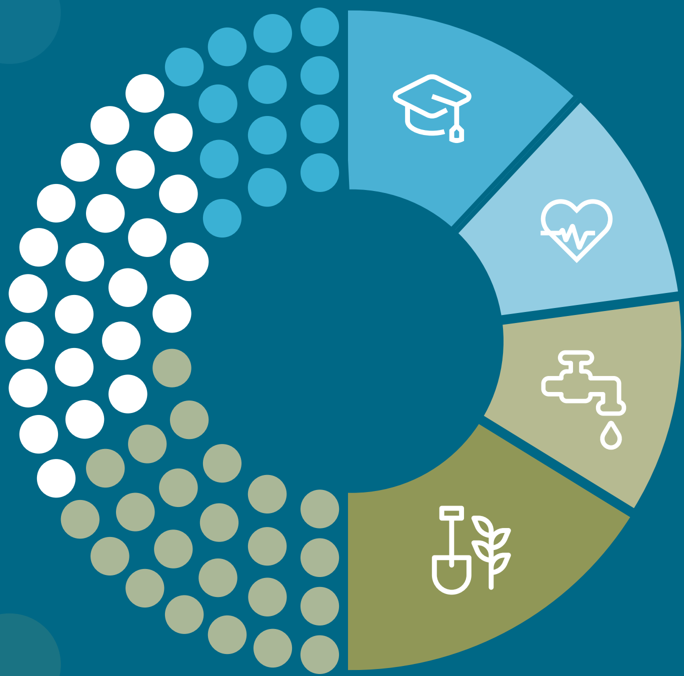

The role of the legislature in the budget process

COUNTRY CASE STUDY

NIGERIA

CABRI

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Contents

Acronyms and abbreviations

BOF	Budget Office of the Federation
FEC	Federal Executive Council
FGN	Federal Government of Nigeria
FRA 2007	Fiscal Responsibility Act of 2007
FRN	Federal Republic of Nigeria
FSP	Fiscal Strategy Paper
IFI	independent fiscal institution
MBNP	Ministry of Budget and National Planning
MDAs	ministries, departments and agencies
MTEF	Medium-Term Expenditure Framework
MF	Ministry of Finance
NABRO	National Assembly Budget Research Office
NEIC	National Economic Intelligence Committee
NILDS	National Institute for Legislative and Democratic Studies
NPC	National Planning Commission
OAGF	Office of the Accountant General of the Federation
OAuGF	Office of the Auditor General of the Federation
PAC	Public Accounts Committee

Executive summary

The Collaborative Africa Budget Reform Initiative (CABRI) works with African finance, budget and planning ministries in developing and implementing reform initiatives that lead to more functional public financial management (PFM) systems. We facilitate peer learning and exchange and utilise problem-driven and iterative approaches to solving context-specific challenges. Our result areas include greater budget transparency for greater accountability and participation as it plays a complementary role to other PFM reforms.

This case study on the role of the National Assembly of Nigeria in the budget process provides an overall picture and understanding of the role of different African legislatures and the varying relationships between the executive and the legislature throughout the PFM cycle. The study included interviews from the Ministry of Finance (MF), the Budget Office of the Federation (BOF) in the Ministry of Budget and National Planning (MBNP), the National Assembly (both the Senate and the House of Representatives), the National Assembly Budget Research Office (NABRO), the National Institute for Legislative and Democratic Studies (NILDS) and the Office of the Auditor General of the Federation (OAuGF), among other institutions.

The main challenges to the budget process outline how effectively the National Assembly contributes to improving budget formulation, the implementation of spending plans and budget oversight in Nigeria. These challenges include:

- Lack of clear rules regulating the budget process;
- Delays in producing the Medium-Term Expenditure Framework/Fiscal Strategy Paper (MTEF/FSP);
- Poor level of executive–legislature engagement at the formulation stage;
- NABRO's lack of independence, capabilities and resources;
- Delays in submitting the Appropriations Bill;
- Lack of robust engagement between the executive and legislature during the budget approval stage;
- Delays in approving the Appropriations Bill;
- Lack of coordination between, and duplication of, reporting agencies;
- Delays in producing budget implementation reports and the lack of oversight thereof;
- Delays in receiving the Accountant General's Report;
- Delays in receiving the Auditor General's Report and the lack of review thereof; and
- Auditor General's lack of independence, capacity and resources.

Understanding these challenges provides useful entry points for instigating the necessary steps towards improvement. Overall, the next steps include:

- Creating clear rules and designating clear responsibilities throughout the budget process, and establishing a budget calendar;
- Improving coordination and information-sharing between actors in the formulation and execution process;
- Increasing the independence, capabilities and resources of NABRO; and
- Increasing the independence, capacity and resources of the OAuGF.

Introduction

The budget is the most crucial instrument for economic management because it is an annual, financial and economic plan for resource mobilisation and allocation, and the vehicle for achieving government's public policy goals. As democratically elected officials, legislators not only make laws and represent their political parties and constituencies, they also make critical inputs into the budget process. Their inputs are crucial as they are meant to strengthen the budget office's role (planning, allocation, execution, evaluation) and, as part of their oversight function, ensure the budget process outcomes align with the anticipated objectives. Legislators' input confers ownership and responsibility on the process because, as custodians of the nation's commonwealth, they remain answerable to their local constituencies and have the constitutional mandate to ensure the judicious deployment of available resources at minimum cost.

The budget is a vital tool for socioeconomic development, and it is thus of utmost importance to understand the challenges to its effective implementation in order to perfect the whole budgetary process. Within the Nigerian context, this study aims at deepening our understanding of the role of the legislature in the budget process vis-à-vis its actual practice and experience. Of particular interest is how legislators can facilitate improved budgeting, implementation and oversight.

