Stocktaking the Reforms in Public Financial Management

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11.1 Introduction

In the years preceding Nigeria's return to civilian rule in 1999, public financial management at all tiers of government had reached its nadir. After over a decade of military misrule, governance had touched bottom with the substitution of arbitrary decisions for proper process, and the massive looting of state assets by General Abacha. Since then, with nowhere to go but upwards, standards of public financial management have been improving but, as this chapter explains, progress has been uneven, with encouraging performance in some areas and slower change in others. This chapter summarizes the main developments, and then goes on to assess the current state of public financial management in Nigeria against rapidly establishing global standards. In this way it benchmarks current performance so that future progress can be measured, and suggests the critical areas for early attention by policy leaders in the years ahead.

At first the emphasis of the new administration was on restoring rule-bound financial management, and one of the first steps of the government was to reissue *Financial Instructions*, the long-neglected set of regulations governing the conduct of government financial transactions. The new government also set about tackling the overhang of inherited problems, such as external debt and internal payment arrears, and started the process of catching up in compilation and auditing of government accounts and financial statements. However, aggregate spending at all levels of government remained revenue driven, as oil prices began recovering from their global lows at the end of military rule, and reached about 45 per cent of GDP by 2001, an uncharacteristically high figure for a developing country, masking huge inefficiencies in spending. Overall, rapid fiscal expansion in 1999–2001 had looked as if old habits of wasteful spending were returning. At the federal level there were efforts made to improve the quality of spending, particularly with the Capital Budget, in which there was an early realization that the bulk of spending was going on long-running projects of doubtful value and little prospect of early completion. But in the main, while some improvements were launched by the federal government and some of the more progressive-minded states, much of the fundamental weakness in public financial management remained unaddressed. It seemed that for the first four years after 1999 the challenge of government financial management reform had not really been grasped.

The pace of reform, however, picked up at the federal level after the 2003 presidential elections, and the appointment of a new economic team with what seemed a strong reform mandate from the president. Since then, significant steps have been taken to increase the transparency of the budget process, ensure more efficient cash management, and reform procurement processes. A major effort was made to modernize the legal framework for public financial management, through the drafting of new laws, updating the colonial era basic finance law, introducing a new audit law that promises greater independence to the supreme audit institution, making statutory principles of open, competitive tendering and creating an autonomous procurement regulator. The government also drafted the fiscal responsibility legislation aimed at smoothing oil revenues and ending the boom/borrowing/bust syndrome of previous oil price cycles. In addition, Nigeria became an active member of the Extractive Industries Transparency Initiative (EITI), committing the country to higher standards of transparency in the management of mineral revenues.

The most positive development since 2003 has been the pursuit of a more disciplined fiscal policy by the federal government. Budgets since 2004 have been made on the basis of an assumed long run price of oil, with excess revenues sterilized in the Bank of Nigeria. While real spending has been maintained, the share of consolidated budget spending in GDP has fallen to a more sustainable (and absorbable) 35 per cent. The counterpart of fiscal prudence has been the build-up of substantial foreign exchange reserves in the Central Bank. Partly in recognition of these achievements, in 2005 Nigeria won substantial external debt reduction through the Paris Club.

At the same time many features of weakness in public financial management have continued. At the federal level, significant contractual and pension arrears (estimated at $3 billion at the end of 2005) remain to be tackled, though considerable progress was made in 2006 in repaying debts to small contractors and pensioners. A universal principle of public budgeting is that planned spending should be within the budget and voted upon. Currently, however, about 40 per cent of non-interest spending administered by the federal government lies outside the annual budget process and thus democratic control. This includes the investment costs (‘cash calls’) of the Nigerian National Petroleum Company (NNPC) and, most recently, major power and road investments jointly funded by all tiers of government. Spending financed by external borrowing and aid also lies mostly outside budgets. In the past three years extra-budgetary expenditure has averaged 42 per cent of non-interest spending voted through the federal budget.

Although parastatal subsidies are now less that they once were, they remain significant, with budget subsidization of the power, railways and ports sectors amounting to 0.9 per cent of GDP in 2004. Furthermore, the new fully funded public pension scheme introduced in 2004 has major funding gaps, arising from the need to finance old and new pension systems simultaneously if the full costs of transition are to be borne.

However, the most persistent problem has been the quality of spending, with continuing inefficiency and leakages in both the current and capital budgets. In the former there is inadequate funding of maintenance and operational costs and inflated payroll costs, due to a combination of payroll fraud and overstaffing. Projects continue to be poorly planned and executed, with long delays in implementing projects. It is as if Nigeria at both federal and state levels is investing ever-increasing amounts in non-yielding assets, in the form of a lengthening pipeline of never-completing projects. As a result, despite high levels of spending in these sectors, health outcomes remain extremely low and have not improved over the years, and adult literacy rates and the enrolment of girls in primary education remain unacceptably low for a country of Nigeria's standing and ambition. Massive spending on power generation has not alleviated power shortages, and in the roads sector high transport costs and poor safety conditions continue to impose an unacceptable burden on the economy and society generally.

All of this points to the verdict that the problem in Nigeria is low efficiency of budget spending rather than inadequate amounts of funding at all levels of government. In turn the causes of low efficiency of public spending reach deep into the way in which budgets are made and implemented, the formal and informal incentives of budget actors, and the way government at all levels is managed, both bureaucratically and politically. With continuing high oil prices, there is undoubtedly fiscal space to expand government spending, but there is a risk that, given weak public finance management (PFM) capacity, scaling up to achieve the country's development goals better may result once again in heavy mismanagement of oil surpluses. And, as past experience has shown, there are benefits from not spending surplus revenues immediately, but spreading their use over the oil price cycle.

The rest of this chapter is about how Nigeria's public financial system stacks up against international standards, the better to see current institutions and their capacities in a wider perspective. The purpose is not to demonstrate that Nigeria falls short of international best practice, but rather to show where progress has been made and where much still remains to be done, both in the improvement of formal rules and processes, but also in the capacity to follow them. The latter is at the heart of the challenge. For, while the design of Nigeria's PFM system clearly needs modernizing, even to operate it as once intended would be an immediate improvement.

11.2 Global standards and the PEFA framework

In the past two decades there has been a growing interest in developing international standards across the full spectrum of public financial management. This has been led by institutions like the International Monetary Fund (IMF), the Organization for Economic Cooperation and Development (OECD), the International Organization of Supreme Audit Institutions (INTOSAI), the International Federation of Accountants (IFAC) and the UN. The IMF has developed a Code of Fiscal Transparency; the OECD has introduced a 12-indicator assessment framework for public procurement; INTOSAI has developed standards for government external auditing, and IFAC for government accounting; and the UN has for over a decade had a model public procurement law. Most recently, the EU, IMF and World Bank have cooperated to develop an integrated framework of 28 high-level performance indicators, each with performance graduations, to benchmark countries. By the end of 2006 about 33 countries had undergone assessments based upon the Public Expenditure and Financial Accountability (PEFA) framework, one of which has been Nigeria.

