

ACCOUNTABILITY IN THE ALLOCATION AND USE OF PUBLIC RESOURCES BY CIVIL SOCIETY ORGANIZATIONS*

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Introduction

For decades, the relationship between civil society organizations (CSOs) and the State was dominated by clientelism. Organizations that supported the ruling party benefited from access to government programs and resources, while independent organizations were excluded and harassed. This explains why independent organizations have been skeptical of receiving public funding.

Advances in democratization in Mexico have brought about several important changes to this dynamic. Agreements between the State and CSOs have become more institutionalized, through explicit policies of support and collaboration, with clearer, impartial and transparent rules. This has made it possible to construct State institutions with greater autonomy in relation to specific interests (i.e., involving politicians, parties or interest groups). This has also made it possible for CSOs to access public funding without compromising their independence, although differences among agencies and regions remain significant.

The relationship between CSOs and the State is not limited solely to the arena of public funding, but this is a crucial issue for financial sustainability and nowadays a large number of CSOs depend on public resources for their support. In Mexico, public funding accounts for close to 8.5% of CSO resources, the lowest proportion in a comparison of 22 countries.¹

Advances

The approval of the Federal Law for the Support of CSO Activities (Ley de Fomento a las Actividades de las OSCs, or LFOSC in Spanish) in December 2003 was a watershed for the CSO sector. Although the law is limited in its jurisdiction to the federal government,

* This study updates the document, "Retos institucionales del marco legal y financiamiento de las organizaciones de la sociedad civil." See www.alternativasociales.org/esp/investigamos.php.

¹ Sergio García García, *et al.*, *Fondos federales para apoyar proyectos de las organizaciones de la sociedad civil* (Mexico: CEMEFI, 2003).

it created the Federal CSO Registry, coordinated by the National Institute for Social Development (Indesol in Spanish), which, in turn, forms part of the Ministry of Social Development (Sedesol in Spanish). The law seeks to promote CSO activities, but it was not intended to regulate the organizations themselves. It recognizes CSOs as “social interest” groups and as government counterparts in the policy making process. The law also mandates federal agencies to support CSOs’ activities through public financing and other kinds of support, but in fact there are no enforceable mechanisms to do so.

This law establishes that CSOs have the right to (among others): 1) participate in the planning, execution and monitoring of public policies, through processes of consultation and civil society monitoring; 2) receive public funding; 3) receive tax incentives; and 4) assist in the provision of public services. Among their obligations are: 1) to enroll in the Registry; 2) to legally incorporate their organizations, with provisions for representation and governance; 3) to follow generally accepted accounting principles; 4) to provide information required by authorities; 5) to provide annual reports on their financial status, changes in their bylaws or participation in networks; and 6) not to engage in proselytism.² CSOs can be sanctioned for: failure to comply with these obligations; if they engage in political or religious proselytism or other activities that fall outside their social purpose; if their activities are for self-help- or mutual help; or if they use public resources improperly.

Although enrollment in the CSO Registry is voluntary, it is a pre-requisite for accessing federal resources and support. The Federal Registry contains up-to-date legal information and is available for public consultation online (www.corresponsabilidad.gob.mx). Public information available in the Registry includes: the names of the organizations registered, their Registry ID Numbers (Clave Única de Inscripción al Registro or CLUNI in Spanish) and Tax ID numbers (Registro Federal de Contribuyentes or RFC in Spanish), whether it has tax deductible status (equivalent to 501(c)(3) status), date of legal incorporation, its social objective, legal address, telephone numbers, e-mail and web address, names of legal representatives, networks to which the organization belongs, and areas of activity. Even if in its original design the Registry and website was supposed to post all the federal agencies’ calls for proposals, it offers little information regarding the possible sources of public support and incentives (the IFAI and Sedesol).³

² Secretaría de Desarrollo Social, “Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil,” *Diario Oficial de la Federación* (DOF), February 9, 2004. Available at: www.corresponsabilidad.gob.mx/recursos/LeydeFomentoOSC.pdf.

³ Instituto Federal de Acceso a la Información Pública y Secretaría de Desarrollo Social, “Circular IFAI/SEDESOL 001/2005,” Mexico, April 21 2005. Available at: www.corresponsabilidad.gob.mx/circulares/ifai_indesol_001_2005.aspx, p.i.