Nigeria returned to democratic rule in May 1999. The country had experienced a long period of military rule characterised by the absence of critical democratic institutions (such as a legislative arm of government) as well as the suspension of the Constitution. During this time, the entire budget process in Nigeria was in the hands of certain agencies that reported directly to the ruling military councils. Budget decisions were primarily taken by the military junta and lacked both legislative and public input and participation. These agencies included the Federal Ministry of Finance (FMF), the National Planning Commission (NPC), National Economic Intelligence Committee (NEIC), the Office of the Accountant General of the Federation (OAGF) as well as the Office of the Auditor General of the Federation (OAuGF). The advent of constitutional democracy in 1999, however, saw significant changes in the dynamics of the budget process in the establishment of an appropriate legal framework, which also outlined the budgetary responsibilities for the National Assembly and civil society organisations (CSOs). Constitutional democracy also led to the creation of new budget institutions such as the Fiscal Responsibility Commission (FRC) and the National Assembly Budget Research Office (NABRO). The legal framework created roles for the National Assembly at every stage of the budget process. Thus, instead of a military junta, a deliberative and participative – albeit slower – budget process was introduced.

Nigeria currently operates a United States (US)-style presidential system of government, with an executive president and an independent legislature. Despite the fact that, from 1999 to date, the ruling party in Nigeria has always had control of both the executive and the legislative branch of government, the budget process has always witnessed a contentious relationship between these two bodies. This fractious relationship has often resulted in gridlocks that delay the budget's approval and execution, with the attendant consequence of unrealistic budget assumptions and projections that can hinder efficient service delivery in critical sectors, such as health, education and security. In recent times, the legislature's role in the budget process has often been misconstrued and subsequently relegated to the role of basic legislative oversight, which is not supposed to be the case.

The second section of this case study looks at the legal framework to understand how the rules and procedures guide the budget process and provide the framework for the legislature's involvement. The third section describes the stages of the budget process in Nigeria while the next sections seek to understand the practices and challenges related to the National Assembly's role and how the legislative arm could facilitate improved planning and formulation, allocation and approval, oversight, and auditing of the budget. The conclusion provides recommendations on the required steps to assist the MBNP, Ministry of Finance (MF), NABRO and the National Assembly to work together to address challenges in the budget process as a whole.

Legal framework: rules and procedures

The 1999 Constitution, as amended (henceforth the 1999 Constitution) outlines the principles and the legal framework for budget management in Nigeria. The key legal framework anchoring the roles of the executive and the legislature in the budget process includes the following:

- 1999 Constitution
- Fiscal Responsibility Act of 2007 (FRA 2007)
- Annual Appropriations Act
- Acts establishing the NPC
- Federal Audit Act of 1956
- Public Procurement Act of 2007, amongst others
- Finance (Control and Management) Act of 1958, Cap. 144, 1990

Budget formulation and planning

The MTEF/FSP is predicated on FRA 2007 and serves as the basis for annual budget planning. Specifically, FRA 2007 section 18(1) clearly stipulates that the MTEF should be the basis for the preparation of the national budget's estimates of revenue and expenditure. FRA 2007 section 18(2) further states that the sectoral and compositional distribution of the budget should be consistent with the medium-term development priorities set out in the MTEF. Further to this, FRA 2007 section 19 lists the documents that must accompany the annual budget.

The preparation of the MTEF is the responsibility of the BOF. Prior to 2016, this office was in the MF but is currently in the MBNP.

FRA 2007 section 11(1)(b) stipulates that the Federal Government must, not later than four months before the commencement of the next financial year, cause to be prepared and laid before the National Assembly an MTEF for the next three financial years.

FRA 2007 section 14(1) requires the Minister of Finance to present the MTEF to the Federal Executive Council (FEC) for consideration and endorsement before the end of June. FRA 2007 section 11(2) requires the National Assembly, through resolutions passed by both houses, to consider and approve the FEC-endorsed framework with necessary modifications. However, FRA 2007 section 16 allows the state president, without reverting to the National Assembly for concurrence, to authorise corrections of manifest error and any changes of fiscal indicators considered significant.

Budget approval and scrutiny

Nigeria's National Assembly is a budget-making legislature; its power is conferred on it by the 1999 Constitution (sections 80–84) and FRA 2007. Both the 1999 Constitution and FRA 2007 provide for no limitations on the National Assembly's power to amend the annual Appropriations Bill. Essentially, the National Assembly can amend the draft budget even if this implies a higher level of projected total expenditure, a lower level of projected total revenue, an increase in projected revenue or an increase in the deficit.

Specifically, section 80(4) of the 1999 Constitution states that 'No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly.' And section 81(1) provides the time frame for submitting the budget proposal for consideration: 'The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.'

Sections 80–84 of the 1999 Constitution confer 'appropriation powers' on Parliament as well as its responsibilities over the national purse. The formulation and planning powers are drawn from FRA 2007 section 18, which clearly stipulates that the MTEF should form the basis for preparing the estimates of revenue and expenditure in the national budget. In both cases, the Senate and the House of Representatives must pass the same version of the budget (or MTEF) for it to qualify for the state president's assent. In the event of a disagreement between the two houses of the National Assembly, the Joint Committee on Appropriations will refer both versions of the passed bills (from the two houses) to the Conference Committee for harmonisation and concurrence. This committee is usually made up of an equal number of senators and members of the House of Representatives.

Thus, the 1999 Constitution specifies the roles and responsibilities regarding the submission, adoption and approval of the Appropriations Bill. The 1999 Constitution also provides that, upon passage of the Appropriations Bill, the National Assembly should send the bill to the state president for assent within 30 days, failing which the National Assembly may veto the bill.

Section 82 of the 1999 Constitution authorises spending from the Consolidated Revenue Fund for up to six months in the new year, pending the passage of the Appropriations Bill. Such expenditures are termed 'provisional general warrants'.

