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## Consultants Report

Rule of Law Assistance Project

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Judicial Branch Budgeting

National Center for State Courts  
United States Agency for International Development (USAID)

*Consultants: Kate Harrison and Lesley Duncan*

## I. Overview

The course on judicial branch budgeting was presented over two to two and half days at three pilot sites in Nigeria, namely Abuja, Kaduna and Lagos. Participants included representatives of the federal and state judiciary, including judges, court administrators (known as registrars) and court finance staff; the executive branch, including the regions' ministries of justice, finance and economic planning and development; and the legislative branch in the persons of legislators and analytical staff.

Training was provided through a guided discussion of budget issues, exercises designed to elicit input from the participants, case studies from the California trial courts and provision of reading materials. The California trial courts were selected as a model because the recent transition from county to state funding parallels the transition experienced in Nigeria from state to national funding of the judiciary.

The goals of the training were to assist participants to:

- Develop a common understanding of the appropriate role of each branch of government in the judicial branch budget process
- Understand and apply fundamental budgeting principles and practices
- Incorporate long-range strategic planning into the budget process
- Guide participants through planning, preparing, executing and monitoring a court budget

Certain assumptions were made in developing the course. As discussed throughout this report, some of these assumptions were challenged and refined over the course of presenting the materials. Therefore the following assumptions provided the framework for this course:

- The judicial branch budget in Nigeria is currently be developed at the national level;
- The precise role of the Nigerian National Judicial Council is still evolving;
- The judicial branch is beginning to develop goals to which budgets will be tied;
- As a small proportion of the total governmental budget (less than 1%), the judicial branch must compete for funding with a wide variety of other governmental functions;
- Courts should have control of expenditures within their allocations. However, some limits will be placed on the use and movement of funds by courts to ensure accomplishment of stated national goals.

## II. Course Topics and Issues

The course was divided into three main focus areas: strategic and structural considerations in budgeting; development of a coherent budget process; and the mechanics of budgeting.

The discussion below provides an overview of the material presented and a discussion of the responses of course participants. Suggestions for future training and other steps follow.

### A. Strategic and Structural Considerations

The first segment of the course focused on strategic and structural questions associated with the budget process: the benefits of clear budgeting, the role of each branch in the budget process (who does what) and the level at which the courts are funded (i.e., by the federal or state government).

#### *1. Benefits of a Clear Judicial Branch Budget Development Process*

The benefits of successful judicial branch budgeting were detailed and discussed:

- Facilitates judicial branch strategic planning
- Communicates and advocates the needs of the judiciary
- Improves confidence and credibility between the branches of government
- Develops a branch wide budget submission
- Provides realistic data to support budget submissions
- Provides data for fund allocation
- Collects outcome data to support future budget requests
- Insures financial integrity
- Sets realistic expectations within the court

These general concepts were provided as background and did not elicit extensive comment.

#### *2. Roles & Responsibilities of Branches of Government*

The United States was used as a model to illustrate the role of each branch of government in the judicial budget process, with the following broad description of the role of each branch:

- Executive - Reviews the annual trial court budget request as submitted by the National Judicial Council, makes budget proposals for all funded entities, including trial courts, allocates funding
- Legislative - Working through various committees in both houses, reviews executive branch budget proposals and approves final budget, subject to veto by executive branch

- Judicial Branch – strategically plans direction for courts, articulates needs, protects public monies and property by legally and efficiently managing resources

Significant time was spent discussing the implications of an appropriate and efficient sharing of these responsibilities with courts having sufficient authority, accountability and incentives to manage resources effectively. Among these implications are:

- The branches of government must view themselves as jointly responsible for achieving effective allocation of scarce resources
- The judicial branch should not be viewed by the other branches as subservient to the other branches
- The judicial branch should not assume that independence of judicial decision implies funding independence
- The judicial branch should be involved in determining national judicial priorities and the cost of proposed legislation
- Courts should be allowed the latitude to move funds across line items and programs and carry forward unspent funds

The course emphasized that for their part, to foster independence and accountability, courts need to:

- Think and behave strategically when making resource allocation decisions
- Constantly examine current practices to improve cost and service
- Capture existing resources for reallocation to higher priorities
- Advise when changes in legislation would improve service or reduce costs
- Be able to articulate needs in areas not well understood by other branches and for which natural constituencies do not exist
- Develop financial policies that protect public resources

### *Analysis*

The judicial branch in Nigeria has not, to date, been involved in determining judicial priorities, evaluating the impact of proposed legislation, or been allowed the latitude to use funds flexibly to achieve stated goals.

