7 Mediation/Grievance redress	Outside of the formal appeals process, there is no formal assistance for requesters who feel that they received poor service or been mistreated in some way.	Outside of the formal appeals process, there is a formal assistance for requesters who feel that they received poor service or been mistreated in some way. This practice varies in quality and has some results in assisting requesters with accessing information. Assistance may be provided by human rights commissions, ombudsmen, information commissions, or inspection bureaus.	Outside of the formal appeals process, there is formal assistance for requesters who feel that they received poor service or been mistreated in some way. This practice is high quality and has effective results in assisting requesters with accessing information. Assistance may be provided by human rights commissions, ombudsmen, information commissions, or inspection bureaus.
D.2-8 Public release of performance data	No data on requests, appeals, and/or proactively released information is made available to the public on a regular basis.	Data on requests, appeals, and/or proactively released information is released to the public sporadically across government. Data may be missing or not collected, providing a poor picture of RTI performance across government.	Data on requests, appeals, and/or proactively released information is released to the public on a regular basis for most, if not all, government agencies. Data is robust and provides a good picture of RTI performance across government.
E.1-1 Access to decision-making	In general, government is not receptive to civil society voting participation on committees, commissions, or boards of inquiry. Members of the civil society have little access to decision-making concerning RTI. This is at the level of either central government body or individual government agencies.	Government may allow attendance and discussion privileges for civil society groups at official meetings, but voting participation on committees, commissions, or boards of inquiry is not widespread or regular.	In general, government is receptive to civil society voting participation on committees, commissions, or boards of inquiry. Members of the civil society have significant access to decision-making concerning RTI. This is at the level of both central government body and individual government agencies.
E.1-2 Stakeholder consultations	Government, as a central government body or individual government agencies, rarely solicits feedback from civil society groups. There are few opportunities to raise concerns or discuss issues with government officials.	Government, as a central government body or individual government agencies, sporadically solicits feedback from civil society groups. In general, there are some opportunities for civil society and private sector groups to provide input on	Government, as a central government body or individual government agencies, regularly solicits feedback from civil society groups. In general, there are regular opportunities for civil society and private sector groups to provide input on decisions about



		decisions about RTI, including the release of proactively-disclosed information, but the practice is not widespread and/or may not have influence over government actions.	RTI, including the release of proactively-disclosed information, and this input has influence over government actions.
E.1-3 Collaborative training efforts for public officials	There are no opportunities for civil society groups to participate in the training of public officials on RTI obligations.	There may be some instances of government and civil society groups jointly providing training to public officials on RTI obligations, but this practice is not consistent or widespread across government.	Government and civil society groups collaborate willingly and regularly in the provision of training for public officials on RTI obligations.
E.1-4 Collaborative public outreach	There are no opportunities for civil society groups to participate in joint efforts at public outreach, awareness-raising, or community education. If public outreach activities are conducted, they are done separately by government and civil society groups.	There may be some instances of government and civil society groups jointly conducting public outreach, awareness-raising, or community education, but this practice is not consistent or widespread across government.	Government and civil society groups collaborate willingly and regularly in efforts at public outreach, awareness-raising, or community education.
E.2-1 Digital records management	There is no coherent policy or procedures for digital records management implemented across government.	Recordkeeping policies and procedures for digital records management are in place in a majorities of agencies, and staff sometimes use and rely on the organization's document management system for the creation, storage, or tracking of digital information.	An overall digital records infrastructure is in place to capture government actions and decisions that are issued in electronic form, e.g., emails, online publications, etc.
E.2-2 Online information portals	There are no or very few online, updated, information portals for proactively disclosed information. This includes a functioning centralized portal as well as individual agency web portals.	Online, updated portals exist for a majority of individual agencies, but the practice is not widespread across government. There may be an updated centralized portal, but it does not contain information for all individual agencies across government.	Online, updated portals exist for most individual agencies, or there is a centralized online portal that contains information for most individual agencies across government.



E.2-3 Electronic request procedures	There are no, or very few, options on any government agency portals for requesting information through an online request process.	Requesting information through an online request process is available on a majority of government agency portals, but this practice is not widespread across government. Alternatively, a centralized portal may offer an electronic request submission, but not all individual agencies are included in the portal coverage.	Requesting information through an online request process is available on most government agency portals. Alternatively, a centralized portal may offer an electronic request submission process where all individual agencies are included in the portal coverage.
E.3-1 Top management: Records & Information authorities	There is no communication or collaboration between records oversight authorities (e.g. National Archives) and the RTI monitoring body (e.g. Information Commission or Ministry in charge of RTI implementation).	There may be communication between records and RTI authorities, but it is inconsistent and/or does not lead to significant actions or changes in policies.	There is regular communication and collaboration between records oversight authorities and RTI monitoring bodies that leads to policy implementation or change.
E.3-2 Public officials: Records & Information officers	There is very little or no communication between records officers and information officers within agencies.	There may be communication between records officers and information officers, but it is inconsistent and/or does not lead to significant actions or coherent policy implementation.	There is regular communication and collaboration between records officers and information officers that leads to coherent policy implementation or improvement.
E.3-3 Information officers: community of practice	There is no collaboration across government bodies or within departments by information officers. No meetings are held and there is little or no communication among information officers about professional matters.	There is communication among information officers about professional matters (e.g. through an email listserv, newsletters, etc), but meetings are not held regularly.	There is a fairly active community of practice by information officers. Regular meetings are held either within agencies or across government bodies, and decisions are explained or debated within the community.
E.3-4 Records-Technology-Information collaboration	There is no collaboration among technology specialists, records officers, and information officers within agencies. No meetings are held and there is no communication about professional matters.	There is communication about professional matters (e.g. through an email listserv, newsletters, etc), but meetings are not held regularly.	There is regular communication and collaboration among technology specialists, records officers and information officers within agencies. Regular meetings are held either within agencies or across government bodies.