Budget oversight

Within the framework of legislative budget oversight in Nigeria, the key budget oversight powers and responsibilities are drawn from sections 88 and 89 of the 1999 Constitution as well as from FRA 2007 section 30(1). Specifically, section 88(1) stipulates that, subject to other provisions of the 1999 Constitution, each house of the National Assembly shall have the power, by passing resolutions, to direct, or cause to be directed, an investigation into any matter or thing with respect to which it has power to make laws, and into the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of, or responsibility, for executing or administering laws enacted by the National Assembly and for disbursing or administering moneys appropriated, or to be appropriated, by the National Assembly.

The 1999 Constitution in section 88(2)(b) stipulates that the powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it. In addition, FRA 2007 section 30 requires the Minister of Finance, through the BOF, to monitor and evaluate the implementation of the annual budget, assess the attainment of fiscal targets and to report on them on a quarterly basis to the FRC and the Joint Committee on Finance of the National Assembly. The report is to be forwarded to the FRC every quarter and published in the mass and electronic media and on the MF's website within 30 days of the following quarter. According to FRA 2007 section 50, a consolidated budget execution report is to be submitted to the National Assembly and disseminated to the public within six months after the end of the financial year.

In FRA 2007 section 26, the Minister of Finance is required, within 30 days, to prepare and publish a fund disbursement schedule using the annual cash plan for the implementation of the national budget. Furthermore, appropriated funds are to be used only for purposes specified in the Appropriations Act. The only caveat is in exceptional circumstances when the Minister of Finance may, in the public interest, recommend to the National Assembly virements from subheads under heads of account.

Audit and evaluation

The audit and evaluation phases of the budget process derive their powers from sections 85–86 of the 1999 Constitution. These powers are reinforced by FRA 2007 section 49, which stipulates that the Federal Government must publish their audited accounts not later than six months following the end of the financial year.

The operations of the OAuGF are guided by the pre-independence Audit Act of 1958. The OAuGF was established by section 85(1) of the 1999 Constitution. Section 85(2) requires the OAuGF to audit the public accounts of all the Federation's offices and courts, with the exception of the accounts of statutory corporations, commissions, agencies, etc. The Auditor General is to submit his/her report to the National Assembly.

Sections 85 and 86 confer public accountability powers on the National Assembly's Public Accounts Committee (PAC). Specifically, the 1999 Constitution, in section 85(2), empowers the Auditor General to audit and report on the public accounts of all the Federation's offices and courts, with the exception of the accounts of statutory corporations, commissions, agencies, etc.

As per section 85(5), the Auditor General is to submit his/her reports on the government accounts to each house of the National Assembly within 90 days of their receipt of the Auditor General's financial statement.

Table 1: Budget timeline

Stage	Budget documents tabled at the legislature	Actors involved	Legislative committees, independent financial institutions, committees and other institutions involved
Budget planning and formulation *3 Months (June–September)*	Draft MTEF; cash plan from OAuGF; budget implementation reports of the current fiscal year	FEC; BOF; Joint Committee on Finance; OAuGF; MF; FRC; CSOs	National Assembly's Joint Committee on Finance (both houses); NABRO; NILDS
Budget allocation/approval *Average of 4–7 months*	Appropriations Bill; budget implementation reports	BOF; OAuGF; MF; Joint Committee on Appropriations (both houses)	National Assembly's Joint Committee on Appropriations (both houses); NABRO; NILDS
Budget oversight *Continuous*	Budget implementation reports from BOF's Department of Budget Monitoring and Evaluation	MDAs; sector oversight committees (both houses); BOF	All committees with oversight powers over MDAs; Committee of the Whole House (both houses)
Auditing and evaluation *No fixed timeline*	Audit review reports and audit queries	OAuGF; PAC; Committee of the Whole House (both houses)	PAC (both houses); Committee of the Whole House (both houses)

Practices and challenges

Planning and formulation

Budget planning and formulation is the first stage in the budget process. In Nigeria, this stage commences with the preparation, consideration and approval of the MTEF/FSP. FRA 2007 section 13 provides that the Minister of Finance shall be responsible for the preparation of the MTEF. However, with the presidential directives in 2015 to move the BOF to the MBNP, this function is now carried out by the Minister of Budget and National Planning. In preparing the MTEF, the minister may hold public consultations. However, FRA 2007 section 13(2)(b) mandates the minister to also seek inputs from relevant statutory bodies such as the NPC, Joint Planning Board, National Commission on Development Planning, National Economic Intelligence Committee, National Assembly, Central Bank of Nigeria, National Bureau of Statistics, and the Revenue Mobilisation, Allocation and Fiscal Commission. The minister is also expected to consider and reflect on the input of these bodies and persons as deemed appropriate.

As stipulated by FRA 2007 section 18, the MTEF/FSP serves as the basis for annual budget planning. In Nigeria, the MTEF/FSP is predicated on FRA 2007, which was enacted with a view towards enhancing the prudent management of the nation's financial resources, ensuring long-term macroeconomic stability, and securing greater accountability and transparency in government fiscal operations, among others. Further to this, FRA 2007 section 19 stipulates that the annual national budget is to be accompanied by the following documents:

- A detailed report of revenue and expenditure performance for the 18 months up to June of the preceding financial year;
- Monthly revenue collection targets prepared on the basis of the oil price benchmark in the approved MTEF;
- Macroeconomic and fiscal targets such as the inflation rate and budget deficit; and
- An evaluation of fiscal and other related risks to the annual budget and the proposed measures to mitigate against them.

The principal stakeholders at this stage include the BOF, the Joint Committee on Finance, the MBNP and the MF. At the National Assembly level, NABRO and the NILDS provide technical analysis.

As clearly spelt out by FRA 2007 section 11(1)(b), the National Assembly's Joint Committee on Finance has the responsibility of reviewing the proposed MTEF/FSP. It provides that the Federal Government causes to be prepared and laid before the National Assembly an MTEF for the next three financial years. This is to take place not later than four months before the commencement of the next financial year. Both finance committees consider the proposed framework for approval. After any necessary amendments, the MTEF is passed by resolutions in both houses. Where there are differences between the framework approved by each house, the Joint Conference Committee, comprising of an equal number of members from each house, will be constituted. Their mandate is to harmonise the two chambers' differences.