The drivers of this search for common standards have been several. One undoubtedly has been globalization and the increase in foreign direct investment. Another has been debt relief that has been conditioned not only on macroeconomic management, but also the ability of debtor countries to ensure debt relief is used effectively. A further factor has been the growing realization that the fight against corruption depends fundamentally on how public finances are controlled, managed, reported transparently and accounted for. Last, but by no means least, there is the advantage that, if a country's PFM can be benchmarked against good practice, this will help policymakers chart a relevant reform course that will move the country forward towards more effective and sustained use of public resources. Thus the PEFA framework has a developmental as well as a fiduciary dimension.

The PEFA Performance Framework contains 28 indicators divided into three sets. The first four look at aggregate expenditure and revenue out-turns relative to the original budget, as a measure of its credibility. The second set of six indicators looks at cross-cutting issues of comprehensiveness and transparency. The third set, of 18 indicators, looks at the budget cycle, including whether the budget reflects government policy priorities, whether there is predictability and control in budget execution, the quality of accounting, recording and reporting and, finally, external scrutiny and audit.

A summary of the full indicator set is given in Table 11.1.

11.3 Summary of PEFA assessment for Nigeria

The PEFA diagnostic has revealed a trend toward a system-wide upgrade in Nigeria's PFM system, which reflects strong government reform commitment. In more than

Table 11.1 PEFA indicator set

A. PFM out-turns: credibility of the budget	
PI-1	Aggregate expenditure out-turn compared to original approved budget
PI-2	Composition of expenditure out-turn compared to original approved budget
PI-3	Aggregate revenue out-turn compared to original approved budget
PI-4	Stock and monitoring of expenditure payment arrears
B. Key cross-cutting issues: comprehensiveness and transparency	
PI-5	Classification of the budget
PI-6	Comprehensiveness of information included in budget documentation
PI-7	Extent of unreported government operations
PI-8	Transparency of intergovernmental fiscal relations
PI-9	Oversight of aggregate fiscal risk from other public sector entities
PI-10	Public access to key fiscal information
C. Budget cycle	
C(i) Policy-based budgeting	
PI-11	Orderliness and participation in the annual budget process
PI-12	Multi-year perspective in fiscal planning, expenditure policy and budgeting
C(ii) Predictability and control in budget execution	
PI-13	Transparency of taxpayer obligations and liabilities
PI-14	Effectiveness of measures for taxpayer registration and tax assessment
PI-15	Effectiveness in collection of tax payments
PI-16	Predictability in the availability of funds for commitment of expenditures
PI-17	Recording and management of cash balances, debt and guarantees
PI-18	Effectiveness of payroll controls
PI-19	Competition, value for money and controls in procurement
PI-20	Effectiveness of internal controls for non-salary expenditure
PI-21	Effectiveness of internal audit
C(iii) Accounting, recording and reporting	
PI-22	Timeliness and regularity of accounts reconciliation
PI-23	Availability of information on resources received by service delivery units
PI-24	Quality and timeliness of in-year budget reports
PI-25	Quality and timeliness of annual financial statements
C(iv) External scrutiny and audit	
PI-26	Scope, nature and follow-up of external audit
PI-27	Legislative scrutiny of the annual budget law
PI-28	Legislative scrutiny of external audit reports

half of 28 PEFA individual areas, both performance and underlying systems have improved noticeably over the last few years. However, because the initial pre-reform level was extremely low, even after several years of reforms Nigeria's PFM system remains fundamentally fragile.

The assessment also found that the Federal Government of Nigeria (FGN) made advances in macroeconomic and debt management, budget formulation, accounting, and procurement reform. However, less progress was made with respect to capacity building, including in the Budget Office, and in such areas of financial accountability as reporting, monitoring and disclosure.

The key findings of this report with respect to financial accountability systems could be summarized as follows:

- Political commitment to the reform process is strong within the top level of the government, although in some areas this has yet to translate into a fully articulated development plan.
- The reform programme is still in its initial stages, but its impact has already been significant on particular aspects of the PFM operations.
- While most areas of PFM continue to show weaknesses, these weaknesses in most cases are recognized by the government, and appropriate reform efforts are either ongoing or planned.
- Overall, despite recent progress, the fiduciary assurance environment in the FGN remains weak.

Thus, a peculiar feature of the current PFM situation in Nigeria is that for a number of indicators/areas performance is improving but is still quite weak. Such indicators include budget classification, the comprehensiveness of budget documentation, public access to budget information, the transparency of taxpayer obligations, the effectiveness of taxpayer registration, the management of cash balances and debts, and the quality of in-year budget reporting.

At the same time, for a number of indicators, performance remains weak, and little or no material progress has been made recently. These include the incidence of government spending that remains off budget; the consolidation of fiscal data for enlarged government; the oversight of fiscal risk related to the operations of state enterprises; the control and collection of tax arrears; the predictability of government funding; the availability of information on funds received by service providers; the timeliness and quality of annual accounts; and quality/depth of legislative scrutiny of the budget.

Moreover, the reforms that promise to advance budget transparency and expenditure efficiency, including those in procurement, have been much slower at the subnational level, where more than half of consolidated budget expenditures are administered.

Given the constitutional autonomy of state governments in fiscal and financial management matters, the FGN can do little by way of direct intervention. Instead, the FGN should look for an alternative, more cooperative approach for engaging the states in PFM reforms by providing them with technical assistance, giving them financial incentives, and generating political benefits for sub-national leaders that are eager to reform.

11.4 Nigeria's performance against the individual indicators

11.4.1 PI-1: Aggregate expenditure out-turn compared to original approved budget

The standard here is defined in terms of the extent to which the budget as executed over the past three years deviates from the budget as approved, and is based upon primary expenditure, in other words it excludes debt service, and also excludes externally funded project expenditure.

There are several reasons for wanting as little deviation as possible between the budget *ex ante* and the budget *ex post*. The first is predictability of funding for budget users, the ministries, departments and agencies which deliver services. A second is macroeconomic management. Third is democratic accountability, in the sense that the budget is a contract to execute polices and undertake functions between the executive and the legislature as authorizer of revenues and spending. Here the federal government's performance has been improving, but from a very low base. In 2003 total spending, excluding debt service, fell short by 38.3 per cent of appropriated spending, chiefly because capital releases were 71.4 per cent less than the approved budget. This was partly because total revenues were 9.1 per cent less than anticipated, but chiefly because the legislature in approving the budget more than doubled the capital budget relative to what the executive proposed, much of it on unjustified pork-barrel projects. This left the executive no alternative but to restrict releases to avoid an exploding budget deficit.

This pattern repeated itself the following two years, but in a less extreme way, as the executive has introduced pre-budget consultations with the legislature on the overall macroeconomic framework within which budgets must be made and executed. Overall, the average expenditure deviation in 2004–05 declined to only 5.3 per cent, whereas it exceeded 28 per cent in 2001–03. Even so, the federal government falls a long way short of acceptable standards of budget predictability, and this is one of the factors that contribute to the inefficiency of spending. State governments show a similar mismatch between approved and executed budgets, but this is less due to state legislatures expanding the governor's budget, and more about governors proposing ambitious capital programs and being unable to either finance or execute them.

