

AMPUTATION OF GOVERNMENT CAPABILITIES: *public servants at risk*



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SYNTHESIS

The Mexican state has managed to build professional and technical bureaucracies capable of facing the challenges characteristic of diverse tasks from diverse bodies that the Mexican state must fulfill. This professionalization is under threat due to several decisions taken by the federal government. The creation of the Federal Law of Republican Austerity and the modification of several laws such as the Budget-

ary Federal Law and Taxing Responsibilities, remove incentives from public servants in strategic areas to stay on their positions and develop their duties as best as possible. For this, there has been a loss in knowledge and experience in the government sector, which has directly affected the performance of this federal administration.

BUREAUCRATIC TRAINING: SEVERAL YEARS-LONG WORKS.

In the last decades, the Mexican state has made an effort to develop the technical and instrumental capabilities of the bureaucracy of the public administration. Albeit the country still doesn't count on professional services in every area of the public endeavor, since the nineties they began to build specialized bureaucracies in strategic sectors for the Mexican state. Even if the first professional career service was the Mexican Foreign Service in the XIX century, it was in the late XX century and early XXI century when the career civil services were first formed as we know them currently and the Law of Professional Career Services was enacted in the Federal Public Administration.

Further on, with the construction of autonomous constitutional bodies that were birthed with the direct objective to counterweight the power of the executive, and form stable professional bureaucracies with time, the Mexican state forced itself to invest in human capital. The objective was, besides providing capabilities, amass experience, and memory to enable the fulfillment of the planned goals. This new phase of public management implied the creation of a series

of rights and an important rise in public expenditure destined to personal services that were necessary to improve the quality of state services.

Despite the advances that have been accomplished in the field of professionalization, the current administration has undertaken a set of actions that end up weakening the training of government assets, especially in areas that require highly qualified personnel. Among the main actions are:

- » temporary restraints to public servants to work on the private enterprise,

- » salary cuts,

- » the demise of seats and the disproportionate savings without planning.

It is clear that the excesses of previous governments created a justified high level of popular discomfort due to the number of public resources used to cover luxuries for some public servants. But the legal modifications made by the current government not only contemplate the reduction of drivers, guards, and other privileges but counter-intuitively attack the operation of the federal administration.



Image: Due to austerity, civil servants' vehicles and drivers are reduced. In <https://www.eluniversal.com.mx/nacion/politica/por-austeridad-ahora-van-por-reduccion-de-vehiculos-y-choferes-de-funcionarios>

A VENDETTA AGAINST GOVERNMENT SERVANTS

The Federal Law of Republican Austerity (LFAR, for its acronym in Spanish), published on November 19th, 2019 prevents public servants comprised on the hierarchical superior management, to separate from their charge for any reason, occupy positions in companies that were supervised, regulated or from which they have had privy information during the execution of their public charge unless it has been at least ten years.¹ Not to deny that the occurrence of the revolving door can impinge democracy itself,

the established period for the public servants to be hired by the private sector is excessive and can violate rights.

In the United State of America, the restriction is for two years and the European average is three years.

¹ Article 24th paragraph two of the Federal Law of Republican Austerity. Available at: <https://tinyurl.com/yc353mqp>

Naturally, many public servants in different institutions decided to resign before the LAFR was approved so they wouldn't lose the possibility to continue their professional career in the private sector since in case they were to be fired they wouldn't have many options in their area of expertise. The two clearest examples were the Bank of Mexico (BM, for its acronym in Spanish) and the National Banking and Securities Commission (CNVB for its acronym in Spanish). In 2019, the BM experienced, at least, 200 resignations or anticipated retirements. In the same year, the CNVB was forced to cover 359 job vacancies, 222 by promoting seniority personnel and 137 with new hires, due to the mass resignation of personnel amongst which 50 higher officials were found. This administrative modification represented a 25% turnover on the institution personnel. The ex-public servants that resigned, in which the state invested many resources through time, took with them years of experience and talent, which were essential to the optimal performance of the institution.

The former officials who resigned, in whom the State invested many resources over time, took with them years of experience and talent, essential for the proper functioning of the body.



Image: Carlos Urzúa, Josefa González Blanco and Germán Martínez are the three first-level resignations that the government has had. *PHOTOS:* Dark room in <https://politica.expansion.mx/presidencia/2019/07/09/renuncias-de-nueve-funcionarios-en-los-primeros-siete-meses-de-amlo>.