Much of the lack of separation of powers revolves around the allocation of already appropriated funds. On the federal level, while monthly warrants are to be signed by the Federal Minister of Finance based on appropriations made by the National Assembly, in fact, a great deal of discretion is exercised by the Minister of Finance in allocating funds. At the time the course was held (February 2001), funds had not, yet been allocated to the judiciary for fiscal year 2001.

While resource allocation problems plague all government entities in Nigeria, the courts are specifically not represented in the state bodies that make funding allocation decisions on an ongoing basis. In addition, it is not clear whether the judiciary's accounts have

been adequately separated from those of the executive branch at all sites, reducing the courts' ability to identify and spend appropriated funds.

In order to develop as a branch of government, the courts need more certainty that at least an identified portion of allocated funds will be available to them on a regular basis.

In addition, the branches of government have not considered establishing financial policies specific to the judicial branch and properly separated from those guiding executive branch agencies in areas such as carryforward of unexpended funds, establishment of reserves, and reallocation of funds within and between courts.

The underpinning of some of these elements of an independent financial system for the courts has been established in Lagos. In 1996 state legislation required that the courts be self-accounting, that a separate account for the judiciary under the direction of the Chief Registrar be established, unexpended recurrent expenditures be carried forward and automatic distribution to the courts' account occur on a quarterly basis. These steps have not been implemented. The role of the Ministry of Justice in overseeing the courts' capital projects also raises separation of power issues.<sup>1</sup>

Sufficient consideration has not been given by the judicial branch to how the courts needs can best be explained to the other branches of government or the public, which lack knowledge of the specific working of the courts. The course emphasized that, in order to develop the support for budget requests, such communication is necessary throughout the year, not just at the time of budget submissions and should involve all levels of the court organization, including communication between the Chief Justice and elected and appointed officials and between court staff and professional staff of the legislature and the Ministries of Justice and Finance and, at the state and federal level. The Nigerian judiciary should be encouraged to develop a plan to inform the other branches of government about the importance of court operations to the functioning of government and about the specific financial needs of the courts. This plan could include tours of courts by legislative and executive branch representatives and presentation of an annual "State of the Judiciary" address to the National Assembly by the Chief Justice.

Consensus between and among representatives of the judicial, legislative and executive branches regarding the judicial branch's role in Nigeria is the foundation for any coherent budget process. Based on the experience in the US and in other countries, developing a mutual understanding requires extensive effort over time.

So far, the courts at the three sites the training was held, have not systematically engaged in reexamining court practices to reduce costs, which impacts their ability to represent to the other branches that existing resources are being used in the most efficient manner possible.

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<sup>1</sup> The statutory scheme for budgeting in Kaduna State was not determined.

Without a strategic planning process (see below) and adequate professional staff and management structures, the courts cannot begin to view themselves as stewards of the funds provided to them nor will the other branches be likely to grant the judiciary the necessary authority to do so.

### *Participant Response*

The concepts presented raised significant discussion at the three training sites. State level representatives of the executive branch expressed some reluctance to allow the judiciary to control funds appropriated by the state legislature for capital projects. This was particularly true in Lagos, where executive branch representatives indicated that a) the courts do not have the professional staff necessary to manage capital projects, b) the executive branch would like to review amounts appropriated in the budget mid-year to insure that the cost estimates are not inflated and c) funds must be held back because the revenue streams for state governments are not certain.

At all three training sessions, court representatives emphasized that a mechanism for allocating federal and state funding on a regular (e.g., quarterly) basis, based perhaps on the baseline budget of the prior year or the amount needed for continuing personnel and contract costs, is necessary to plan programmatic improvements. Discussions centered on whether the executive branch should forgo a second opportunity to review and reduce the courts' budgets during the fiscal year in exchange for the judiciary agreeing not to request minor augmentations when allocations prove to be insufficient.

Many judicial branch representatives expressed the view that judicial independence should be equated with the courts receiving requested appropriations without review by the other branches.

Evaluations from the Lagos pilot site indicated that participants believed that the three branches needed to agree on their appropriate roles and on a budget process. This group was the most representative of cross-branch participation, which may also have contributed to the liveliness of the discussions.