The underlying need at the national level is to reach greater accord between the executive and the legislature on the size and content of budgets. Unlike other countries in sub-Saharan Africa, which have evolved their budget systems from an original Westminster model, in Nigeria there are no restrictions on the ability of the legislature to change the president's budget. For some observers this is a dangerous flaw in Nigeria's constitutional arrangements, given that more than three quarters of government revenues derive not from taxes on citizens (which would constrain lawmakers) but from oil. For others, the power to change the executive's budget is fundamental to the principle of separation of powers. In practical terms, fiscal management and effective budget execution are impossible if large expenditure deviations persist. The draft Fiscal Responsibility Law, which seeks to bind governments at all levels to making budgets conservatively on the basis of an assumed long-run price of oil is a vital component of better budgeting arrangements. So also are the efforts in recent years of the Budget Office of the Federation to brief the National Assembly on the fiscal outlook, and seek their support for budgets made within a Medium Term Expenditure Framework (MTEF).

11.4.2 PI-2: Composition of expenditure out-turn compared to original approved budget

This indicator measures the extent to which actual expenditure composition varies from the composition of the original budget. The rationale of the indicator is that budgets should be capable of implementing the policies and programmes proposed by the executive and approved by the legislature.

At the federal level there is relatively little deviation between the share of the main sector ministries, departments and agencies (MDAs) in the approved and the executed budget. Furthermore, any deviations that can be measured are dwarfed by the large deviations at the aggregate level. This suggests that, when the executive cuts the budget back from what it views as the unsustainably high levels approved by the legislature, the pain is shared equally – no ministry is disproportionally protected from it.

What the indicator does not measure is reallocations within MDA budgets. This is large. When budgets are cut, the wage bill is protected at the expense of operations and maintenance spending, and this contributes to inefficiency. There is also redistribution within the capital budget, as funds are directed towards what the executive regards as higher-priority projects. When this results in the completion rather than partial implementation of projects, the reallocations are efficiency enhancing. However, the latter has not been common budget execution practice in Nigeria. A similar pattern can be found at the state level.

11.4.3 PI-3: Aggregate revenue out-turn compared to original approved budget

This indicator measures the realism of government revenue projections, and the international standard defined in the PEFA framework is for actual revenue collections not to fall below 97 per cent of budgeted domestic revenues in more than one of the past three years.

Nigeria's record in recent years has been one of exceeding domestic revenue forecasts, chiefly thanks to unexpectedly high international oil prices. But this was due more to luck than good planning. If oil revenues are set to one side and deviations in non-oil tax collections are analysed, a rather different picture emerges. In both 2003 and 2004 the actual internally generated revenue (IGR) collected amounted to only about one third of the budgeted level. This points to weak collection and unrealistic budgeting.

A similar pattern of weak IGR collection shows up at the state level, with a few exceptions. Lagos State has made dramatic improvements in IGR since the transition from military rule, by contracting out collections, albeit at a high overhead cost. Now the state is trying to institutionalize sound tax administration in the newly formed Bureau of Internal Revenue.

11.4.4 PI-4: Stock and monitoring of expenditure payment arrears

PEFA best practice benchmarks two variables: (i) the stock of arrears, which should be below 2 per cent of total expenditure, and (ii) reliable and complete data on the stock of arrears generated through routine procedures, regularly updated.

High levels of arrears are a consequence of large deviations between the approved and executed budget, and in Nigeria's case there is a backlog inherited from the years of military misrule, for which the data are unreliable. By late 2005, total arrears at the federal level were estimated at not less than 400 billion naira ($3 billion), which was more than 20 per cent of the total 2005 federal government budget spending. The main categories of budget arrears presently are debts to contractors and overdue pension payments. There are also arrears on utility payments and payments to international organizations. Total contractors' arrears are estimated at 275–300 billion naira (about 2.2 per cent of 2005 GDP), and have been the subject of successive screening exercises. Considerable progress has been made in building up a database in the Budget Office of the Federation (BOF), verifying, auditing and deflating the reported claims. Small contractor arrears are in the process of being paid off; large contractor arrears are being securitized.

Pension arrears have accumulated under the FGN's traditional pay-as-you-go defined benefit scheme for public servants, and pension rolls have long been unreliable. In 2004 the Pension Act provided for the introduction of funded pension schemes across the public sector, and the establishment of a National Pension Commission, which has begun a verification exercise. The 2006 FGN budget set aside funds for clearing most federal pension arrears.

11.4.5 PI-5: Classification of the budget

Best practice is the operation of budget systems that are based on the administrative, economic and sub-functional/programme classifications, using Government Financial Statistics/Classification of Functions of Government standards.

Nigeria's budgets at all levels of government employ traditional classification systems, which are based mainly on administrative classifications and some economic classifications. In this way the country has lagged behind international developments that have seen the emergence and adoption of universal standards which, with modern information technology, can provide policy-makers and budget managers with information on PFM in a timely and more meaningful way. Furthermore, the broader budgeting, reporting and accounting system, of which the classification system forms a central part, has deteriorated in its application over the years. The budget estimates are mostly too detailed for legislative oversight, and the accounts are too coarse-grained for management purposes, while the classification system allows no functional analysis.

As long as the primary objective of PFM improvements is better control of spending by budget units, an administrative-based classification system serves. And the most urgent need is better in-year reporting by MDAs under the present system. But, as the policy behind spending becomes more important, a more modern budget classification system will be demanded. Some steps are now being taken, partly by the Accountant-General of the Federation, to improve reporting (through the Accounting Transaction Reporting and Recording System (ATRRS)), and to amend the existing chart of accounts. Also the introduction of integrated financial management systems in some states on their own account is prompting change.

11.4.6 PI-6: Comprehensiveness of information included in budget documentation

A best-practice budget will provide information on the macroeconomic assumptions underlying the budget, the fiscal deficit defined by international standards and financing, financial assets at the beginning of the year and prior years' out-turns, explanations of the budgetary implications of new policies, tax expenditures and fiscal risk, summaries of budget data, including institutional, economic and functional classification, as well as details of proposed spending at an appropriate level of detail.

Currently the package of documents that constitutes the FGN's budget lacks analytical tables, and summaries have become more cursory in recent years, a victim of the rush to complete the budget and the lack of in-depth capacity in the BOF. The budget stresses government priorities such as the Nigeria Economic Empowerment and Development Strategy (NEEDS) but does not explain well how these are translated into spending allocations. In other respects, the FGN is moving forward. It has begun the development of a medium-term fiscal framework for the budget, which will eventually evolve into a fuller Medium Term Expenditure Framework (MTEF). A critical step towards linking these better has been the recent requirement for ministries to prepare Medium Term Sectoral Strategies (MTSS).