López Obrador’s government also undertook a reduction in salary to all public servants. Between 2018 and 2019 the federal government suffered budget cuts between 3% in assistant manager and Liaison personnel and 30% in higher-level positions. Something similar happened in the Judicial Power and Autonomous Constitutional bodies. These salary reductions affected around 8 thousand public servants and were justified thanks to the first amendment on the legislature LXVII, with the majority in the side of Morena, which modified the federal law of public servants responsibilities (LFRSP for its acronym in Spanish). In which was regulated that no one can earn more than the Mexican president, who decided to earn \$108 thousand pesos per month. The law birthed, at least, 5 thousand 168 protective actions interposed by judges, magistrates, electoral councils, workers from the Bank of Mexico, members of the Secretariat of the Interior, among others.

After a series of unconstitutional actions, the SCJN (Supreme Court of Justice of the Nation, for its acronym in Spanish) declared unconstitutional articles 6th and 7th of the LFRSP since they leave broad discretionary schisms and they don’t define clearly the parameters and criteria to establish the salary of the president and other public servants. The court also

invalidated articles 217th and 217th bis from the federal penal code which penalized public servants that received higher compensations than the president of the republic. It must be said that a new federal law of compensations, with the intention to correct some inconsistencies, which wasn’t successful and motivated another action of unconstitutionality, that is a pending resolution by the SCJN.

TABLE 3. SALARY CUTS IN THE ECONOMIC PACKAGE

FUNCTION	SALARY 2017	SALARY 2020	PERCENTAGE REDUCTION
Chief Executive	208.570	108.656	47,90%
Secretaries of State	205.122	108.376	47,17%
Undersecretaries and chief Clerk	203.875	107.575	47,23%
Unit Chief	191.843	105.155	45,19%
General Manager	154.789	93.839	39,38%
Associated General Manager	118.688	80.096	32,52%
Manager	78.930	58.191	26,28%
Assistant Manager	49.327	40.516	17,86%
Head of department	29.031	25.334	12,73%
Liaison personnel	17.855	16.388	8,22%

Source: In-house elaboration based on data from the Official Gazette of the Federation 2017 and 2020.²

² <https://tinyurl.com/y4cbvc9v>

The demise of seats has been another decision that diminishes the capabilities of the Mexican state. Even though in 2019 the chamber of deputies approved the existence of one thousand 986 seats labeled Associated General Manager, most of them created on Vicente Fox’s sexennium, in August of the same year around 629 seats of that type were in the cancellation process. Albeit the Federal Expense Budget (PEF for its acronym in Spanish) of 2020 contemplated 646 of this seats, on May 29th of this year the Handbook of compensations of public servants of the entities and federal agencies of the federal public administration³ was published, in which is instructed to subside all the Associated General Manager seats from the federal government organization chart. It’s also instructed that the government agencies are responsible to conduct the transition of the seats of the hierarchical group “L”, meaning the Associated General Managers, to a lower hierarchical level before December 31st, 2020.

Meaning, even if those who are still cataloged as assistant general managers in 2020 won’t necessarily lose their job, their income will be reduced starting 20201. The intended purpose of the demise of the one thousand 986 seats at the Associated General Man-

³ <https://tinyurl.com/y3ujh2oh>.

ager level was to save around one thousand 943.9 million of pesos between June and December 2019. The cuts were focused on five areas: the Ministry of Finance and Public Credit (SHCP for its acronym in Spanish), Secretariat of the Interior (SEGOB for its acronym in Spanish), Attorney General’s Office (FGR for its acronym in Spanish), Secretariat of Environment and Natural Resources (SEMARNAT for its acronym in Spanish), and the Secretariat of Education (SEP for its acronym in Spanish).

TABLE 4. DEMISE OF SEATS IN ASSOCIATE GENERAL DIRECTION PER FIELD

DEPENDENCY	SEATS ELIMINATED BY 2019
SHCP	397
SEGOB	240
FGR	187
SEMARNAT	106
SEP	100
Economía	99
SCT	95
SAGARPA	94
INM	39
16.388	8,22%

Source: In-house elaboration with information from the National Transparency Platform. [National Transparency Platform].¹

¹ <https://tinyurl.com/y4h7fa7d>.

Finally, to these reductions were added extraordinary austerity measures, cited by the president as by which was possible to face the COVID-19 pandemic. On April 23rd, 2020 was published in the DOF (Official Journal of the Federation, for its acronym in Spanish) an edict in which austerity measures are established that government agencies and entities in the Federal Public Administration must follow.⁴ Included, at least, three regulations that significantly reduce the efficiency incentives of government officials.

FIRST THE SUPPOSED VOLUNTARY REDUCTION OF 25% IN THE SALARY OF HIGH-LEVEL GOVERNMENT OFFICIALS,

SECOND THE REMOVAL OF THEIR RESPECTIVE CHRISTMAS BONUSES OF 2020, AND THE THIRD,

THE UN-USE OF 75% OF THE AVAILABLE BUDGET FOR GENERAL USE BATCHES AND SUPPLIES.