Participants in Kaduna State seemed less interested in addressing the larger governance issue, focusing more on immediate needs for improvements within the judicial branch. In their evaluations, some participants in Kaduna felt this topic was not useful because the judiciary is not fully involved in the process. Based on our observations, the judicial branch in Kaduna may want to broaden its perception of its own role in the context of inter-branch relations. The Kaduna State representatives began to discuss how to create opportunities to inform the public about court operations and build coalitions with the other governmental and non-governmental entities impacted by court operations.

### *3. Court Funding Arrangements*

The benefits and drawbacks of single source court funding (e.g., funding provided entirely by the central government) were compared to split funding arrangements in

which lower levels of government provide some funding to the courts, in light of the experience in the United States. Benefits of unified funding could include:

- Increased equity in funding across courts
- More total funding
- Relief from local funding problems
- Clear responsibility for funding related operating and capital expenditures (e.g., positions and the equipment to support them)
- Enhanced judicial branch planning
- Efficiency in the budget process
- Increased economies of scale
- Improved financial management

Drawbacks of unified funding were also identified:

- Centralized administration can obscure local needs
- Reduced flexibility in addressing urgent needs
- Slowness of response
- Reduced incentive for local innovation
- Requirement that judicial branch develop more sophistication in dealing with funding entities
- Data collection may overwhelm Judicial Council staff

### *Analysis*

The Nigerian national constitution calls for the National Judicial Council to “collect, control and disburse all monies, capital and recurring...” Despite this clear mandate, funding of state judiciaries in Nigeria continues to be divided between the national and state governments, with the national government funding the recurrent budget and the states funding the capital portion of the budget.<sup>2</sup> The capital budget includes not only large facility projects but also materials and supplies needed for the day-to-day operations of the courts (called special expenditures). In addition, the states retain the authority to set staff salaries and determine the number of court staff through their Offices of Establishment, even though ongoing staff costs are funded by the national government. Since staff salaries represent a large portion of the operating costs of the courts, this renders much of the budget decision making process on the federal level meaningless. Finally, the states continue to be the recipients of all court fees and fines even though they received significant fiscal relief when the federal government agreed to fund the operating costs of the courts.

The issues of what constitutes appropriate levels for funding capital expenditures, setting staff salaries and numbers and receipt of court-generated revenues need to be resolved.

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<sup>2</sup> The federal judiciary, naturally, is entirely funded by the federal government. This also applies to the High Court in the Federal District Territory, in Abuja and the discussion of funding arrangements is thus not applicable.

### *Participant Response*

There was no a consensus among the two state sites, Lagos and Kaduna, about the desirability of moving to full federal funding of the judiciary. Whether a state court system believes this would benefit the courts largely depends on the ability and willingness of the state government to assist in funding the courts. In Lagos, the state government has advanced funding for operating costs in lieu of federal allocations that have not yet been made. In this instance, the state's continuing involvement in the judicial branch budget process provides a safety net. In Kaduna, that is not the case and salary payments are in arrears.

Participants further expressed that neither the National Judicial Council nor the National Assembly considers the significant impact state authority over staff salaries and levels has on the federal judicial budget, nor are discussions under way whether some of the court revenues being retained by the states should be used to augment court operations.

## **B. Establishing a Coherent Budget Process**

Another issue that has to be addressed is the development of a judicial branch budget process that ensures financial stability and predictability for the courts, supports a manageable workload, and includes mechanisms for accountability and credibility. The second segment of the course focused on precursors to the successful implementation of the budget process within the judiciary, including:

- Establishing clear roles for each member of the judicial branch
- Strategic planning
- Development of a comprehensive and understandable budget development process

### ***1. Roles of Judicial Branch Participants***

The role and responsibilities of each part of the judicial branch, including the National Judicial Council, Judicial Council staff, and Chief Justices/Judges and administrative staff at each court level were discussed. The primary focus was on the proper relationship in budgetary matters between the National Judicial Council and the individual courts.

The National Judicial Council staff has a vital role to play in the process of reviewing and recommending budget requests from courts, compiling and submitting final annual budget requests on behalf of the council, and providing technical assistance and support to courts in development of annual budget requests.

