

TRANSPARENCY IN MEXICO'S BUDGET FOR THE PREVENTION AND TREATMENT OF HIV/AIDS

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Introduction

Mexico's battle against HIV/AIDS is led by the national health system's National Center for the Prevention and Control of HIV/AIDS (Censida in Spanish). This claim is based on the fact that the other government health agencies involved do not specify the funding dedicated to the prevention and treatment of HIV/AIDS in their programs and budgets. These institutions include, among others: Mexico's Social Security Institute (IMSS in Spanish); Mexico's Institute for Security and Social Services for Government Workers (ISSSTE in Spanish); local ministries of health who work through their State Councils for the Prevention and Control of AIDS in Mexico (COESIDA in Spanish); as well as the Ministries of Labor, Education and Social Development. In order to map Mexican government spending on HIV/AIDS, one must seek information from diverse sources, and even then it remains impossible to come to definitive conclusions.¹

For example, Censida is responsible for reporting the amount spent by state programs. However, these amounts are only available for the first half of the 2000-2006 administration. As of 2004, public documents no longer include the information necessary to accurately calculate how much states are spending on the prevention and control of HIV/AIDS. Therefore, it is no longer possible to compare spending over time, or to identify positive or negative trends in resource allocation.

Similarly, the budgets for the Social Security Institutes (IMSS & ISSSTE) do not show a breakdown of spending by disease.² This makes it impossible to know what proportion of their resources are dedicated to fighting HIV/AIDS, which, considering their importance in providing basic health care to a large sector of the Mexican population, is particularly worrisome.

¹ Gabriel Lara and Helena Hofbauer, (eds.), *VIH/SIDA y derechos humanos: el presupuesto público para la epidemia en Argentina, Chile, Ecuador, México y Nicaragua* (México: Fundar, Centro de Análisis e Investigación, 2004).

² "It is incomprehensible that the IMSS does not provide citizenry with information about its spending on HIV/AIDS, in spite of the fact that they have taken reports estimating the cost of attending and medicating those people living with HIV/AIDS before Congress. Furthermore, as of 2004, the relative data on the IMSS' estimated spending on HIV/SIDA, contained in their Annual Reports, is no longer comparable with previous years, losing important elements of continuation in the information." In Gabriel Lara and Helena Hofbauer, *El presupuesto para prevenir, atender y detener el VIH/SIDA en México* (Mexico: Fundar, Centro de Análisis e Investigación, Working Document, 2006).

In 2005, important changes in budget allocations for the fight against HIV/AIDS led Fundar, Center for Analysis and Research to monitor these resources through the entire 2004-2005 budget cycle by using recent information access reforms, putting them to the test.

In September of 2004, the President's 2005 Budget Proposal was sent to Congress for approval, which included 360 million pesos for the fight against the epidemic. Congress later increased the allocation to 618 million pesos.

However, in January 2005, when the final approved Federal Budget was published by the Treasury Ministry, most of the resources for fighting HIV/AIDS were not directed to Censida, as in previous years, but rather to the Seguro Popular program (a new government health insurance program) and, for the second time, to medical institutions that are part of the National Health Institutions network (INS in Spanish). Institutions that specialize in treating the epidemic were left out of this distribution of resources.³

Public Information that Mis-Informs

Even though the more than 200 information requests submitted were answered within the time limits established by the Federal Law for Transparency and Access to Information (LFTAIPG in Spanish), the actual information provided was severely deficient, as shown by the following four examples:

- 1) In terms of government budget decision-making, the responses did not reveal the process nor the agency responsible for allocating resources dedicated to the epidemic. The Treasury Ministry stated that it is, "the responsibility of each agency or program to determine which budget categories will be affected." The Ministry of Health said that they had taken into consideration the institutions that requested resources. However, the National Institute of Perinatology mentioned that it was the Treasury Ministry that actually distributed the funds.
- 2) When the Health Ministry's Office of Programming, Organization and Budget (DGPOP in Spanish) was asked about how the Seguro Popular program was planning to spend their HIV/AIDS funding, they reported that the 303.3 million pesos allocated to Seguro

³ The resources given to INS were split between the National Institutes of Perinatology, Oncology, Neurology and Cardiology, the General Manuel Gea González Hospital, Hospital General de México and Hospital Juárez de México. Resources were not allocated to the National Institutes of Respiratory Diseases and Nutrition, even though these institutes have specialized centers where they treat a significant number of patients with HIV/AIDS.

Popular, “would be used exclusively for the purchase of antiretroviral drugs (ARVs), as the resources had already been earmarked for this purpose.” However, the Director of Seguro Popular indicated that the funds in question would actually be used for diagnosis and treatment. That is to say, they would be buying ARVs, but would also be purchasing the necessary material and equipment for diagnosis.