FRA 2007 section 12 limits the size of the federal fiscal deficit to 3 percent of the estimated gross domestic product or any percentage deemed sustainable by the National Assembly for each financial year. The state president is empowered to exceed the ceiling if, in his or her opinion, there is a threat to national security or to the sovereignty of the country.

As stipulated by FRA 2007, a performance report on oversight is expected to accompany the Appropriations Bill. Both the upper (Senate) and lower (House of Representatives) chambers of the National Assembly have budget finance committees, whose principal role is to consider and approve the MTEF/FSP.

Challenge 1: Lack of clear rules regulating the budget process

Nigeria has never had an organic budget law, which has resulted in the absence of a timeline, a legal framework and a set of rules for structuring and streamlining the budget process. However, the available public finance law, the fulcrum of the existing legal framework, does provide key roles in the budget process for the legislature. In addition, the 1999 Constitution, which confers on the legislature the three statutory functions of representation, law-making and oversight, provides the needed latitude for scrutinising the budget process.

In 2015, the BOF was moved from the Ministry of Finance (MF) to the Ministry of Budget and National Planning (MBNP), a separate ministry. Presently, most of the budget formulation process takes place at the MBNP in conjunction with the BOF.

The BOF is an agency within the MBNP. Its key role in the current framework is the planning, formulation and execution of the annual budget. Budget formulation commences with the preparation of the MTEF/FSP, as mandated by FRA 2007 section 18(1). FRA 2007 also specifies the responsibilities of the different agencies that are involved in the budget formulation process. Although FRA 2007 section 13 provides that the primary responsibility of preparing a draft MTEF/FSP for consideration by the FEC lies with the Minister of Finance, that role is currently the responsibility of the Minister of Budget and National Planning.

The BOF and MBNP experience challenges in carrying out their mandates in the budget formulation process. FRA 2007 section 16 allows the state president to authorise corrections of manifest error and to change fiscal indicators considered significant without reverting to the National Assembly for concurrence. This is a major limitation on the role of the legislature in the formulation stage of the budget – more so, given that the approved MTEF forms the basis of the Appropriations Bill for the next fiscal year as required by FRA 2007. Unlike the Appropriations Act, MTEF/FSP approval is not passed as a law but in the form of a resolution by the National Assembly.

The approval stage of the budget process also faces other challenges. The absence of a clear timeline for presenting the budget to the National Assembly – other than that the state president must present the Appropriations Bill before 31 December, a day before the commencement of the new fiscal year – does not allow for a realistic consideration of the budget. The current budget regulations do not provide for a fixed and realistic budget calendar, and neither has a statutory role been created for the public. Most of these issues are currently being addressed by the Budget Process Regulation Bill of 2017, which is an attempt to evolve an organic budget law for Nigeria. The bill aims to address key weaknesses in the current framework by:

- Specifying and providing for pre-budget consultations between the National Assembly and the executive, and between the executive and the public;
- Fixing a timeline for the presentation and passage of the budget, with the first week of September allocated for the commencement of the budget's passage, and 31 December as the deadline for assent;
- Providing a framework during the budget process for dispute resolution between the legislature and executive (section 26).

The National Assembly's unlimited amendment powers in the annual Appropriations Bill have been the source of executive–legislature conflict, leading the executive to accuse the legislature of making insertions into the proposed national budget. The executive maintains that the inclusion of such new projects makes it difficult to plan for the smooth execution of the budget.

Sector committees are given robust amendment powers in considering the Appropriations Bill for allocation and approval. They can make amendments to the bill such as deletions, increases and decreases. However, these amendments must be predicated on the sector committee making a very robust justification and provide an explanation. If not satisfied, the compelling case is put to the Appropriations Committee. Usually there is a cap of +/– 5–10 percent allowed by the Appropriations Committee. However, this applies mostly to capital expenditure. Personnel expenditure (under recurrent expenditure) is rarely adjusted by the sector committees. It can only be adjusted with the strict approval of the Appropriations Committee, given the cumbersome demands and time constraints of a personnel audit. This has worked thus far. When in doubt, sector committees invite relevant ministries, departments and agencies (MDAs) or the BOF to the Appropriations Committee, which then deals with the issue as it deems fit. If there are issues of national importance that demand a higher level of adjustment (for instance, expenditure due to security and defence matters), the chairman of the relevant sector committee must inform the Appropriations Committee well in advance. A tripartite meeting between the sector committee, Appropriations Committee and the MDA in question will then be held to address such issues. These powers to influence the budget have, more often than not, led to significant differences between the executive's budget proposal and the final Appropriations Act (see Table 2).

Another example of the legislature's powers, though still a major bone of contention, is the issue of constituency projects that legislators commonly include in the budget, but were not in the executive's Appropriations Bill. This issue often contributes to the discrepancies between the executive's Appropriations Bill and the Appropriations Act. Other powers, such as the power to adjust expenditure items, also contribute to discrepancies. The executive has repeatedly referred to this activity as 'padding' the budget, and questions its legality – although neither arm of government has approached the courts to seek an interpretation of the constitutionality of the inclusion of constituency projects by the legislature when considering the budget proposal. This debate has led to delays in the budget process.