Carrying out its mandated responsibilities will require that the National Judicial Council:

- Establish guidelines for management of the judicial branch budget

- Set overall strategic direction for court budgets
- Elicit input from the courts concerning budget priorities
- Review and approve consolidated annual budget requests from the judicial branch
- Allocate funding to the courts and make adjustments to requests based on reductions from the executive and legislative branches
- Monitor overall spending of courts and periodically audit court expenditures

The role of the individual courts in the budget process was described as:

- Strategically planning enhancements in court operations through consultation with stakeholders
- Developing data to support new allocations
- Defending budget requests
- Implementing the budget within the court
- Monitoring expenditures and program performance and making mid-year adjustments

### *Analysis*

The National Judicial Council (NJC) currently does not have adequate resources to fully fulfill the role it was assigned to by the constitution. At the time this training was conducted, the NJC had only two staff with roles in the national judicial budget process: the Secretary, who was serving in an acting capacity on loan from the Judicial Service Commission and a budget analyst.

More importantly, it was not clear if the NJC or the courts see the role of the NJC in this broad fashion. Whether for resource or policy reasons, the NJC, to date, has not set budget priorities, provided a forum for courts to discuss their budget requests or developed methodologies for allocating appropriated federal funding to the courts. For example, while the NJC performs nominal review of budget requests for reasonableness, insuring, for instance, that requested judicial positions have been approved, it does not play an active role in evaluating or prioritizing budget requests. Instead, the NJC forwards requests from the state courts to the executive and legislative branches as individual state submissions, not as integrated requests for branch-wide programs, such as introduction of electronic reporting. This leads to discussion and determination by the legislature of each court system's budget, thereby reducing the ability of the judicial branch to promote national judicial goals. Training course participants further indicated that the amounts allocated to courts frequently do not match their submissions and no information is provided to explain why reductions were made.

The NJC is currently in the process of creating financial reporting instruments. The NJC, however, also needs to develop performance standards, a format for the courts to report the benefits of funding augmentations received and procedures for collecting needed baseline data, including the total numbers/cost of authorized and filled positions.

Before an improved budget system for the judiciary can be introduced, the role of the National Judicial Council needs to be determined and staff at the Council augmented.

The individual courts are more prepared to play an appropriate role in the federal budget system because they are already making budget requests through their state governments and have generally established systems to perform basic budgeting functions. For example, courts develop data to support new allocations, defend budget requests before state bodies, implement the budget within the court, monitor expenditures and program performance and make mid-year adjustments. They do not currently prepare and defend budgets in the manner discussed below. It may be feasible for the three courts to do so with existing court financial staff or additional staff may be required. The courts in the three sites may want to conduct an assessment of their financial staffing needs.

### *Participant Response*

There seemed to be an overall consensus among the participants that more members from the National Judicial Council should be included in budget training and greater time spent discussing their role in the budgetary process.

Participants from the state courts did not rate this section as providing much useful information. This may be because the individual courts do not have experience with a central administrative office of the courts and cannot anticipate the issues that will be raised about the proper role of that office versus that of the individual courts. In contrast, in Abuja, where more members of the Council attended the course and the federal court participants are accustomed to budgeting on a federal level, the role of the National Judicial Council and the individual courts was regarded as a relevant topic.

## *2. Judicial Branch Strategic Planning*

Throughout the course, the benefits of long-range strategic planning were stressed. The Nigerian judiciary currently does not develop and apply strategic plans at either the national or state level. Strategic planning will allow the Nigerian judiciary to:

- Establish a common purpose and a shared value system for the judiciary
- Inform the public about the key issues confronting the judicial branch
- Provide a framework for budget requests and decisions
  
- Enhance communications within the judiciary and with other branches of government
- Ensure accountability to the public and measure progress
- Set direction and establish priorities for changes

California's strategic plan was provided and discussed as a case study. In addition to the judicial branch strategic goals identified for California – namely, independence of the judiciary, open and equal access to the courts, fairness in proceedings, accountability, and modernization – the Nigerian participants emphasized timeliness and integrity as key strategic goals that should be highlighted.

It was emphasized that these values must complement and be balanced against each other: no one value can stand alone. The independence of the judiciary must be tempered by accountability and the timeliness of proceedings should not be promoted at expense of fairness.

The long-range strategic planning goals become the underpinning of annual budgetary strategic goals. As an illustration, an example of the statewide budget priorities developed by the state of California judiciary for funding in fiscal year 2001-02 was provided. Each group was then led through an exercise in which individuals identified the primary budget priorities for the region and asked to select the most urgent needs of the courts in order to demonstrate strategic planning principles.