In order to analyze the transparency of public resource allocation to CSOs, we took a sample of 17 of the 80 programs that offer support to CSOs from different federal agencies.⁴ In 2005, these 17 programs distributed \$61,316,839 pesos to 928 CSOs with CLUNI; where the amount of each annual grant varied from \$200,000 pesos to \$500,000 pesos. Resources were directed toward: 1) issue-based and sectoral projects; 2) studies and technical projects; 3) organizational capacity building and equipment; and 4) training. Recipients of support fell into the following categories: 1) service provision organizations; 2) self-help, mutual aid or membership organizations; 3) networks of organizations or intermediary groups; and 4) small and medium businesses.

Overall, we can recognize the buildup of new institutional arrangements based on the government's obligation to publish rules of operation for federal programs, and the establishment of transparent, impartial procedures for the allocation of public resources to CSOs. These institutional arrangements include:

- a. Publication of calls for proposals, through the internet and paid newspaper ads;
- b. Public rules and requirements for submitting applications;
- c. Selection criteria and external reviewers for applications (who cannot be public employees);
- d. Public information on organizations that receive support, their funded projects, and amounts of funds issued;
- e. Required periodic and final reports, and proof of how resources were spent by CSOs;
- f. Formal audits of federal programs by the Executive and Congress' auditing offices; and
- g. External evaluations with published results.

The combination of rules of operation and information access now permits the public to learn more about how decisions are made in resource distribution, and adds certainty to the overall process. However, across programs, there are significant differences in the procedures for allocating funds and even more importantly, information on many relevant aspects of the selection process can only be accessed through formal information requests, as shown in the following tables.

⁴ Based on Sergio García García, *et al.*, *Fondos federales para apoyar proyectos de las organizaciones de la sociedad civil* (2006).

Table 1
Transparency in Calls for Funding Proposals and Selection Processes

Program	Publishes call for proposal on internet	Public resources available for 2006	Clear application requirements	External application reviewers	Roster of reviewers	Government employees participate in proposal reviews	Time limit to inform applicants of award results	Publishes list of groups receiving support, with amount of funding
De la Calle a la Vida ¹	Only a few state committees	No	Yes: recommendation letter and tax-deductible status are required	Yes*	No	Yes	Yes	Only listed by state* (organization and amounts)
PROSAP ²	Yes	No	Yes	No	No	Yes*	Yes	Only organizations*
Justice and Human Rights Agreements ³	Yes	Yes	Yes	No	No	Yes	Yes	Yes*
Fondos Regionales-CDI ⁴	Yes	Yes	Yes	No	No	Yes	Yes	Yes*
Habitat ⁵	Yes	No	Yes	No	No	Yes	No	No, only cities and amounts designated
Opciones Productivas ⁶	Yes	No	Yes	Yes*	No	Yes	Yes	Yes*
Coinversión Social ⁷	Yes	Yes	Yes	Yes	Yes*	No	Yes	Yes
FONAES ⁸	Yes	No	Yes	No	No	Yes	Yes	Organizations and businesses supported and total quarterly amount
FOMMUR ⁹	Yes	No	Yes	No	No	Yes	Yes	Yes
FINAFIM ¹⁰	Yes	No	Yes	No	No	Yes	Yes	Yes
PACMYC ¹¹	Yes	No	Yes	Yes	No	No	November 2006	Only some states and only some years*
Art Projects ¹²	Yes	Yes	Yes	Yes	Yes*	Yes	Yes	Yes

(Continuation)

Program	Publishes call for proposal on Internet	Public resources available for 2006	Clear application requirements	External application reviewers	Roster of reviewers	Government employees participate in proposal reviews	Time limit to inform applicants of award results	Publishes list of groups receiving support, with amount of funding
Youth Projects ¹³	Yes	Yes	Yes	Yes	Yes*	Yes	Yes	Yes
Indigenous Peoples ¹⁴	Yes	No	Yes	Yes*	No	Yes	Yes	Yes
Equidad y Medio Ambiente ¹⁵	Yes	No	Yes	Yes*	No	Yes	Yes	Yes
APBP ¹⁶	Yes, but it awards 500,000 to one million pesos outside the open call process	Yes*	Yes: be an authorized recipient and meet financial criteria	Yes: up to 500,000*	No	Yes: from APBP up to one million pesos. From the Ministry of Health, when more than a million	Yes*	Yes*
GCDS-PEMEX ¹⁷	No	No	No	No	No	Yes*	No	Yes*

* In these cases, information is available, but it is not on the agency's web page; it has to be requested through SIS (the IFAI's electronic information request system), with corresponding costs.