Table 2: Variations in Nigerian appropriations bills and passed appropriations acts (2011–2018)

Year	Size of Appropriations Bill Sent to National Assembly by the state president (N billion)	Size of budget passed by National Assembly (N billion)
2011	4 971.88	4 226.19
2012	4 648.80	4 877.20
2013	4 924.60	4 987.22
2014	4 642.96	4 695.19
2015	4 425.00	4 493.00
2016	6 077.68	6 060.48
2017	7 298.51	7 441.18
2018	8 612.24	9 120.33

Source: MBNP

Challenge 2: Delays in the MTEF/FSP process

Delays in the presentation of the national budget may be due, in part, to delays in the MTEF process. In line with extant provisions, the MTEF, prepared by the Federal Ministry of Finance and approved by the FEC, was always forwarded to the National Assembly for consideration by the state president. Along with any modifications deemed appropriate, the National Assembly approves the framework by passing resolutions in both houses. This phase of the budget process is fraught with its own challenges, most of which hinge on the late submission of the MTEF/FSP and other related causes. To date, all MTEF/FSPs prepared by the Federal Government have been submitted from between 18 days to two months late (see Table 3).

This delay impacts negatively on other stages of the budget process and points to a number of challenges:

- The late approval of the budget delays the commencement of the formulation stage. In recent times, budgets get approved between May and June, by which time the MTEF is supposed to be ready for FEC approval.
- The National Assembly's time table includes a recess between June and late September, with the possibility of extending to late October in election years. This has two strong implications for delays. First, the long holiday period renders the assumption parameters for the draft MTEF/FSP stale by the time they resume proceedings after the long recess. This is especially true for a country like Nigeria, which is heavily dependent on volatile crude oil prices, and the draft MTEF would therefore be better considered during the long recess. Second, the lack of a formal engagement platform for the resolution of differences between the executive and legislative is also a cause of delay.
- Some of the revenue agencies, whose input the BOF needs (such as the Nigerian National Petroleum Corporation, the Customs and Federal Inland Revenue Service), are beyond the BOF's control because they are in Lagos (not Abuja), resulting in logistic challenges for holding meetings.
- The vagueness of the legal framework and the absence of an organic budget law in Nigeria (with strict deadlines and consequent sanctions) also contributes to delays.
- The high number of bureaucratic inputs and required approvals – such as from the National Economic Intelligence Committee, the Economic Management Team, CSOs, etc. – also delay the process.

Table 3: MTEF/FSP submission dates

Year	Date due	Date submitted	Time lag
2010–2012	1 September 2009	29 September 2009	29 days
2011–2013	1 September 2010	1 November 2010	2 months
2012–2014	1 September 2011	22 September 2011	22 days
2013–2015	1 September 2012	18 September 2012	18 days
2014–2016	1 September 2013	18 September 2013	18 days
2015–2017	1 September 2014	2 October 2014	32 days
2016–2018	1 September 2015	8 December 2015	69 days
2017–2019	1 September 2016	4 October 2016	34 days
2018–2020	1 September 2017	17 October 2017	37 days

Challenge 3:
Poor level of executive–legislature engagement at the formulation stage

A poor level of executive–legislature engagement is a key cause of gridlock in the budget formulation phase in Nigeria. The gridlock mostly emanates from disagreements on key budget assumption parameters. At the top of this list is the oil benchmark price and projected oil production. While the executive generally prefers conservative estimates, the legislature prefers them to be less conservative to help accommodate legislature-recommended projects in the budget. The seeming mutual suspicion from the technical teams of both arms of government, as well as that between their principals, does not help. Also, there is not enough engagement between the technical teams that provide the analysis upon which both arms of government engage each other during the budget process. More frequent interactions could clear up the mutual suspicion between the technical teams of both arms of government, and help the legislature and executive find common ground with regard to key budget assumption parameters.

Challenge 4:
NABRO lacks independence, capabilities and resources

NABRO was created to provide the National Assembly with an independent, unbiased and non-partisan analysis of the information and estimates needed for economic and budget decisions, especially those estimates emanating from the executive. Since its inception in 2012, NABRO has provided the National Assembly with technical assistance in the review of the executive's proposal of the MTEF/FSP and the annual appropriations bills. However, NABRO's contribution in the budget process is not without challenges. First, because the bill establishing NABRO is yet to be signed into law, this office lacks the institutional and legal framework support to guarantee its independence as a parliamentary budget office (PBO). This has implications for its operational and financial independence since its capacity needs cannot be met. Second, its staffing continues to be managed by National Assembly bureaucracy, the very body to which it is supposed to render non-partisan analysis and reviews of budget-related issues.

Budget allocation and approval

As highlighted earlier, the 1999 Constitution empowers the Nigerian National Assembly to significantly influence the budget proposal. Scrutiny by the Appropriations Committee is a very important part of the budget allocation and approval process. The Appropriations Committee delegates this scrutiny to the relevant sector committees. Every sector committee serves as a standing committee of the Appropriations Committee. These committees also have oversight responsibilities over MDAs.

Differences between the executive's budget proposal and the changes made by the legislature are usually reconciled in one of the following ways:

- Informal parley between the leadership of the National Assembly and the executive;
- Formal playback between the MDAs and the sector committees. If the executive makes a formal request for a virement shortly after approving the budget, the Appropriations Committee generally refers such cases back to the sector committee for guidance; and
- Both parties' can threaten to use their veto power to override decisions. This possibility has never been used but its existence does encourage both sides to go back to the negotiating table.

Challenge 5:
Delays in submitting the Appropriations Bill

One of the recurring challenges faced by the passage of the Appropriations Bill is the issue of its late submission. Our study reveals that the annual Appropriations Bill has always been submitted about one or two months before the commencement of the new fiscal year, on 1 January (see Appendix 1). Most of the causes of the delay are similar to those delaying the formulation stage (highlighted earlier).

Challenge 6: Lack of robust engagement between the executive and legislature

A poor level of executive–legislature engagement is a key cause of gridlock in the budget approval phase in Nigeria. Also, there is not enough engagement between the technical teams that provide the analysis upon which both arms of government engage each other during the budget process. This can be attributed to a number of reasons. First, there seems to be a level of mutual distrust and an eagerness to take advantage of the legal framework's lack of clarity. Also, the absence of a formal provision in the current budget framework for dispute resolution during the budget approval stage makes it difficult to address discrepancies between the propositions from both arms of government.