### *Analysis*

Coherent, branch wide articulation of the issues facing the judiciary through a strategic planning process should be made a priority. Strategic planning needs to take place at both at the national level, through the NJC, and at the state level by the state courts and courts of appeals. It was clear throughout the course that budgeting is not viewed in this larger strategic context, possibly because simply receiving disbursements of allocated funds absorbs much of the judicial branch's attention. In other words, the courts cannot plan adequately for the future if they are not secure that ongoing resources will be made available to them for current operations. Nonetheless, strategic planning would assist the judiciary in setting and pursuing set objectives instead of simply responding to directives and financial mandates from the other branches.

### *Participant Response*

The evaluation results confirmed the high interest among participants to learn about the strategic planning process. Participants indicated that introduction of long-range and annual strategic planning would vastly improve the budget process as well as judicial branch policy making overall.

### **3. Budget Format and Presentation**

One of the key decisions in developing a coherent budget process is the form that budget submissions should take.

Two common forms of budgets presentations, line item budgets and program/policy budgets, were presented in detail and the concept of zero based budgets touched upon. Line item budgets depict each type of proposed expenditure -- staff, materials and supplies, new equipment and maintenance -- across an organization. The program/policy form of budget, on the other hand, requests funding by areas of operations -- e.g., courtroom support, security, facilities -- with performance measures for each program area. In general, program budgeting allows the courts to discuss with funding agencies what the courts are trying to accomplish in broad terms, while discussions concerning line-item budgets focus more narrowly on past and requested expenditures. This way,

program budgeting better supports a strategic planning and budgeting effort that reflect future allocation needs.

The California experience with program budgeting was outlined as an example of a statewide programmatic budget submission in the area of interpreter services provided. The role of the Judicial Council in developing programmatic priorities and consolidated budgets in program areas under this type of budgeting was discussed at length.

Secondly, the level of review of existing budget levels, i.e., whether courts will be expected to justify their entire budget, as is true under zero-based budgeting, or only budgetary increases, needs to be determined. The benefits of a system focused on defending increases with periodic review of baseline expenditures were discussed.

### *Analysis*

The Nigerian budget is developed on a line-item basis at both the federal and state level and for all governmental entities. Examples provided, indicate that the narrative provided with the judicial branch budget submissions focuses on how estimates were derived at, not on the benefits of proposed initiatives. There are no established programmatic or performance measures to which the budget is tied, as would be if the program budgeting approach would be applied.

Programmatic budgeting would assist the Nigerian judiciary by informing strategic planning and prioritization. However, providing a budget on this basis for the judiciary alone might not be feasible. An alternative system under which the courts provide programmatic justifications to the National Judicial Council in focused areas, such as the introduction of electronic reporting, as well as line-item detail that could be forwarded to the Ministry of Finance and the National Assembly should be considered. However, there are workload implications of this approach.

Federal and state governments at the three training locations do not currently reexamine baseline expenditures to insure current programs are needed and operate effectively. The National Judicial Council could consider a modified form of zero based budgeting, requiring court programs to be justified in their entirety on a rotating basis (e.g., review all court messenger services one year, security the next). This information could be utilized by the Council in making decisions but not form part of the budget submission to the Ministry of Finance and the National Assembly.

### *Participant Response*

It was our impression that this segment of the training was educational for participants but difficult for them to apply because the budget system in Nigeria operates very differently from the models offered.

## C. Mechanics of Budgeting

The third segment of the course covered the mechanics of the budget process, providing guidance for each stage of the process, including:

- Planning
- Preparing and defending budget requests
- Implementing the budget within the court
- Monitoring
- Mid-year adjustments

### 1. Planning

Budget planning begins with the collection of information concerning past expenditures, past budget levels, and performance measures. Differences in types of performance measures were discussed extensively. The course sought to differentiate between input measures (e.g., the number of filings annually), output measures (e.g., the number of verdicts annually) and outcome measures (e.g., reduction in recidivism rates) and emphasized that the collection of output and outcome data strengthens budget submissions.