The budget presentation has changed little in decades, with a gap between the budget speech, which is very aggregate, and the mass of detail in the estimates but without analytical summary tables. Such an unbalanced presentation stimulates legislators (who need little prompting) to ignore the underlying fiscal strategy of the submitted budget proposal and immerse themselves in the details of spending.

11.4.7 PI-7: Extent of unreported government operations

Governments should aim for comprehensive budgets and accounts that cover all revenue and expenditure flows for all institutional units that are part of that government tier to which the budget pertains. In practical terms this means ensuring that unreported extra-budgetary expenditure (other than donor-funded projects, which can be difficult to capture) is insignificant (below 1 per cent of total expenditure).

As already noted in this chapter, a significant proportion (42 per cent of non-interest expenditure on average in the past three years) of spending by federal entities lies outside the federal budget. This seriously undermines the comprehensiveness of the annual budget. The main categories of spending outside the budget are: (i) first line charges of the Federation Accounts (chiefly investment costs of NNPC), (ii) donor funds, and (iii) expenditure financed with MDA's own revenues. In 2005 settlement of external debt arrears as part of the historic Paris debt deal was extra-budgetary. Since 2005 a further category has been added – major infrastructure investments (primarily power) funded with money that is accumulated in the excess oil savings account.

Constitutional interpretation and budgetary principles appear to be in conflict with respect to this extra-budgetary spending. In particular, NNPC cash calls and debt relief payments are common purpose spending made by federal government entities, which the Supreme Court in 2002 determined were outside the federal government's jurisdiction. As a result, a separate approval procedure has been established for this spending, involving the Federation Account Allocation Committee (FAAC), the Federal Executive Council (FEC) and the National Assembly, with auditing by the Auditor-General of the Federation. However, this results in a segmented expenditure process, and makes it less transparent and accountable. A possible solution to this problem could be incorporation of such common purpose spending in the regular FGN's budget, perhaps as a separate part.

Including donor-financed spending in the budget is a problem in many poor countries, and in the case of Nigeria is perhaps a lesser problem because the magnitude of donor assistance in relative terms is not so great. Still, it would be prudent to reflect at least all government external borrowing in the budget. More importantly, the failure to include the own revenues of parastatals, which are partly dependent on budget transfers, in the budget, even if only for information rather than appropriation, does undermine the transparency and accountability of the budget system. A similar situation exists at the state level.

11.4.8 PI-8: Transparency of intergovernmental fiscal relations

The goal here is a rule-based, transparent and predictable system for the allocation of funds between different tiers of government, enabling sub-national governments to make realistic projections for federal transfers, and that actual releases during the year are made in a regular and predictable way. For earmarked transfers, there should be a means, either though published accounts or statistical surveys, to ensure that these have been used for their intended purpose by their ultimate beneficiaries.

The division of responsibilities is generally set out in the 1999 constitution, which describes the exclusive responsibility of the FGN for functions of national concern, like defence and foreign affairs, concurrent responsibilities of federal and state governments, such as secondary and tertiary education, and responsibilities of local government authorities (LGAs) such as water and sanitation, together with responsibilities such as primary education and health which LGAs may cooperate with state governments in delivering. Overall, there is considerable overlap in expenditure responsibilities and insufficient clarity of expenditure mandates.

The bulk of revenues for all three tiers of government derive from oil. Oil revenues and nationally collected taxes are channelled to the three tiers through the Federation and VAT Accounts, according to a formula approved by both houses of the National Assembly, and overseen by the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC). The formula takes special account of such factors as population, social development, revenue effort, land mass and terrain, as well as equality in distribution. Oil-producing states receive an additional 'derivation' allocation. Not unexpectedly, the formula is hotly debated and zealously watched. The formula is supposed to be updated every five years on the basis of proposals developed by the RMAFC, but this did not take place recently on grounds of lack of consensus.

The flow of transfers is generally predictable and transparent. There are two issues, however, which affect transparency. The first is prior deductions from the Federation Account, both statutory deductions and joint venture cash calls of NNPC, and administratively determined deductions such as the set-aside 'excess crude' revenues, and the domestic petroleum subsidy. As already noted, there are arrangements for oversight of these deductions, but they are not part of the annual budget process of the federal Government. There has also been lack of transparency over the generation of oil revenues, but this is improving with Nigeria's participation in the Extractive Industries' Transparency Initiative (EITI). The second issue which detracts from the transparency and predictability of the intergovernmental transfer process is the poorly regulated withholding by state governments of transfers to local governments for the execution of joint programmes.

11.4.9 PI-9: Oversight of aggregate fiscal risk from other public sector entities

Best practice is centralized oversight of fiscal risk through timely reports and audited accounts from all major autonomous agencies and public enterprises, rules which prevent sub-national governments from generating fiscal liabilities for the central government, regular monitoring of the net fiscal position of all levels of sub-national government, and regular consolidation of these reports into an overall fiscal risk assessment by the central government.

There are presently several sources of risk to Nigeria's public finances. While the country's large parastatal sector is required by law to present accounts and financial statements to state and federal auditors-general, submissions are often late, and there are no regular in-year financial reports, a matter of serious concern, given the generally weak performance of budget-dependent autonomous agencies and public enterprises, which have shown an alarming tendency over time to accumulate large debts and other liabilities.

A second source of fiscal risk is the lack of a hard budget constraint on state governments and the absence of a mechanism for monitoring their fiscal positions. In the first years of the return to civilian rule, many states borrowed heavily from domestic financial markets, short-term and at high cost, and, until rising oil prices improved their revenues, servicing this debt distorted budgets and in many cases led to arrears in salaries and other payments. The third source of fiscal risk, obviously, is the heavy dependence of governments in Nigeria on revenues from oil and the attendant oil price cycle.

Of vital importance to the management of fiscal risk at all levels is the outcome of current efforts to put in place a new legal framework for public financial management, and thus a more responsible budget process. Critical here are the Fiscal Responsibility Bill (FRB), the Budget Procedure Bill, and amendments to the 1958 Finance (Control and Management) Act (F(C&M)A). As currently drafted, the FRB, which includes the fiscal rule that budgets should be made on the basis of the long-run price of oil, is intended to be binding on states and LGAs. Progressive states are beginning to look at how the state level budget process could be strengthened, but there are not yet explicit state equivalents to the F(C&M)A.

11.4.10 PI-10: Public access to key fiscal information

The standard here is the public availability of a complete budget package as soon as it is tabled in the legislature, of in-year budget execution reports, timely year-end audited financial statements, external audit reports, and regular publication of contract awards above $100,000.

