



KENYA

Kenya adopted a new budget system in 1999, including a Medium Term Expenditure Framework that projects revenues and expenditures over a three-year rolling period.

Legal framework for transparency

- Kenya has a strong, detailed and well laid out legal framework that governs raising government revenues, as well as the allocation and use of public resources.
- This framework is grounded in the Constitution and other well developed laws, financial regulations and procedures.
- However, the legal framework underpinning the budget process is outdated in some areas and provides inadequate detail in others. For example, there is no legal requirement to release information before the budget itself is tabled in parliament. This allows little time to debate macro-economic forecasts and fiscal policy.
- Other weaknesses in the legal framework include archaic provisions for financial management and inadequate requirements for reporting on expenditure and extra-budgetary funds. The framework also makes no provision for civil society participation in the budget process.

Clarity of roles and responsibilities

- The introduction of the MTEF and other reform measures has contributed to greater clarity of roles and responsibilities in the budget process.
- However, established budget practices often obscure roles and responsibilities, leaving the executive with enormous leeway to circumvent the relevant laws and regulations.
- In addition, responsibility has not been assigned clearly enough in the areas of extra-budgetary funds, debt management and auditing. The roles and responsibilities of civil society and donors are also not clear.
- The role of parliament in the budget process is clearly demarcated. But in practice the legislature has had little real authority to hold the executive accountable for financial mismanagement, wastage or fraud.
- Poor compliance with the legal framework and a lack of adherence to demarcated roles and responsibilities delivers low levels of transparency and accountability. This is especially relevant to the budget implementation phase.

Public availability of information

- While government regularly releases budget information, it is rarely useful. Reports are often clogged with excessive routine detail, while key information is not disclosed.
- The volume and frequency of discretionary budget information is erratic and limited, often of poor quality and selective in nature.
- Due to the cost, fragmentation and inconsistency of budget information, it is near impossible for any individual or institution – inside or outside government - to get a full overview of the budget. This undermines scrutiny of the budget process.
- Secrecy legislation and regulations can be used to justify the non-disclosure of important and relevant budget information.
- No regular information on actual expenditure is made available during budget implementation and reporting on budget outcomes is grossly inadequate.
- Information on donor funds is largely limited to inputs and programme schedules, with little or no reporting on implementation and outcomes.
- The relevance of audit reports is undermined by their technical focus and (often extremely) late publication.

Capacity and systems in the budget process

- Most, if not all, government departments lack the human, technical and information resources to engage in effective budget planning.
- Parliament lacks capacity for independent fiscal research or analysis. It does not have the time, information or skills needed to scrutinise and debate relevant budget issues.
- Transparency and accountability are further weakened by inadequate systems for commitment control, accounting information management, procurement, as well as debt and liability management.

MANAGEMENT OF EXTRA-BUDGETARY ACTIVITIES

- Extra-budgetary activities in Kenya include a number of funds and consumer levies that fall outside the confines of the annual budget. These include the Rural Electrification Levy, Petroleum Development Fund and Sugar Development Levy, amongst others.
- Information is rarely disclosed on the amounts of money raised by means of these extra-budgetary activities, how and where it is spent, or the effectiveness of such expenditures.
- The Harambee Fund is a public fund-raising system in which citizens contribute sums of money to supplement government expenditure on basic social infra-structure. Public information about this fund is inadequate, with little or no reporting on its outputs.

PARTICIPATION IN THE BUDGET PROCESS

- There is no legal basis for civil society participation in the budget process and no obligation on government to encourage or accept contributions from civil society. Inadequate and untimely budget information further limits the capacity of civil society to engage in the process.
- Though public engagement with the budget process remains limited and unstructured, the introduction of the MTEF has allowed for more meaningful interaction between civil society organisations and the legislature.
- There is limited and fragmented participation in the budget process on the part of private sector consultancy firms, think tanks and the media.

FISCAL TRANSPARENCY research team in Kenya

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