Participants were guided through the steps of planning a budget, including:

- Analyzing current budgets and expenditures
  - Is there over or under spending?
  - Could the current budget be reallocated?
- Determining the gap between current programs and community needs
  - Are mandated programs sufficiently funded?
  - Should some programs be expanded or eliminated?
  - Should new programs be started?
- Anticipating the Next Year:
  - What will next year's costs be? Are increases due to changes in workload or in the cost of the existing level of services?
  - What are the funding priorities?
  - What can the court expect to receive? Is the increase under consideration reasonable given the current size of the court budget and the economic climate?
- Collecting data -- inputs, outputs and outcomes -- to support proposed projects

### *Analysis*

The courts at the three training sites currently plan for budget submission by evaluating past expenditures, estimating cost of living increases, and needed infrastructure improvements. Less attention has been paid, on the one hand, to whether funds could be

reallocated to higher priority tasks or programs eliminated and, on the other, to whether wholly new initiatives should be funded. Again, this may be due to the unreliability of allocations to the judiciary.

The Nigerian judiciary has not developed performance measures for any of its programs against which budget requests could be evaluated by the National Judicial Council and justified to the other branches of government. More measurement of the financial impact of workload increases would also benefit the courts.

### *Participant Response*

Participants were concerned that performance measures not be based on current performance which they view as inadequate (i.e., current case processing times should not become the norm against which the courts are funded). They are also concerned that inflexible performance measures not be applied to courts operating under vastly different circumstances (e.g., urban versus rural). The concept of providing performance ranges to demonstrate to funding agencies that courts are underfunded was discussed.

## *2. Preparing and Defending Budget Requests: Critical Elements*

Utilizing focus areas determined by each group, a group exercise was conducted in which the following elements of a budget justification for a single focus area were developed:

- Objectives
- Analysis of Alternative Options, including the status quo
- Link to Strategic Plan
- Economic Benefits (includes hard dollar savings, avoided costs and revenue enhancements)
- Non-Economic Benefits
- Evaluation Methods
- Project Schedule, both for the budget year and subsequent years, if relevant

The budget justifications developed were then evaluated using criteria of completeness, conciseness, inclusion of performance measures, emphasis on coordinated efforts, avoidance of generalities, discussion of viable alternatives and provision of achievable objectives.

### *Analysis*

Using this process, training participants were able to refine their requests and, in one instance, determined that an alternative option was actually preferable. Participants generally struggled with identifying concrete non-economic benefits and methods for evaluating them. Evaluation methods that include sampling and customer/litigant surveys have not been utilized in the courts the training was focused on. For example, some time was required to identify that a significant non-economic benefit of introducing electronic recording would be an improvement in the accuracy of the record. After

discussion, participants in Kaduna State determined that this benefit could be evaluated by comparing a sample of records of court proceedings before electronic recording with a sample of those produced through electronic recording.

### *Participant Response*

Participants were very engaged in this topic, indicating that budget requests could be improved by considering and including the elements listed above. Evaluations from the participants indicated that respondents from all three pilot sites felt this topic area to be highly relevant.

### *3. Monitoring*

The judicial branch needs a strong system for monitoring budgets to encourage the confidence of the other branches. To do this, the judiciary must demonstrate that it is able to:

- Expend funds on appropriate court priorities
- Monitor expenditures and forecast costs
- Focus on the accomplishment of objectives and reduce detail required in reporting
- Collect data on the effect of funding on court functions
- Regularly compare costs and operations with similar court systems
- Consider client surveys of services and programs

The pilot courts report expenditures to the state government and, as discussed above, the National Judicial Council is in the process of developing financial reporting mechanisms.

Reporting the impact of funding augmentations, comparisons with the costs and operations of similar court systems and the use of client surveys is not widespread, either in the individual pilot courts or by the National Judicial Council.

### *Analysis*

This area is also one where exposure and access to technological tools commonly available elsewhere would have a dramatic impact on the ease of instituting these methods. For example, consistent, automated systems for collecting and tracking court expenditures would make monitoring and budget planning much simpler for both the courts and the National Judicial Council. With funding, this specific issue could be ameliorated.

### *Participant Response*

This segment of the training was the most technical and least theoretical of the topics presented and it elicited the least direct response from participants.

#### *4. Mid-Year Adjustments*

Throughout the course, miscellaneous issues such as managing budget shortfalls due to significant unforeseen circumstances and cost of living increases were raised. The course sought to recognize the difficulties presented by these issues but did not offer specific recommendations. This is an area that requires further discussion between the branches of government and the determination of appropriate solutions.