Here Nigeria scores very poorly; there is very little information on Nigeria's government finances that is available to the public on a timely basis. This may be because the information does not exist, or is not complete or available in a timely way. Alternatively, it can be that authorities decide not to release information because of its supposed sensitive nature. Some improvement is taking place. The Central Bank published summaries of the budget aggregates and related financial information, and both the Federal Ministry of Finance (FMoF) and the BOF now have websites, and the amount of information, particularly in the Central Bank site, is growing. In addition, there is now an active consortium of public policy NGOs in Nigeria demanding more transparent public finances. This is encouraging; at bottom the challenge is to develop a culture amongst government officials to regularly release and not withhold the type of information on government finances that is normal in a democratic country. Partly, the existing culture is a legacy of military rule, when any release of information could get an official into serious trouble. It is also driven by a fear that release of any information could be misrepresented for political gain. The solution to leaks and distortion of released information is, of course, regular and timely publication of a much wider range of public information, withholding only information that truly should be secret, for either personal or security reasons.

11.4.11 PI-11: Orderliness and participation in the annual budget process

The aim here is a clear and predictable budget calendar which gives stakeholders sufficient time to participate in the budget process, communicates cabinet-approved budget ceilings to MDAs in the call circular, and enables the legislature to approve the budget before the start of the new financial year.

In Nigeria, at all levels of government, the budget calendar is an administrative tradition, not set by law. While the BOF endeavours to complete the budget estimates for the president to make his budget speech in mid-October, so that the legislature can approve the next year budget by the end of the current financial year, this seldom happens, either because the legislature takes longer, or because budget preparation is delayed. In recent years, notwithstanding efforts to get the budget approved in time, the Appropriations Bill was not passed until after the first quarter of the new financial year, necessitating provisional funding warrants. This is compounded by the often fractious relations between the executive and the legislature, multiple changes in the budget as proposed by the president, and multiple adjustments to releases after the budget has been approved, in order, in the executive's view, to restore balance to spending plans. Often this has meant that mid-year has come before the BOF has completed the launch of the current year's budget, postponing yet again the goal of launching the next year's budget preparation on an orderly time path. This results in insufficient time to explain to the legislature and get their understanding of the macroeconomic fundamentals underpinning public finances, to get ministers to agree collectively to the budget framework, and to allow MDAs to prioritize their spending.

However, there have been some important developments in recent years. The BOF now makes a serious effort to explain the fiscal framework to the legislature at the outset of the budget preparation process. And MDAs, initially on a pilot basis, have begun preparing their Medium Term Sector Strategies (MTSS), with the help of consultants, as an effort to get resources better focused on policy priorities prior to detailed budget preparation. For the first time, the BOF was able to undertake these actions and get the 2007 budget placed before the National Assembly by the middle of October.

At the state level, with the governor dominating executive–legislature relations and with greater scope for patronage, there is typically not the contentious relationship that characterizes relations at the federal level. This enables budgets to be submitted on time, and generally passed before or shortly after the end of the current financial year. But other problems manifest themselves, such as unrealistic budget estimates, poorly coordinated current and capital budgets, poor quality public investment plans, and slow execution.

Three developments are crucial to institutionalizing a more orderly and participatory budget process. The first is the enactment of the Fiscal Responsibility Bill, and associated PFM legislation at federal and state levels. The second is raising the capacity of BOF staff (and their counterparts in state budget and planning departments). The third is more harmonious relations between the executive and the legislature at the national level on budget matters. The last of these is partly structural, and therefore difficult to change, partly a matter of political incentives of elected officials who seek to add programmes they can be associated with to budgets, and partly amenable to better communications and stronger accountability arrangements, which have begun to improve.

11.4.12 PI-12: Multi-year perspective in fiscal planning, expenditure policy and budgeting

Best practice is three-year or more rolling forecasts of fiscal aggregates, on which annual budgets are based, annual debt sustainability analyses for both domestic and external debt, existence of sector strategies with full costing of recurrent and investment spending, broadly consistent with fiscal forecasts, and selection of investments based upon their relevance to sector strategies and recurrent cost implications, and consistent with sector envelopes and forward budget estimates.

Here the federal government is well ahead of states. In the past three years, the BOF has prepared multi-year aggregate fiscal frameworks, based upon conservative estimates of the expected price of oil, and used this framework to brief both the legislature and the Federal Executive Council on the forthcoming budget preparation cycle. The BOF, as yet, has not effectively evolved the aggregate framework into a set of medium-term sector envelopes based upon the cost of existing and agreed future policy, though the launching of the MTSS process is an important step in this direction. In the jargon of budget-making, at the federal level, Nigeria has an MTFF but not an MTEF.

At the state level, multi-year budget planning is less advanced. Although a few states have evinced interest in giving a medium-term perspective to budgeting, all effectively make budgets on an annual basis, and the culture of budgeting is firmly rooted in the old dual budget rolling public investment plan model.

The challenge is moving from the dual budget model, in which investment spending dominates, to one in which service delivery guides the making of budgets. This requires looking at budgets in a much more integrated way, balancing capital with recurrent spending within an overall sector (or MDA) resources envelope. Technically, this requires much better information on costs of service delivery and these must be generated, as also must information on the efficiency and effectiveness of spending (which is very poor at present). It also requires a major investment in capacity building of budget staff, both in budget offices and in line ministries, at all levels of government. Most of all, it requires a sea change in the culture of public spending in Nigeria, in a way that makes the consistent delivery of core public services the driver of spending decisions, rather than ambitious, poorly thought-through, badly executed and often unsustainable capital spending schemes.

11.4.13 PI-13: Transparency of taxpayer obligations and liabilities

Taxpayer liabilities need to be spelled out in clear and comprehensive laws and regulations, backed up by effective taxpayer education and a properly functioning tax appeals mechanism.

Evidence from enterprise surveys suggests that tax regulations and how they are applied are a constraint to business development, criteria for tax waivers are unclear in their application, and taxpayer education has a long way to go at both federal and state levels. Tax appeals mechanisms exist but they are complex and their effectiveness is difficult to assess.

Actions to remedy these deficiencies are under way. The Federal Internal Revenue Service (FIRS) has initiated a package of legislative amendments to tax laws, remedying some of the existing faults in VAT, such as the absence of a registration threshold, improvements to the appeals mechanisms, and a clearer definition of the timetable for dispute resolution. There is also a need to simplify the overall tax structure, including subnational taxes and fees, to eliminate various secondary taxes that bring little revenue but generate considerable administrative cost to the private sector. A further challenge is building the capacity of staff.

11.4.14 PI-14: Effectiveness of measures for taxpayer registration and tax assessment

The focus of this indicator is on the existence and accuracy of controls in the taxpayer registration system, effectiveness of penalties for non-compliance with tax registration, and adequate planning and monitoring of tax audits and fraud investigations.

Coordination between FIRS headquarters and its branches in the states, which are responsible for registering taxpayers, is weak, leading to inaccuracies in taxpayer information and consequently in tax collections. There is no single taxpayer register yet. Non-compliance penalties are either too low to constitute an incentive or too complex to be effective. The recently established audit departments of FIRS lack capacity, and with no systematic collection of tax data, let alone industry data, the process of risk identification cannot be begun.

Efforts are under way to construct a single taxpayer database which will be computerized, enabling the adoption of a single Tax Identification Number (TIN). This needs to be accompanied by validation of existing taxpayer data and building of staff capacity, especially for audit.

