

# DECREE

## for the Creation of the Federal Institute of Access to Public Information

Published in the *Federal Official Newspaper* on December 24th., 2002.



**VICENTE FOX QUESADA**, President of the United Mexican States, exercising the faculty that Article 89, fraction I, of the Political Constitution of the United Mexican States, bestows upon me; based on Articles 33, 34 and 36 of the Federal Law on Transparency and Access to Public Government Information; 14 and 15 of the Federal Law of State-Owned Corporations and 21, 37 and 45 of the Organic Law on Federal Public Administration, and

### CONSIDERING

That through a Decree published in the Official Federal Newspaper on June 11, 2002, the Federal Law on Transparency and Access to Government Public Information, introduced by the Honorable Congress, was enacted and published.

That in the mentioned legal ordinance the Federal Institute of Access to Public Information was created, with operative, budgetary and decisive autonomy, fundamentally in charge of promoting the exercise of the right to access information; resolving the refusal of the requests for access to information and protecting personal details in the hands of government departments and entities.

That the Law itself expressly foresees that for the effects of its resolutions the Institute will not be subordinated to any authority, will adopt its decisions with full independence and will have the human and material resources for the fulfillment of its duties.

That the Federal Public Administration encompasses very diverse forms of administrative organization, which vary not

only with respect to their legal nature but also on their degree of autonomy, organizational rules, structures and budgetary treatment, amongst other elements.

That it is necessary to clarify that the legal nature of the body is one which allows full exercise of operative, budgetary and decisive autonomy to ensure its independence from other departments or entities of the same public administration; in particular for the quasi-jurisdictional duties that the institute carries out or those related to the negative resolutions to requests for access to information and personal data, as well as its power to have access to privileged or confidential information, at any given time, in order to determine its proper classification, declassification or the procedure to rule its access.

That the administrative decentralization, under its modality of non-sectored body, has among other advantages, the suppression of the hierarchical tie that characterizes the centralized and decentralized administrative units, in addition to providing the autonomy of measure and patrimony.

That with the precision to which the present Decree refers, in addition to the appointment requirements, permanence in the post and progression of the duty length periods as prescribed in the Law for the members of its body of directors, the Institute would be in the condition to perform its assigned duties, with independence, efficiency, objectivity and impartiality, without prejudice regarding its belonging to the public administration and to being subject to the budgetary limits approved by the Chamber of Deputies, I have seen fit to issue the following:



**DECREE**

**Article 1**

The Federal Institute of Access to Public Information is a decentralized, non-sectored body, with legal recognition and own patrimony, with legal address in Mexico City.

The institute will have operative, budgetary and decisive autonomy, under the terms of the Law that creates it and this Decree, without prejudice that in matters of expenditure, budget and accounting, will govern itself under the Budgetary, Accounting and Federal Public Expenditure Law, the Federation's Expenditure Budget of every fiscal year and the dispositions that emanate from these last two.

**Article 2**

The Institute will have as an objective the promotion and spreading of exercising the right of access to information; resolve on denials of access to information requests, and to protect personal data in the hands of government departments and entities.

**Article 3**

For the fulfillment of its objective, the Institute will have the powers set forth in the Federal Law of Transparency and Access to Public Government Information and the remaining applicable legal dispositions.

**Article 4**

Five Commissioners, including the President Commissioner, will integrate the highest directive body of the Institute. It will deliberate as a body and will undertake resolutions by majority of votes, in compliance with its Internal Regulations.

For the effects of its resolutions, the Institute Plenum will not be subordinated to any authority, and therefore will adopt the said decisions with full independence.

The Plenum will have, in addition to the powers set forth in the Federal Law of Transparency and Access to Public Government Information, the ones stated in Article 58 of the Federal Law of Government-Owned Corporations.

**Article 5**

The Principal Commissioner of the Institute, appointed by the Plenum, will exercise the legal representation of the entity and will have the faculties established in the Federal Law of Transparency and Access to Public Government Information, its Regulations, and the Internal Regulations of the Institute.



## Article 6

The Institute will have Secretaries appointed by the Plenum, in compliance with the approved budget, and in charge of administrative, operational and substantiated activities of all procedures. The procedural faculties shall be distributed among the Secretaries, as well as all necessary competence empowerment for the organization and performance of the said body.

Furthermore, the Institute will have subordinated personnel and the necessary support for the efficient dispatch of its attributions, in compliance with its authorized budget.

## Article 7

The patrimony of the institutions is integrated by:

- I. The resources yearly allotted by the Federation's Expenditure Budget, for its functions.
- II. The goods and properties allotted by the Federal Executive.
- III. The resources created by the exercise of the activities under its competence; and
- IV. Other resources, goods and rights it acquires through any legal title.

## Article 8

With the objective of guaranteeing its budgetary and administrative autonomy, the Institute shall be considered as a semi-state entity with direct control, with no budgetary support.

## Article 9

The Institute will have an Internal Comptroller, an internal control body that will fulfill its functions according to the specialized nature of the Institute and without interfering with the substantial decisions of the entity, pursuant to the corresponding legislation.

The Internal Comptroller, Principal of said body, as well as the holders of the auditing, complaints and responsibilities areas shall be appointed in terms of Article 37, fraction XII, of the Organic Law of Federal Public Administration and will exercise, in the area of their competence, the powers set forth in the appropriate ordinance, in the Federal Law of Semi-State Entities, in the Federal Law of Administrative Responsibilities of Public Servants and the other applicable dispositions.



**Article 10**

The Institute will have a surveillance body, with powers granted by the Federal Law of Semi-State Entities and other applicable dispositions. The duty of the Commissioner will fall on the Principal of the internal control body.

Pursuant to Article 33 of the Federal Law of Access to Public Government Information, the exercise of the attributes conferred to the Public Commissioner does not entail the evaluation of the performance of the substantial duties of the body or imply limitations or restrictions of any kind to the said duties. The Commissioner may only attend the sessions of the Plenum when it deals with matters related to the attributes referred to in Article 58 of the Federal Law of Semi-State Entities.

**Article 11**

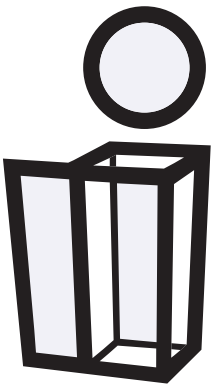
Article 123, Section B, of the Political Constitution of the United Mexican States, and its provisions, will rule the labor relations of the Institute public servants.

**PROVISIONAL**

**SOLE.** The present Decree shall be in full force and effect on the day after it is publication in the *Official Federal Newspaper*.

Given in the Residence of the Federal Executive Power, in Mexico City, on the twentieth day of the month of December two thousand two.- **Vicente Fox Quesada**.- Signed.- The Tax Minister, **Jose Francisco Gil Diaz**.- Signed.- Comptroller and Administrative Development Minister, **Francisco Javier Barrio Terrazas**.- Signed.





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