Challenge 7: Delays in approving the Appropriations Bill

In Nigeria, annual appropriations bills are submitted between October and November, and the deliberations on them usually last for a four- to seven-month period until March and June of the following year (the fiscal year for which the bills are being considered).

The absence of legislative timelines and deadlines for approving the budget proposal is a major cause of the delay. Currently, the 1999 Constitution spells out a very vague deadline, which does not guarantee an approved budget before the start date of the fiscal year, viz. 1 January. This constitutionally approved deadline for submitting the budget proposal on, or before, 31 December provides the leeway for the budget's late submission and consideration. It takes an average of five months from submission to approval (see Appendix 1). During this gap in time, most of the assumptions and projections of the annual Appropriations Bill are likely to change, especially in a country like Nigeria, which is heavily dependent on the volatile trajectory of the price of oil. This has implications for budget implementation. Senior officers of the Appropriations Committee's secretariat were quick to point out, however, that Parliament does set internal deadlines for budget approval. While this may be the case, the deadlines are rarely adhered to for the following reasons:

- Lack of consequences for non-compliance; and
- MDAs don't respond in time to defend their proposals and, when they do, they send junior staff, who lack the authority and/or competence to respond to questions.

Disagreement between the executive and the legislature on the life span of an approved budget is another source of delay. Section 318(1) of the 1999 Constitution stipulates: '"Financial year" means any period of 12 months beginning on the first day of January in any year or such other date as the National Assembly may prescribe.' In line with this provision, for the 2017 and 2018 appropriations acts, the legislature stipulated that the acts were to run for 12 months from the day they came into effect, implying that the budget is 'alive' up until May–June of the next year. In contrast, the OAuGF's accounting calendar ends on 31 December, effectively making it impossible for budget implementation to go past that date and thus leaving the budget implementation phase, especially capital expenditure, in a confused state, resulting in many abandoned projects.

The high turn-over and limited capacity of legislators has a negative effect on their ability to understand the budget process, which then impacts negatively on the process as a whole. Most legislators spend no more than one term in Parliament. No sooner have they been trained than they depart, with another round of 'fresh parliamentarians' needing training. Capacity building for support staff is also an important factor. Finally, as in the case of budget formulation, more robust communication and engagement between the executive and the legislature is required, especially with regards to pre-budget engagement.

Budget oversight

In Nigeria, the legislature's oversight powers are constitutionally guaranteed by the 1999 Constitution in sections 88 and 89, and by FRA 2007 section 30(1). Section 30 empowers the Minister of Finance via the BOF[1] to monitor, evaluate and report on the implementation of the annual budget; to assess the attainment of fiscal targets; and to report, on a quarterly basis, to the FRC and the Joint Committee on Finance of the National Assembly. FRA 2007 section 50 further mandates the BOF to publish, on a quarterly basis and not later than 30 days after the end of each quarter, a summarised report on budget execution in the form prescribed by the FRC. It also requires, not later than six months after the end of the financial year, a consolidated budget execution report that compares actual implementation against physical and financial performance targets. This report is to be published by the Minister of Finance for submission to the National Assembly and for dissemination to the public.

Parliamentary committees monitor budget execution in all Nigerian MDAs, but do not provide feedback to the BOF or to the MDAs themselves. They merely seek information to guide their inputs into the consideration and approval of the next budget. All virements in Nigeria require legislative approval (FRA 2007 section 27), which must be sought by the particular MDAs (virements are requested at programme level). After which, such requests are sent to the Minister of Finance, who will recommend the virements to the National Assembly for the approval as long as the virements are to be taken from subheads under heads of account and don't exceed the amount appropriated to that particular head of account (FRA 2007 section 27).

Another critical role played by the legislature is in the event of revenue shortfall, when Parliament's approval is required for any type of borrowing (domestic and foreign) needed by the Federal Government to augment such revenue shortfalls. However, it is pertinent to point out that this key stage in the budget process is also not without its challenges.

1 It was previously mentioned that, in 2015, President Buhuari directed the merger of BOF and the National Planning Commission (NPC), naming it the Ministry of Budget and National Planning (MBNP). So, with such executive directives, the responsibilities of the BOF as it relates to the budget are now superintended by the Minister of Budget and National Planning.

Challenge 8:
Lack of coordination between, and duplication of, reporting agencies

As mentioned earlier regarding the legal framework, budget monitoring and evaluation in Nigeria has its own challenges. The lack of coordination between agencies is compounded by the overlapping roles and responsibilities of various MDAs of the executive, namely the MBNP (previously known as the National Planning Commission [NPC]), the National Economic Intelligence Committee (NEIC), BOF, OAuGF, and the Presidency – all of which have either monitoring units or departments. While sections 88 and 89 of the 1999 Constitution confer oversight powers and responsibilities on the National Assembly, numerous agencies from the executive also carry oversight functions. This amounts to duplication. FRA 2007 section 30(1), for instance, empowers the MF via the BOF[2] to 'monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report on a quarterly basis to the Fiscal Responsibility Council and the Joint Finance Committee of the National Assembly'. This is the basis for having a Department of Budget Monitoring and Evaluation (DBME) at the BOF. In addition, section 4(e) of the NPC, Decree 71 (1993) and Decree 17 (1994) empower the NPC and the NEIC to monitor and to enforce the implementation of budgets, respectively. These roles are in addition to the 'self-accounting' status of the OAuGF, via which it monitors the implementation of capital expenditure in those MDAs to which OuAGF accountants have been posted. This indicates that agencies created by military decrees function concurrently with those created during the democratic era. The consequence of such duplication is a lack of proper oversight accountability on the part of those MDAs obliged to report to several institutional authorities while performing their duties.