11.4.15 PI-15: Effectiveness in collection of tax payments

Best practice is defined as a high ratio of collection of tax arrears relative to their stock, regular transfers of collected taxes from a revenue authority to treasury, and accounts reconciliation between tax assessments, collections, arrears records and receipts by the treasury.

Present arrangements in Nigeria fall below the standard. There is no database on tax arrears classifying arrears by amounts and tax type at the levels of the Federation and states (which collect Personal Income Tax), while reconciliations are incomplete and less than regular. At the federal level, there are reforms under way in FIRS, as well as in the state with the largest tax base, Lagos. Over time, as staff capacity and better systems are built, this should lead to improved performance. Autonomous status of revenue agencies, which is proposed in recent legislation, is important to make staff salaries more competitive than regular civil service scales. This would help, combined with better oversight and governance, to break the informal practices that have become embedded in many areas.

11.4.16 PI-16: Predictability in the availability of funds for commitment of expenditures

For budgets to be predictable, they need to be approved on time, respected by the executive, flexible enough to accommodate a reasonable level of fiscal uncertainty, and supported by a cash management system that ensures that the government is never illiquid.

Analysis of actual monthly releases to spending departments over the past four years shows continuation of significant variability in the amounts provided by the treasury. This expenditure instability is only partly explainable by monthly revenue variations, which have fluctuated somewhat less recently; this stabilization is in part thanks to oil-price-based budgeting. The introduction of an oil-price-based fiscal rule, however, has helped less than hoped for because it does not smooth variations in oil production; with domestic petroleum price controls in place, budgetary resources have had to be diverted to offsetting fuel subsidies that fluctuate in line with world oil prices. In addition, on the expenditure side the government has struggled with cash management and delays in procurement certification.

As long as petroleum subsidies are maintained, the budget will always be vulnerable to price shocks in international oil markets. Deepening the market for government securities, improved cash management, including the adoption of a single treasury account, improved procurement capacity on the part of MDAs, and approval of a realistically sized budget much earlier in the year are the key steps to improve the predictability of funds for efficient and effective public expenditure.

11.4.17 PI-17: Recording and management of cash balances, debt and guarantees

In well functioning PFM systems, domestic and foreign debt records are complete, regularly updated, reconciled and reported to management on a regular basis. All cash balances are calculated daily and consolidated, and central government's contracting of loans and issuance of guarantees are made against transparent criteria and fiscal targets, and all have to be approved by a single responsible government entity.

Currently, budget funds are released to MDAs, which keep their own accounts with commercial banks, without central oversight. This means that no one knows how large are government cash balances with the commercial banks, which earn no interest, making for unnecessary borrowing by the treasury from either the Central Bank or the relatively thin domestic market in government paper. This has been especially costly given the high level of domestic interest rates in recent years. This makes cash management one of the weakest areas of PFM in Nigeria, pointing to the need for timely issue of warrants, greater oversight of cash balances and eventually introduction of a single treasury account, replacing the Central Bank overdraft facility with open market operations to meet short-term liquidity needs, and increased ability of the government Cash Management Committee to reduce variability in cash releases.

By contrast, at the federal level the area of debt management has been one of strong advance, with the formation of the Debt Management Office under the FMoF and its acquisition of considerable expertise in the area of external debt, on which it has focused. This was a major factor supporting Nigeria's favourable debt relief terms from the Paris Club in 2005. Furthermore, the DMO Act of 2003 and subsequent guidelines lay down strict rules for federal MDAs, parastatals and state government external borrowing. State governments can contract new external debt only with the permission of the FMoF, normally given only after DMO financial analysis, Federal Executive Council and National Assembly approval. Parastatals typically borrow through the FMoF, which contracts the loan and on-lends the proceeds, thus ensuring the amount is captured in the sovereign debt profile. State domestic borrowing must be consistent with rules of the Security and Exchange Commission (SEC), which, in default, provide deduction of the amounts due by the FMoF from federation account transfers to a particular state.

11.4.18 PI-18: Effectiveness of payroll controls

Governments with good payroll controls can link directly and regularly reconcile personnel records, staffing authorization and payroll systems. Changes are updated at least monthly, and retroactive adjustments are rare. Authority to change records and payroll is restricted and results in an audit trail, and there is a strong system of annual payroll audits to identify control weaknesses and/or ghost workers.

The FGN operates a decentralized payroll system for the civil service, whereby MDAs operate their own payrolls, consistent with government-wide procedures set by the Accountant-General. In theory, the payroll is linked to the personnel records system, and the formal rules are sound. In practice, some of the abuse that became widespread under military rule has continued and, notwithstanding many staff censuses, payroll fraud has not yet been fully eliminated. The weakest part of the payroll control system is the establishment list, in theory the approved staffing structure of each MDA. In practice, this has lost credibility, and the basis of control has become the payroll alone. Parastatals, whose combined employment exceeds by far that of the civil service proper, lie outside this system, and also have weak payroll controls.

A major effort is now under way to replace the present largely manual systems of the FGN with an integrated payroll and personnel management system. This is an important step forward in strengthening payroll controls. As it is introduced, it will be important to ensure the accuracy of personnel data entered into the new system, if necessary through further staff audits.

11.4.19 PI-19: Competition, value for money and controls in procurement

The benchmark for public procurement is open rule-based competition, applied to at least 75 per cent of contracts above the threshold, with full justification for less competitive procurement methods, and a complaints mechanism that provides for timely resolution of procurement process disputes, under the oversight of an external body, with publicly accessible data on complaints resolution.

Public procurement is an area where the government has made considerable progress at the federal level, against a background of large-scale abuse during the years of military rule of what was originally a sound process, through rigged, non-competitive and costly award of contracts. The initial efforts of civilian government were to deal with an overhang of contractors' claims, reducing or eliminating the most egregious ones. From 2001 the FGN began putting in place a more robust system of procurement oversight, through the institution of 'due process' and the creation of the Budget Monitoring and Price Intelligence Unit (BMPIU). Departmental tender boards were abolished and replaced with ministerial tender boards, subject to oversight by BMPIU. The government introduced clear rules for competitive tendering, avoidance of contract splitting, national advertising, and transparent bid and proposal evaluation criteria. BMPIU has been highly successful in reducing contract costs, and its certification of 'due process' is required before the release of budgetary funds by the Accountant-General. The focus thus far of 'due process' has been the Capital Budget. Rules for direct contracting have been tightened.

Legislation is now before the National Assembly that would convert BMPIU into an autonomous procurement regulator within the executive branch, empowered to issue procurement rules, consistent with statutory principles of open competitive tendering, and with a separate appeals mechanism. It will be important for this legislation to be passed, implemented in substance as well as in form, and emulated by the other tiers of government, which generally have not moved yet to reinstate open competitive tendering as effectively as the FGN. At the state level, contracts of any magnitude are effectively determined by the governor. At all levels of government procurement staff need to be trained, preferably through the establishment of a specialist procurement cadre, and steps taken to ensure that both capital and current budget contracting of works, goods and services are competitive.