¹ Editor's note: A program of the National System for Family Development (SNDIF in Spanish) to prevent and reach children and adolescents living on the street.

² Editor's note: A program of the Ministry of Agriculture, Livestock, Rural Development and Fishing (Sagapa in Spanish) that provides public funding for rural development organizations.

³ Editor's note: A program of the National Council for the Development of Indigenous Communities (CDI in Spanish) to provide funds for organizations that promote the struggle for human rights among indigenous communities.

⁴ Editor's note: Administered by CDI to support regional economic development initiatives.

⁵ Editor's note: Administered by the Social Development Ministry (Sedesol in Spanish) dedicated to improve low-income areas, in partnership with municipal and state governments, and provide low income housing.

⁶ Editor's note: An income generation program for rural production administered by Sedesol.

⁷ Editor's note: A program of the Social Development Institute (Indesol in Spanish), which offers complementary financial support to CSOs to combat poverty and offer assistance to vulnerable peoples.

⁸ Editor's note: Administered by the Economy Ministry to support small enterprises by funding productive projects.

⁹ Editor's note: Administered by the Economy Ministry, offers micro-finance options to women living in rural regions.

¹⁰ Editor's note: A program of the Economy Ministry to offer micro-credit to low-income groups and small farms for the generation of self-employment.

¹¹ Editor's note: Administered by CDI to support popular cultures at the community and municipal level.

¹² Editor's note: Administered by the Mexican Youth Institute (IMJ in Spanish) to support art projects by youth groups.

¹³ Editor's note: Administered by the IMJ to support social and civic education projects by youth groups.

¹⁴ Editor's note: Administered by the Ministry of Environment (Semarnat in Spanish) to support training of indigenous communities in environment and conservation projects.

¹⁵ Editor's note: Administered by Semarnat to support training of women in environment and conservation projects.

¹⁶ Editor's note: The Public Welfare Trust Fund is part of the Health Ministry and supports hospital and public health projects.

¹⁷ Editor's note: Funds from PEMEX channeled through their Social Development Management Office (Gerencia de Desarrollo Social, in Spanish) to compensate for environmental damages and to encourage social development in regions where PEMEX operates.

Table 2
Transparency in Follow-up, Documentation and Evaluation Processes

Program	Signs agreements	Publishes requirements for documenting resource use	Requires periodic reports	Requires final reports	Makes site visits	Conducts internal evaluations	Conducts external evaluations, available on internet	Does internal audits	Has SFP audits	Has ASF audits	Publishes list of non-compliant CSOs
De la Calle a la Vida	Yes	No	Yes	Yes	Yes	Yes	Yes, but not on Internet*	Yes*	Yes*	Yes*	No
Prosap	Yes	Yes	Yes, quarterly	Yes	No	Yes	Yes, but not on Internet*	Yes	Yes	Yes	No
Convenios de Justicia y DH	Yes	Yes*	Yes, quarterly	Yes	Yes	Yes	Yes, but not on Internet*	Yes	Yes	Yes	No
Fondos Regionales- CDI	Yes	Yes*	Yes, monthly	Yes	Yes	Yes	Yes, but not on Internet*	Yes	Yes	Yes	No
Hábitat	Yes	No	Yes	Yes	No	Yes	Yes	Yes*	Yes*	Yes*	No
Opciones Productivas	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
Conversión Social	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
Fonaes	Yes: Contract	Yes	Yes	Yes	Yes	Yes on internet	Yes, since 2003	Yes	Yes, mutual trusts only	Yes, mutual trusts only	Yes*
Fommur	Yes	Yes: Financial Status	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
Finafim	Yes	Yes Manual	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
PACMYC	Legally Binding Letter of Commitment	No	Yes	Yes	Yes	Yes*	Yes*	Yes*	Yes*	Yes*	No