2 Now the Ministry of Budget and National Planning

In addition to the duplication of roles is the problem of poorly defined lines of reporting and responsibility. The BOF, for instance, no longer reports to the MF, rather, it reports to the MBNP. This lack of clear responsibilities and functions in the budget process creates a challenge; and with such duplicity and repetition comes the growing tendency for 'oversight fatigue', as revealed by some civil servants in the MDAs.

Challenge 9: Delays in budget implementation report and the lack of oversight thereof

FRA 2007 section 30(2) states that 'the Minister of Finance shall cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on the Ministry of Finance website, not later than 30 days after the end of each quarter'. While the BOF does produce budget implementation reports, they are not always released in a timely manner. This limits the accountability role that the National Assembly can play and has impacted negatively on the budget formulation and approval stages of the next fiscal year. Inconsistency and debates on the capital expenditure budget calendar have always been identified as causes of delays in budget performance reporting.

In practice, the BOF prepares the first two quarters' budget implementation reports (although with some delay) and various committees within the National Assembly do review these reports. The problems lie with the budget implementation reports for the third and last quarter of the year. While the 1999 Constitution, in section 318(1), states that the fiscal year is a calendar year, there is a lack of consensus between the executive and the National Assembly as to when actual budget execution starts. Due to delays in presenting the Appropriations Bill and the late passage of the budget, some members of the National Assembly use section 318(1) of the 1999 Constitution to strongly urge that the approved budget is executed 12 months from the date of passage. The fact that climatic factors make the construction of capital projects difficult during the rainy season (April–November) is another major reason for extending the capital budget to 31 March of the next fiscal year. Due to the vagueness of the rules, the National Assembly questions the validity of budget implementation reports with an emphasis on capital expenditure. The National Assembly also accuses the executive of waiting until the last two quarters to execute capital expenditure.

Challenge 10: Delays in budget implementation report and the lack of oversight thereof

One of the problems during the oversight stage in the budget process is the delay in receiving the Accountant General's Report, which, for many years, has often arrived at the OAuGF very late and thus could not be reviewed and put to use in good time, nor could it inform inputs into the consideration of the next Appropriations Bill, thereby constituting an incomplete evaluation and review process. Our study revealed that this can be attributed to the following reasons, among others:

- Late implementation of the budget (especially on capital expenditure);
- Inconsistencies in the budget calendar; and
- Non-congruence between the government accounting calendar, which terminates at midnight of 31 December, and the budget calendar, whose capital component sometimes extends to March of the next fiscal year.

Auditing and evaluation

In Nigeria, the Public Accounts Committee (PAC) of the Senate and House of Representatives considers the Auditor General's report and makes recommendations to the plenary of the entire house, the outcomes of which are then communicated to the state president for follow-up actions and sanctions where necessary. Each house of the National Assembly is expected to cause the reports to be considered by their individual PACs. Borrowing from its colonial heritage, Nigeria's public accountability system mimics the Westminster Parliamentary System. As earlier highlighted, the auditing aspect of budget control is carried out by the Auditor General and he/she expresses their opinion on the government accounts submitted to it by the Accountant General. The Auditor General's Report is sent to the National Assembly which, after considering the report, sends its findings to the executive arm for any necessary corrective actions and sanctions.

The Auditor General is only required to submit the report 90 days after getting the annual accounts from the Accountant General's office – even if it takes years to get there. FRA 2007 section 49(1) states that the Federal Government shall publish their audited accounts not later than six months following the end of the financial year. Section 49(2) requires the Federal Government to consolidate and publish its audited accounts for the previous year in the mass media, not later than seven months following the end of each financial year. This is not the practice in Nigeria, as these audited accounts sometimes take as many as 12 to 18 months – which is beyond the statutory time frame. There is no statutory limit on the time it takes for the Accountant General to make the statement of account available to the Auditor General.

Whilst the OAuGF is staffed with personnel who have policy expertise across the different sectors (e.g. health, education), the PACs of the National Assembly do not have such capacity. In addition, PACs and other committees do have access to financial and non-financial data. Their power to request information from any government MDA is constitutionally protected by the provisions of sections 88 and 89 of the 1999 Constitution. After reviewing the audit report, the PAC's recommendations are sent to the Committee of the Whole House, which then votes on the PAC's recommendations. Thereafter, the report is sent to the state president for action.

Challenge 11:
Delays in receiving the Auditor General's Report and the lack of review thereof

Sections 85 and 86 of the 1999 Constitution empower the Auditor General to audit the public accounts of all offices and courts of the Federation, with the exception of the accounts of statutory corporations, commissions, agencies, etc. This is reinforced by FRA 2007 section 49, which stipulates that the government shall publish audited accounts not later than six months following the end of the fiscal year. In practice, this has never happened owing to factors such as:

- Late submission of the Accountant General's statement of account;
- Late implementation of the budget (especially on capital expenditure); and
- Inconsistencies in the budget calendar.

Challenge 12: Auditor General's lack of independence, capacity and resources

The OAuGF lacks the independence, capacity and resources to fulfil its role as a 'watch dog' of public resources. The Auditor General of the Federation is appointed by the president. Since the Auditor General can be removed from office by the president, there are no incentives to hold the executive to account. From 1999 to date, no audit report has ever led to an indictment. This lack of independence leads to limited capacity to produce timely and thorough audit reports.

The OAuGF requires staff that can conduct financial, compliance and performance audits across a full range of sectors, and thus requires experts in health, education, agriculture, etc. However, audit staff are not hired at the discretion of the Auditor General, but by the Office of the Head of Service of the Federation (OHSCF) – which reports directly to the presidency. The OAuGF lacks the general resourcing powers to hire, fire or promote its staff. Finally, OAuGF staff indicated that the office is not able to determine its own budget to comply with its mandate.