11.4.20 PI-20: Effectiveness of internal controls for non-salary expenditure

Best practice entails comprehensive expenditure commitment controls which effectively limit commitments to actual cash available and approved budget allocations, supported by other relevant internal controls and rules, with high compliance, insignificant misuse, and very limited use of emergency procedures.

The FGN's current control framework dates back to the pre-independence Finance (Control and Management) Act of 1958, and Financial Regulations issued thereafter (the latest being in 1999 – essentially a reissue). Though fundamentally sound, the present system relies mainly upon manual procedures of accounting and reporting; although its abuse is less than what it used to be under military rule, there is widespread disregard of all types of controls. The same control framework operates in states (though there is no actual state legislation in place, just regulations), and the same lack of financial discipline applies as well. At all levels, there is far too frequent resort to emergency exceptions. Aware of the weakness in internal controls, the FMoF seeks to control spending through cash rationing.

In theory, furnishing monthly budget execution reports should be a condition of cash release, but this is not strictly applied and many MDAs run late with their reporting. Poor record-keeping of commitments by MDAs and their failure to regularly report on both actual spending and outstanding commitments mean that the FMoF has little knowledge of the magnitude of commitments accumulated during the year.

The remaking of the budget through the cash release system, necessary in the executive's view to restore macroeconomic balance and spending priorities to the budget, leads to delays and unpredictability of funding to MDAs. The late release causes low capital budget spending within the fiscal year, and thus a large carry-over. Instead of making this a charge against next year's budget, the FMoF in the past two years has continued funding the carry-over against the original appropriation, in the face of political pressure to implement capital budget spending. This has resulted in an effective extension of the financial year up to at least next June and the spending in 2006 of around $2 billion of 2005 appropriations from the capital account. This practice undermines the annuality of the budget.

Steps are being taken to modernize expenditure control and asset management systems across government. The cash release system has been tightened, so that cash balances in MDA commercial bank accounts declined. Due process has sharply reduced excessive advance fee payments on contracts. The FMoF now receives more timely information on ministerial spending, and the Accountant-General's Office has been taking the first steps towards installing an integrated financial management system. The challenge now is to increase the pressure on MDAs to report and reconcile accounts, placing sanctions on those accounting officers who do not exercise proper stewardship over their votes, and to place greater emphasis on financial management as a criterion of career advancement within the civil service. Similar challenges prevail at the state level, where a small number of states have invested in integrated financial management systems (for example Lagos and Delta), but generally financial discipline is weak.

11.4.21 PI-21: Effective internal audit

The benchmark is operational internal audit for all central government entities that meets professional standards and focuses on systemic issues, adheres to a fixed schedule, and produces reports to the audited entity, the finance ministry and the supreme audit institution. Action by management on internal audit findings is prompt and comprehensive.

At both federal and state levels, internal audit units exist in most MDAs, staffed by auditors posted by the Accountant-General. The emphasis is on compliance rather than systems auditing. There is no separate career stream for auditors, who are drawn from the wider pool of government accountants, the minority of whom are professionally qualified. The weaknesses of the present system are recognized, including the difficulty in recruiting and retaining professionally qualified staff on government pay scales. The OAGF has been making efforts to train staff in modern auditing techniques, and to encourage units to undertake more system-based audits.

The greatest constraint is not lack of capacity, however. Rather it is weakness on the demand side of the financial accountability equation. Presently, the climate for PFM at all levels of government is 'soft', with few officers sanctioned for irregularities. Thus management response to internal audit findings is disappointing, and this feeds back to the quality of audit. To tighten the system, the FMoF, with the president's backing, needs more emphatically to withhold releases to departments which fail to address deficiencies in their control systems. Only when accounting officers have a strong incentive to demand the products of internal audit, will performance move to the higher level.

11.4.22 PI-22: Timeliness and regularity of accounts reconciliation

In modern financial management systems, bank account reconciliation is fully automated and done at least on a daily basis. For PEFA the standard is reconciliation for all central government bank accounts at least monthly at aggregate and detailed levels, with reconciliation and clearance of suspense accounts at least quarterly, within a month from the end of period and with few balances brought forward.

Reconciliation of bank accounts is beginning to improve with the implementation of the ATRRS, with more MDAs reporting their accounts transcripts, including bank reconciliation statements, on time. A continuing challenge is the volume of advances to public employees in the form of per diems for workshops and other benefits, in turn a product of the use of these as quasi salary supplements to augment low pay. Advances are also paid to contractors, though abuse in this area has been much reduced recently. Encouragingly, in 2006 the OAGF has been empowered to withhold releases from MDAs which default in the monthly submission of budget execution reports, and has selectively begun doing so. The corollary, though, is that, without an external stimulus, MDAs see little intrinsic value in reconciling their bank accounts and generally operating effective financial control systems. In turn this reflects the soft financial management culture that pervades the public sector at all levels; changing this to make reporting and accounting valued for its own sake is a major governance challenge for future administrations.

11.4.23 PI-23: Availability of information on resources received by service delivery units

Best practice is routine data collection or accounting systems which provide reliable information on all types of resources received in cash and in kind by both primary schools and primary health clinics across the country. This information is compiled into reports at least annually.

As a federal state, Nigeria's accounting information on resources used by service delivery units will always be spread over a large number of governments, rendering difficult the consolidation of information on a regular basis. Currently, there is no direct accounting information available at the federal level regarding the full amount of resources used within key segments of the public sector because there is no system for aggregate consolidation of accounting information from states and local governments. Moreover, external grants and loans are not covered by the existing budget process. Thus it is not possible to say how much total public spending there is on basic social services in Nigeria. Furthermore, at local government level, there is widespread misallocation and misreporting of expenditures. The availability of budget information at the local level is very low, and the budgets of individual front-line service providers are unobtainable to local community groups, who believe that much of the money is either siphoned off or spent on salaries.

A promising development is the arrangements now in place to monitor the use of savings from the Paris Club debt relief, which the FGN has committed to spend on Millennium Development Goal programmes. These will be intensively monitored, including by programme beneficiaries. The hope is that the monitoring of MDG programmes will spearhead better monitoring and reporting practice across government.

11.4.24 PI-24: Quality and timeliness of in-year budget reports

Best practice in in-year reporting entails: (i) presentation of data to allow direct comparison of budget execution with the original budget, with information on all budget items and both commitment and disbursement stages; (ii) quarterly or more frequent reports issued within four weeks of the end of period; (iii) no material concerns regarding data accuracy; and (iv) reliable instruments for data verification, based upon a combination of field monitoring, audit and statistical analysis.

Until the roll-out of the ATRRS, monthly reporting by MDAs was poor, and the FMoF did not have a clear picture of budget execution. This has improved, and release of current and capital spending to MDAs is now supposed to be conditional on reports having been received, with stronger enforcement by FMoF than before. But, while ministerial reporting has improved, this cannot be said for other parts of government. There are no regular in-year reports of use of budget funds by parastatals, federal extra-budgetary funds and autonomous agencies. In-year reporting by MDAs at the state government level is very uneven and performance is not linked to release of cash.