(Continuation)

Program	Signs agreements	Publishes requirements for documenting resource use	Requires periodic reports	Requires final reports	Makes site visits	Conducts internal evaluations	Conducts external evaluations, available on internet	Does internal audits	Has SFP audits	Has ASF audits	Publishes list of non-compliant CSOs
Proyectos artísticos	Yes	No	Yes	Yes	Yes	Yes	No	Yes, but they have not been audited*	Yes, but they have not been audited*	Yes, but they have not been audited*	No
Proyectos juveniles	Yes	No	Yes	Yes	Yes	Yes	No	Yes, but they have not been audited*	Yes, but they have not been audited*	Yes, but they have not been audited*	No
Pueblos Indígenas	Yes	Yes	Yes	Yes	Yes	No	No	Yes, but they have not been audited*	Yes, but they have not been audited*	Yes, but they have not been audited*	No
Equidad y Medio Ambiente	Yes	Yes	Yes	Yes	Yes	No	No	Yes, but they have not been audited*	Yes, but they have not been audited*	Yes, but they have not been audited*	No
APBP	Letter of Commitment for up to a million pesos, formal agreement for more than a million	Yes	Yes	Yes, bi-annual	Yes*	No	No	Yes*	Yes*	Yes*	No
GCDS-PEMEX	No	No	Yes*	Yes*	No	No	No	Yes*	No	No	No

Sources: web pages of federal agencies, June and September 2006, and through information requests.

* In these cases, information is available, but it is not on the agency's web page; it has to be requested through a SIS1, with corresponding costs.

** For explanations on the programs contained in this table, please see Table 1.

These information gaps highlight unresolved transparency issues, in addition to showing the lack of clear and consistent institutional procedures across government agencies (mostly related to rules of operation and common legal definitions for CSOs). Such gaps continue to permit the discretionary distribution of public resources to organizations. There is also inconsistency in different agencies' reporting, auditing and accountability procedures involving public funds, especially in their evaluation policies. On the other hand, it is difficult for CSOs—especially small CSOs—to comply with the demanding and bureaucratic requirements of documenting the use of funds.

Limitations

New federal policy has reduced discretion in the relationship between public officials and organizations, but there are still important holes. One is the implicit definition of CSOs in the LFOSC, which does not match the one used by many federal programs—especially those targeted to income generation projects carried out by self-help organizations and small firms.

The Federal Registry is set up so that CSOs can enroll with one of two forms of legal incorporation: either that of Civil Association (Asociación Civil or A.C. in Spanish), or Private Assistance Institution (Institución de Asistencia Privada or IAP in Spanish). This approach excludes cooperative or agrarian producer organizations, which distribute earnings among their membership. Thus, the law has been applied inconsistently, depending on the legal structure of each organization. If the organization is an A.C., for example, the CLUNI is required; if not, it does not need to worry about it.

Perhaps the rules most consistently applied are the audits and documentation requirements related to the use of public resources. This is because these norms are dictated by the Treasury Ministry (SHCP in Spanish), and they are the same regulations and requirements that apply to public servants and federal government agencies. However, most CSOs—with small administrative structures—find that these reporting requirements represent expenditures that are disproportionate to the resources that they receive.

In addition, CSOs are only obliged to report to donor agencies on specific projects and their corresponding funds; they do not report to anyone else.⁵ The result is a generalized

⁵ Michael Layton, "El marco fiscal para las OSCs." Ponencia en el Primer Coloquio sobre Transparencia Interna y Rendición de Cuentas de las OSC. Mexico, June 21, 2005.

lack of accountability, legitimacy and knowledge of the CSO sector by the general public. Following the North American model, some authors have proposed using annual tax reports and the tax deductible status registry to develop a larger accountability mechanism. However, fiscal authorities currently do not collect sufficient information nor are the tax reports publicly available to bolster open accountability for the sector.

Finally, to make the allocation and use of public funds more transparent necessarily leads to the subject of transparency and accountability in CSOs themselves. Those that receive public resources have had to ask themselves if they are public or private subjects. If an organization defines itself as private, it can argue for more autonomy and less public accountability. But, if it defines itself as public and may enjoy more legitimacy, it needs also to be subject to greater regulation and accountability.