### **III. Recommendations for Future Training**

Based on the observations and responses elicited from the training participants, future training courses, in addition to training program such as the ones presented, that could advance the current budget process in the three states could focus particularly on the following topics:

- Strategic planning to assist the judiciary in articulating its needs. This should include community-focused planning.
- Trial Court Performance Standards to assist in the development of outcome and output measures and data collection instruments.

### **IV. Recommendations for Other Areas of Assistance**

#### *The Role of Branches of Government*

1. Develop a system for allocating national and state funding on a regular (e.g., quarterly) basis, based perhaps on the prior year budget or continuing personnel and contract costs.
2. Provide the executive branch with a single opportunity to review and reduce the judicial branch budget request before the beginning of the fiscal year in exchange for the judiciary not returning for minor budget augmentations.
3. Allow development of specific judicial branch financial policies concerning carryforward of unused funds, establishment of reserves, and reallocations within and between courts.
4. Clarify the role of the state Ministry of Justice in judicial branch financial management.
5. Establish separate judicial branch accounts at the state level.
6. Provide for representation of the judiciary at funding allocation committees.

7. Evaluate the adequacy of management structures in individual courts to allow self-management of large-scale capital projects.
8. Develop a plan to inform the other branches of government about the importance of court operations to the functioning of government and also about the specific financial needs of the courts. This plan could include tours of courts by legislative and executive branch representatives and the presentation of an annual "State of the Judiciary" address to the National Assembly by the Chief Justice.

#### *Centralization of Funding*

1. Determine the appropriate level of government to be responsible for funding capital projects; consider redefining capital to encompass only large capital projects, to be funded by states, with allocations for smaller equipment purchases becoming a national responsibility.
2. Review the impact of state authority to establish staff positions and salary increases on the national budget.
3. Analyze state retention of revenues in light of state fiscal relief.

#### *Functioning of National Judicial Council and the Courts*

1. Introduce procedures and provide sufficient staff to allow the National Judicial Council to analyze and consolidate budget requests and make budget allocations.
2. Determine whether a modified form of program budgeting in targeted areas would benefit the judicial branch and consider periodic zero-base assessments, again in targeted areas.
3. Develop performance standards and formats to support programmatic budget narratives.
4. Provide a process for the courts to defend budget requests before the National Judicial Council.
5. Develop a process for collecting data concerning the total numbers/cost of authorized and filled positions.
6. Develop outcome reports to be used by the courts.
7. Assess the need for increased financial management staff at pilot courts.
8. Develop a process and schedule for making systematic improvements in modernized financial monitoring and other tools for administration of the courts.

9. Determine process for requesting mid-year budget augmentations, e.g., in the case of significant unforeseen circumstances and the provision of cost of living increases.



## Consultants Report

Rule of Law Assistance Project

United States, April-May 2001

Advanced Judicial Branch Budgeting

National Center for State Courts  
United States Agency for International Development (USAID)

*Consultant: Kate Harrison*

## I. Overview

The advanced course on judicial branch budgeting and budget study tour in the United States took place over two weeks in April and May, 2000. Participants included representatives of the federal and state judiciary, including judges, court administrators (known as registrars), staff to the National Judicial Council and court finance staff; the executive branch, including one region's ministries of justice and economic planning and development; and the federal legislative branch, represented by the chief staff to the Federal Judiciary Committee.

Training was provided through a guided discussion of budget issues, exercises designed to elicit input from the participants, and information concerning common budget practices in use in the United States. The course included a) a summary of the budget issues identified during the earlier budget training in Nigeria (see Attachment IV) and of the budget practices of jurisdictions to be visited during the study tour, b) visits to the administrative bodies responsible for the courts in the states of Maryland and Virginia and for the federal courts, c) budget and action plan training by National Center staff and consultants and d) development of action plans for the issues identified by the tour participants as most relevant in the Nigerian context.

The course was highly interactive with participants adding to and refining the issues identified. Pages 1-10 of the attached presentation materials (Attachment I) represent the issue identification stage of the course; several additions and refinements from the study tour participants are included. These issues also served as a guide for the site visits to court systems in the United States. After each site visit, the participants refined their understanding of the issues and of the practices in the visited systems. Summaries of the practices of the visited court systems are included in pages 11-31 of Attachment I; questions asked of the court systems in preparation for the training are included as Attachment II.

Throughout the study tour, participants worked to prioritize the issues. The ultimate goal of the training was to assist participants in identifying alternative solutions to and developing action plans concerning the most salient budget issues facing them.