Even if the decree mentioned that higher-level public servants are comprised from general manager to president, the Handbook of compensations of public servants of the entities and federal agencies of the federal public administration⁵ establishes in article 3, incise

⁴ <https://tinyurl.com/y7zr22kh>.

⁵ <https://tinyurl.com/y4zofju2>.

“C”, that higher-level public officials are to be considered only by general managers, unit chiefs, undersecretaries, chief clerks, secretaries of state and the president of the Republic. Moreover, managers, assistant managers, and heads of departments are considered mid-level officials. Despite that, 96% of the budgetary savings will be accomplished thanks to the reductions on mid-level officials.⁶

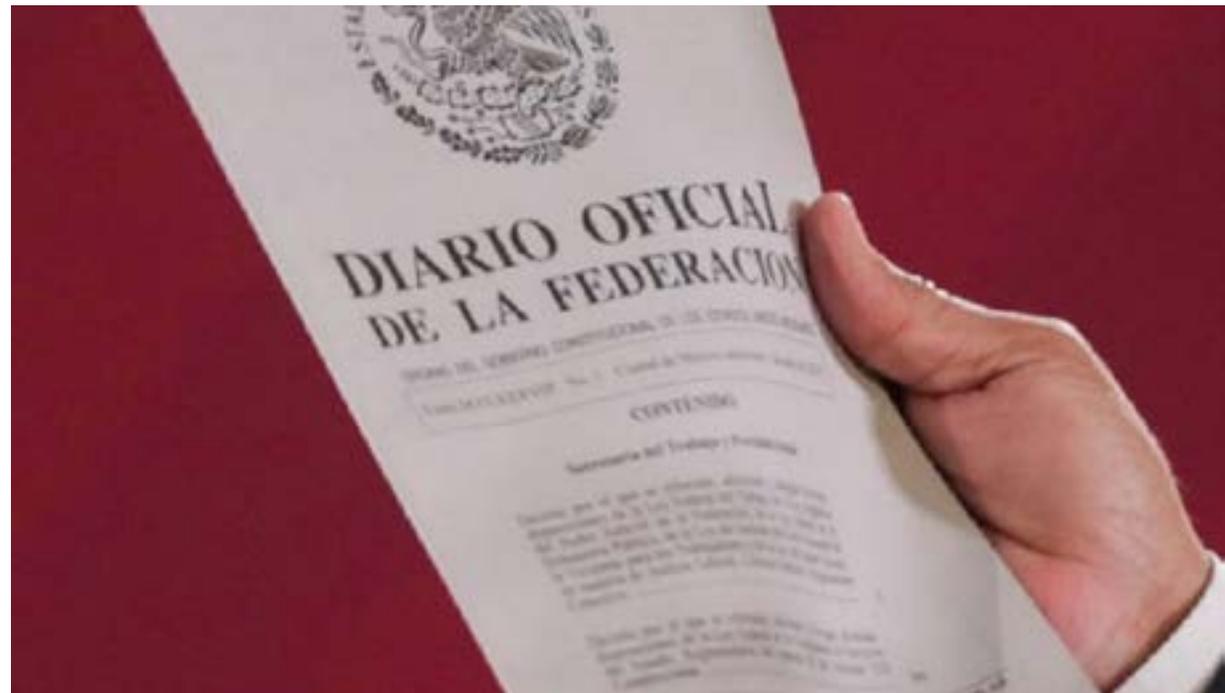


Image: Official decree. In <https://tinyurl.com/y582w3f7/>

⁶ <https://tinyurl.com/y5k7du32>.

In tandem, this decree forces the un-use of 75% of the available Budget for general services, batches, and supplies, consequently, as we have seen, the public servants won't have the minimum work tools to adequately perform their functions.⁷

It bears to mention that from the 177 thousand 521 million pesos on average that have been spent on these batches between 2015 and 2019, will be able to be spent at the discretion of the Mexican President.

The modification to article 61st of the Reform to the Federal Law on Budget and Treasury Responsibility (LFPRH, for its acronym in Spanish) empowers the President so that the resulting savings obtained by the rationing of the expenditure established in the Federal Republican Austerity Law (LFAR for its acronym in Spanish) can be directed anywhere in the federal administration by presidential decree.⁸

⁷ <https://tinyurl.com/y5uf5w4l>.

⁸ Budgetary Hyper-Presidentialism. Vital Signals. Available at: <https://tinyurl.com/y5tfdzdz>.

Even if the impact cannot be measured, the diverse and concatenated actions taken from the National Palace, and with the endorsement of most of the Congress, they have consistently reduced the incentives to start a long-lasting professional career in the public administration. That is translated in the loss of experience and memory, bureaucratic weakness, decrease in technical and operational capabilities, as well as a huge discomfort from which, without any justification, and have been accused of dishonesty for the simple fact of performing the tasks compelled by the law.