Conclusions and recommendations

This case study outlines the challenges that hinder the National Assembly's role in facilitating budgetary formulation, implementation and oversight. Understanding these challenges provides useful entry points for instigating the necessary steps towards improvement. These steps include:

Create clear rules, designate clear responsibilities throughout the budget, and establish a budget calendar

The challenges related to a lack of clear rules, practices and procedures guiding the budget process are currently being considered in the Budget Process and Regulatory Framework Bill and in ongoing constitutional reforms. However, suffice to state that the constitutional reform process in Nigeria is challenging given the constitutional requirement of subnational involvement from the 36 states of the Federation for such constitutional amendments to be passed. Sections 10 and 11 of the new bill outline provisions for pre-budget and dispute resolution, respectively. Such interactions could clear up the seemingly mutual suspicion between the technical teams of the executive and legislature. This could help both arms of government find common ground on key budget assumption parameters. To address issues in budget approval and scrutiny, this bill is seeking to put both parties in check, which includes a clear demarcation of timelines and deadlines.

To eliminate confusion, the bill should also attempt to resolve the duplication of efforts and actors involved throughout the budget process.

In addition to the Budget Process and Regulatory Framework Bill, the National Assembly is currently reviewing the amended Audit Law. This will hopefully set a specific and early deadline for the submission of the Accountant General and Auditor General's reports.

Improve coordination and information sharing between actors in the formulation and execution process

Throughout the budget process, the lack of coordination and information-sharing between the MF, MBNP, the MDAs and many other agencies leads to delays in presenting budget documents. These delays will not be resolved solely through a legal framework. In order to reduce the time lags between the submission of budget documents, there need to be incentives to ensure that all actors involved submit timely information to each other.

Increase the independence, capabilities, resources of NABRO

NABRO is meant to provide the National Assembly with analytical expertise throughout the budget process. Currently, NABRO lacks the independence, capabilities and resources to provide independent analysis on the executive's macroeconomic and fiscal framework to (i) promote budget credibility; (ii) determine affordability of the budget; (iii) determine risks in the budget; (iv) reprioritise programmes; and (v) evaluate the performance of programmes to be funded in the budget. The lack of budget oversight during budget execution can also be attributed to these gaps.

Increase the independence, capacity and resources of the Office of the Auditor General

The NILDS and the National Assembly are aware of most of the challenges in the audit process. Presently, a new audit law is being considered in the National Assembly. The bill is seeking to remedy the challenges by increasing the independence, capacity and resources of the Auditor General. Specifically, the bill seeks to increase the office's independence by having the OAuGF report to the National Assembly instead of to the state president. To increase the enforcement of recommendations from the Auditor General, this office will, without waiting for the National Assembly's PACs or the state president, work with law enforcement officers to further investigate allegations of fund mismanagement.

Annexure

Annex 1 National budget submission and approval timeline (2000–2018)

Fiscal year	Date due	Presentation to National Assembly	Date sent for presidential assent	Time at National Assembly	Presidential assent	Time for assent	Time lag between presentation and president's signature
2000	31 Dec. 1999	24 Nov. 1999	14 Apr. 2000	4 months 21 days	5 May 2000	21 days	5 months 11 days
2001	31 Dec. 2000	9 Nov. 2000	21 Dec. 2000	1 month 12 days	21 Dec. 2000	Immediate	1 month 12 days
2002	31 Dec. 2001	7 Nov. 2001	28 Mar. 2002	4 months 21 days	28 Mar. 02	Immediate	4 months 21 days
2003	31 Dec. 2002	20 Nov. 2002	11 Mar. 2003	3 months 21 days	10 Apr. 2003	29 days	4 months 21 days
2004	31 Dec. 2003	18 Dec. 2003	20 Apr. 2004	4 months 2 days	21 Apr. 2004	1 day	4 months 3 days
2005	31 Dec. 2004	12 Oct. 2004	18 Mar. 2005	5 months 6 days	12 Apr. 2005	24 days	6 months
2006	31 Dec. 2005	6 Dec. 2005	21 Feb. 2006	2 months 15 days	22 Apr. 2006	2 months	4 months 16 days
2007	31 Dec. 2006	6 Oct. 2006	22 Dec. 2006	2 months 16 days	22 Dec. 2006	Immediate	2 months 16 days
2008	31 Dec. 2007	8 Nov. 2007	27 Mar. 2008	4 months	14 Apr. 2008	18 days	5 months 6 days
2009	31 Dec. 2008	2 Dec. 2008	3 Feb. 2009	2 months	10 Mar.2009	5 weeks	3 months 8 days
2010	31 Dec. 2009	23 Nov. 2009	25 Mar. 2010	4 months	22 Apr. 2010	4 weeks	4 months 29 days
2011	31 Dec. 2010	15 Dec. 2010	25 May 2011	5 months 10 days	26 May. 2011	1 day	5 months 11 days
2012	31 Dec. 2011	13 Dec. 2011	28 Mar. 2012	3 months 15 days	13 Apr. 2012	15 days	4 months
2013	31 Dec. 2012	10 Oct. 2012	14 Jan. 2013	3 months 4 days	24 Feb. 2013	2 month 10 days	4 months 14 days
2014	31 Dec. 2013	13 Dec. 2013	10 Apr. 2014	3 months 28 days	23 May 2014	1 month 13 days	5 months 10 days
2015	31 Dec. 2014	17 Dec. 2014	28 Apr. 2015	4 months 11 days	16 May 2015	18 days	4 months, 29 days
2016	31 Dec. 2015	22 Dec. 2015	23 Mar. 2016	3 months 1 day	4 May 2016	1 month 11 days	4 months 13 days
2017	31 Dec. 2016	14 Dec. 2016	11 May 2017	4 months 27 days	12 June 2017	1 month 1 day	5 months 28 days
2018	31 Dec. 2017	7 Nov. 2017	16 May 2018	6 months 8 days	20 June 2018	1 month 4 days	7 months 13 days

Source: NILDS analysis of 2018 FGN Appropriations Bill; Nigerian Journal of Legislative Affairs, Vol. 5, June 2013; various editions of BOF budget documents

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