- 3) The third example is related to the redistribution of resources (moving funds from one budget category to another) undertaken by some of the institutions that were allocated resources for fighting the epidemic. Agency responses to information requests provided were both confusing and contradictory. When asked about the criteria used to select the seven institutions to which resources were allocated, the DGPOP responded that, “those resources are currently still in the budgetary administration process, as they are to be redirected to other priorities.” However, when Fundar requested the specifics of these reallocations, the DGPOP responded that, “no reallocation process has taken place, therefore the original authorized program structure (for the allocation of resources) was still valid.”

Despite these responses, the Ministry of Health attached copies of documents authorizing budget re-allocations in the National Institutes of Oncology and Perinatology. However, official responses from both Institutes, as well as information in other public documents, show that the Institute of Oncology did not in fact reallocate resources.

In the end, information requests asking about the criteria used to determine how budget funds were reallocated received thin replies. Official responses denied that funds were reallocated—yet annexed documents showing that in two cases budget reallocations were programmed, though in the end it did not happen in one of those cases. Furthermore, in another case, an information request about reallocations was answered with information about how the hospital was changing its name, without addressing the question of budget re-allocations. However, an additional information request related to this case showed that budget reallocations had indeed been carried out. In other words, none of the official responses to information requests in any of these cases gave definitive answers to the questions asked. In order to get a precise answer on these questions, Fundar had to submit several information requests to a wide variety of institutions, asking many different questions over the course of several months, as well as consult various public documents and the Public Accounts, in order to get a better idea of how this money was being used and for what purpose.

- 4) The final example of the overall lack of quality in official responses to information requests is related to the issue of how money was actually spent following the budget reallocations. The Treasury Ministry—when asked about the final destination of resources following reallocations (in July, 2005)—responded with information showing that the final budget for HIV/AIDS at the National Cardiology Institute was a full six million pesos below the originally approved amount. Also, for the first time, Treasury's response showed that the National Institute for Respiratory Diseases (INER in Spanish) received six million pesos for HIV/AIDS. This could imply one of two possible scenarios. Either the Cardiology Institute reallocated six million pesos within the institution to other activities unrelated to HIV/AIDS, or another agency (such as the Health or Treasury Ministries) reduced the Cardiology Institute's overall budget. The same applies to INER, where either their overall budget was increased to include six million additional pesos for HIV/AIDS, or the Institute reallocated their own internal budget to dedicate six million pesos to combating the epidemic.

The same information request was submitted to the Ministry of Health, whose response further confuses the situation. Their official response does not include information about HIV/AIDS budgets assigned to INER. In other words, according to the official response of the Ministry of Health, INER was not included in the distribution of resources for HIV/AIDS as of June 30, 2005.

The Absence of Accountability Mechanisms

Apart from the obvious contradictions in the information provided as official responses to information requests by these agencies, three elements specific to this case clearly cast doubt on the Mexican Government's commitment to budget transparency and the battle against the HIV/AIDS epidemic. They also demonstrate the inefficiency—or, worse yet, the inexistence—of accountability mechanisms in Mexico.

First of all, funding decisions are not informed by epidemiological criteria. The Health Ministry provided information showing that Congress had approved a net budget re-allocation for the health sector (following an increase and then a decrease in funding). Congress called for an increase in HIV/AIDS funding of 200 million pesos, without specifying which other areas would be affected, nor what criteria should be used to guide budget cuts in the health sector. Furthermore, since public health institutions perceived the budget cuts as “essentially paralyzing operations”, the Health Ministry decided to reallocate “resources not previously earmarked for another purpose” to compensate for the reduced budget. In other words,

the Health Ministry took money from the HIV/AIDS budget and re-assigned it to other areas affected by overall budget cuts in the health sector.

Because of this, in 2005, neither the INER nor the National Institute for Nutrition were given resources for HIV/AIDS, when both are recognized as institutions specialized in the research and treatment of the epidemic. However, the Hospital Juárez received 13 million pesos of HIV/AIDS money, as well as the National Institute of Perinatology, which was given six million pesos, when neither are institutions who specialize in the disease, and, as the Institute of Perinatology states, “only rarely do we treat patients with HIV/AIDS.”

The second aspect of this case that questions Mexico’s accountability mechanisms is related to how the Executive Branch acts within a large margin of discretion in the distribution of public resources. Through mere administrative procedures, three of the seven institutions granted resources for HIV/AIDS were able to re-assign that money to Chapter 3000 in their internal budgets; that is, “General Services”.