Physical monitoring of projects has always been weak in Nigeria. Although each agency usually has a monitoring unit in-house, they produce little and are held in low esteem. Travelling to visit a project has traditionally been seen as a way of generating per diems and other benefits, with reporting on outputs a secondary objective. Again it is hoped that the more rigorous approach to reporting and monitoring of the MDG projects will lead the way to better across the board practices. If it continues, weak reporting will leave the government increasingly open to diversion of funds and outright corruption. Technical improvements are straightforward, but the real test is a governance one – whether the purpose of budgets is the spending of money as an end in itself, or as a means to produce socially desirable outputs, which are expected to be verified.

11.4.25 PI-25: Quality and timeliness of annual financial statements

The standard here is the timely production of consolidated government statements, which include full information on revenue, expenditure and financial assets/liabilities, consistent with IPSAS or equivalent national standards, and are submitted for external audit within six months of the end of the fiscal year.

This is an area where performance at the federal level has been exceptionally poor – as of the beginning of 2006, no full set of audited government financial statements have been presented to the National Assembly since 2001, to the consternation of legislators. However, an effort is under way to reduce the backlog of late accounts. A major reason for the backlog is the delay by MDAs in producing their accounts for consolidation by the Accountant-General. Laggards, however, have not been sanctioned, though indications are that reporting discipline is being tightened up. Overall, the delay in production of accounts is a telltale of the slight importance that has been attached over the years to financial accountability. States present a mixed picture of laggards, but there are some states which are ahead of the federal government in producing financial accounts on time.

11.4.26 PI-26: Scope, nature and follow-up of external audit

The best-practice standard is for all entities of central government to be audited annually. A full range of financial audits (covering revenue, expenditure and financial assets/liabilities) and some aspects of performance audit are expected to be performed to a generally accepted standard, focusing on significant and systemic issues. Audit reports are submitted to the legislature within four months of the end of period covered and, in the case of financial statements, from their receipt by the audit office. There is clear evidence of effective and timely follow-up on audit findings.

Nigeria's constitution sets a 90-day limit for auditors-general to submit their reports to the legislatures, and federal Financial Regulations require that the financial accounts be submitted for audit within six months of the end of the financial year. Were this timetable to be adhered to, Nigeria would meet the standards as far as timeliness is concerned. As already noted, the Auditor-General's chief constraint is delayed submission of accounts to audit from the Accountant-General. Audit coverage extends to all ministries, extra-ministerial departments and agencies, and is chiefly compliance based.

Surprisingly, there is currently no specific legislation covering the powers and duties of the Auditor-General, the previous law having been excluded from the 1991 consolidation of laws of Nigeria. But authority for the office is conveyed by the Constitution, and absence of a statutory framework (mirrored also by most states) does not seem to have been a hindrance, though enactment of a modern procurement law would provide an opportunity to modernize also audit strategy and methods. A new Audit Bill is before the National Assembly, and would strengthen the independence of the supreme audit authority, freeing his office from debilitating civil service rules.

Follow-up of audit findings is weak. There is no formal mechanism of reporting back to the Public Accounts Committees (PACs) on actions taken on previous findings, and no systematic follow-up of actions taken by the executive. Moves are afoot to give the FMoF the authority to do this. A new audit law would not only mandate reporting back on actions taken, but also spell out the penalties for accounting officers of non-complying MDAs. On its part, there is a need for the supreme audit institution to be more ambitious in its audits, focusing scarce staff resources on high-risk areas, and more frankly evaluating the efficacy of financial control systems. There also needs to be more aggressive follow-up of individual audit findings by MDAs.

11.4.27 PI-27: Legislative scrutiny of the annual budget law

The benchmark best practice is for the legislature's review to cover fiscal policies, medium-term fiscal framework and priorities, as well as details of revenue and expenditure. The legislature's procedures for review should be firmly established and respected, with at least two months to review the budget proposals. Clear rules should exist for in-year budget amendments by the executive, which set strict limits on extent and nature of amendments and are consistently respected.

Since the return to democracy, there has been active scrutiny of the executive's budget proposals by the legislature. Unlike in most other African countries, which began with a Westminster model of government, Nigeria, in pursuit of US-type constitutional arrangements entailing a full separation of powers, imposes no constraints on the extent to which the legislature can change the budget put forward by the executive. State legislatures have identical powers, though they have generally tended not to use them. In many of the years since the return to civilian rule, there have been bitter fights over the respective roles of the federal executive and the legislature in budget-making, resulting in gross inflation of *ex ante* budget, chiefly by Assembly's adding new programmes and projects. In turn, this has prompted the executive to use the cash release system to selectively implement the budget as passed, and so to restore original spending priorities. Although the 2006 budget was a little better, this antagonistic relationship between the executive and the legislature has typically delayed the approval of the new budget until well into the first half of the new financial year.

There are steps being undertaken to make budget-making less confrontational. When the Fiscal Responsibility Law is passed, each tier of government will have to make its budgets consistent with the fiscal framework set by the FMoF. The independent Budget Process Bill would mandate a two-stage process of budget approval, though it might dangerously shift budget-making power towards the legislature, a situation of concern to many observers, given the legislature's evident lack of spending constraints. Clear rules exist for in-year budget amendments by the executive, originating in the Finance (Control and Management) Act of 1958, but over the years a great deal of abuse has crept in. The challenge is twofold. The first part is to install a modern financial management legal framework for transparent and accountable spending of public monies. The second part is ensuring that the legal framework for PFM in Nigeria, once it has been modernized, is taken seriously by all budget actors.

11.4.28 PI-28: Legislative scrutiny of external audit reports

Best practice calls for scrutiny of audit reports by the legislature within three months of receipt, in-depth hearings in which officers of the audited department participate, and the issue of recommendations by the legislature to be implemented by the government.

The issue in Nigeria is not the time taken for audit by the public accounts committees formed by both Houses – which seems reasonable – but the delay in receiving annual accounts from the Auditor-General, who, in turn, is dependent on the submission of accounts by the Auditor-General. Even so, some PAC hearings have been held, which are open to the public, officials are required to attend, and conclusions are drawn and recommendations made. If the Audit Bill now before the legislature is passed, this will give the SAI more independence, in terms of both staffing and materials, which should enable it to serve better the legislative review. Most critical is the passage of the Fiscal Responsibility Bill, which holds the hope of more harmonious relations between the executive and the legislature on public financial management matters in the future.

Notes

1 This chapter was prepared on the basis of the authors' contribution to Nigeria's Public Expenditure Management and Financial Accountability Review (PEMFAR), a recent report by the World Bank (2006). We would like to acknowledge a considerable contribution to the detailed PEMFAR assessment by other members of the World Bank team, in particular Allan Gustafsson, Chinedum Nwoko, Illaria Chessa, Bayo Awosemusi and Gert van der Linde.

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