In other words, the National Institute for Perinatology re-directed their HIV/AIDS funding to sub-contracting and cleaning services. The Dr. Manuel Gea González General Hospital spent its money on commercial, banking and financial services, as well as maintenance of buildings and vehicles (despite having given a rather lengthy explication of their treatment services for patients with HIV, and their plans for prevention campaigns). The Hospital Juárez spent its resources on similar services.

The third example in this case that questions accountability in Mexico shows the lack of coordination between government agencies and specific institutions, and the generalized lack of information—or dis-information—that citizens face when trying to understand how a specific program works. In this case, the budget process took the following path: the Health Ministry re-distributed resources— money originally approved by Congress to be spent specifically on activities related to the prevention and treatment of HIV/AIDS— to cover overall budget cuts to the sector. In addition, this Ministry transferred the resources to de-centralized institutions whose rules of operation, budget allocations, and program activities are not defined by the Health Ministry. Worse yet, these de-centralized agencies are not required to report to the Health Ministry on how their money is spent. In other words, even if the Ministry intended the money to be spent on HIV/AIDS (which was not the case in this instance), there is no way that it could ensure that its de-centralized institutions spend the money appropriately.

Following the Health Ministry’s transfer of money to these de-centralized hospitals and institutes, each could easily re-allocate those resources from one budget category to another

by filling out the appropriate paperwork. As long as the paperwork was filed correctly, no other government authority could prevent them from moving the money into another budget category.

Additionally, the Treasury Ministry does not keep track of re-allocations from one budget category to another. This implies that any of the transferred HIV/AIDS funding that was spent on cleaning supplies or other expenses is officially registered as having gone toward the prevention and treatment of the epidemic. As soon as any money is transferred from a Ministry to another agency or office, the Treasury Ministry considers this money as “spent”.

This means that the information in the Public Accounts or Financial Management Reports—which are regular reports that the Treasury Ministry must produce for Congress related to expenditures in previous budget cycles—will show that this money has indeed been spent on the prevention and treatment of HIV/AIDS, which does not necessarily reflect what actually happened.

Conclusions and Recommendations

This experience shows that Mexico’s new Transparency Law has a good deal of practical relevance—though not completely effective—to the extent that it provides mechanisms that have facilitated citizens’ attempts to demand greater accountability from their government and its representatives. It provides an important tool for individuals to monitor government programs and spending. However, there are still many aspects of public life shrouded in opacity, where citizens are prevented from knowing with clarity, precision and timeliness exactly how public money is being spent. Nor can we know how Mexico’s policies for the prevention and treatment of HIV/AIDS operate in reality.

It appears that there is an overall lack of clarity in several of the most central aspects of state spending and expenditures in Mexico’s social security institutions, at least from the perspective of the information available to the public. This case demonstrates that problems persist in relation to the access and integration of information regarding budget allocations for combating the epidemic. Additionally, it highlights the overall lack of definition and high degree of discretion associated with the criteria for the distribution, decision-making and execution of public spending.

Mexico’s budget cycle, in general, continues to be a process that operates with little transparency and is essentially inaccessible to citizens. Even though Congress has shown a willingness for dialogue with outside actors about the budget process, this still depends

solely on the goodwill of individual congresspeople to debate a certain issue or to hold meetings with civil society representatives.

Similarly, public spending in the Executive Branch is still opaque, and the lack of mechanisms for citizen participation in decision-making is a serious problem. Citizens continue to lack the necessary tools for consistent monitoring of how the government spends public money, which in turn deteriorates any system for greater accountability in the country.

Because of this, Fundar's proposals regarding the prevention and treatment of HIV/AIDS in Mexico have concentrated on strengthening Censida's mandate as the central institution for coordinating policies related to combating the epidemic. This implies that Censida should be granted the power to efficiently manage all public spending related to the prevention and treatment of HIV/AIDS, to seek consistent increases in budget allocations for the prevention of the epidemic, as well as to coordinate the activities of all national and state-level institutions involved in Mexico's overall HIV/AIDS policies.

Beyond the epidemiological issues, the principal challenge for transparency and accountability in public spending lies in improving the legal framework surrounding budget information. This requires more effective earmarking of public funds by Congress, as well as a prohibition of agency reallocation of funds from one program to another (especially in relation to social programs). In addition, government agencies must be required to provide timely and accurate information about: 1) how government agencies will spend any additional budget allocations granted by Congress; 2) the specific criteria that will be used to determine how their budgets will be spent; and 3) a detailed description of the decision-making process, including the actors involved at all stages. Likewise, it is extremely important that all public spending be linked to the specific goals and objectives of government programs, and that citizens have timely access to information about how this process is implemented.

Finally, achieving true accountability also depends on opening spaces for citizen participation in all aspects of the budget cycle, as well as with all agencies and levels of government involved in implementing policy in Mexico, which clearly requires that citizens have access to quality information.