## II. Course Topics and Issues

The budget course itself was divided into six primary focus areas that were identified as the most significant through the course of the earlier training in Nigeria and for which visits to courts in the United States could offer the most guidance.<sup>1</sup> Those issues were:

- the role of the branches of government in the budget process,
- development of judicial branch financial policies,
- issues surrounding state government authority in judicial branch affairs,
- strategic planning,
- functioning of the National Judicial Council, and
- improved financial capabilities at individual courts.

A substantive discussion of each of these areas was included in the consultant's February, 2000 report concerning the budget training conducted at the pilot sites in Nigeria and will not be repeated in full here. The discussion below provides an overview of the material presented and a discussion of the responses of course participants. The action plans developed and suggestions for future training and other steps follow.

### A. Role of the Branches of Government

Significant time was spent discussing the structural changes that would be required for a successful and efficient relationship between the three branches in budget development.

In general, the study tour participants believe the role of the executive branch in the judicial branch budget should be limited. Clearly, the executive's responsibility to set the overall size of the budget and determine whether mid-year adjustments are needed to meet fiscal circumstances constrains the amounts available for allocation to the judiciary by the legislative branch. In two of the three systems visited, the executive branch retains the power to reduce judicial branch budgets in times of crisis but this power is rarely, if ever, invoked.<sup>2</sup> Direct control by the executive branch over the amounts provided to the courts is in place only in Virginia, where formula-based budgeting and positive working relationships between the branches (see discussion below) has resulted in little interference in judicial branch financial affairs by the executive branch. Study tour participants are seeking to eliminate direct executive branch involvement in approving judicial branch budget requests in parallel with many U.S. jurisdictions.

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<sup>1</sup> See Attachment IV for a list of recommendations made at the conclusion of the training in Nigeria.

<sup>2</sup> The federal executive branch seeks to indirectly control the amount of funding provided to the judiciary by means of a "negative allowance" applied to the entire federal budget in an amount equal to that the executive should be reduced from the judiciary's budget. This places Congress in a position of either accepting these reductions to the judiciary's budget or finding other places to make reductions.

Without altering the fundamental funding relationship between the executive and judicial branches in Nigeria, vast improvements could be made in the current budget system by creating mechanisms to insure that funding is provided on a regular and reliable basis. As discussed in the earlier report, in order to plan programmatic improvements and develop as a branch of government, the courts need more certainty that at least an identified portion of allocated funds would be made available to them on an annual, quarterly or monthly basis. In each of the three systems visited, the judicial branch is allocated all of its funding to the central administrative office of the courts at the onset of the fiscal year and then distributed to individual court systems. Some study tour participants suggested that a fixed percentage of the federal budget be provided to the judicial branch at the outset of the fiscal year.

Information from the Executive Branch concerning revenue projections and actual revenue collections would have to be made available generally and to the legislative and judicial branches specifically. The judicial branch would need to be represented on the federal allocation committee that makes ongoing decisions about allocation of available revenues. This is particularly important in Nigeria where revenue collections vary significantly over time. In contrast, this issue was not relevant to any of the U.S. jurisdictions visited. These three specific interbranch issues – regular and reliable allocations, transparent information concerning revenues available to the federal government and representation of the judiciary in forums determining allocations – represent the most pressing issues identified by the study tour participants. Action plans for resolving them were developed (see below). However, of the items included in action plans, these are probably the most difficult to accomplish because of likely executive branch opposition.

## **B. Development of Judicial Branch Financial and Management Policies**

### *General Financial Policies*

A second area of emphasis was development of specific financial policies applying to the judicial branch in the areas of movement of appropriated funds, staffing authority, carry forward of unexpended amounts, establishment of reserve funds, provision of staff cost of living increases and establishment of separate judicial branch accounts.

During the course, it became clear that the extensive level of detail at which funds are appropriated to the Nigerian judiciary (at a subobject level) prevents the courts from operating flexibly. The national constitution does not permit moving funds across appropriation categories (known as viament) in order to avoid the possibility or appearance of corruption. Thus, it was determined that a critical first step in providing needed financial and operational flexibility to the courts is to broaden the appropriation categories used by the National Assembly. The Virginia and federal court systems use very broad appropriation categories; while funds are appropriated on a more detailed basis in Maryland, courts there have the authority to move funds between categories.

Participants also discussed desirable restrictions on the judicial branch's authority in the above areas (e.g., should the judiciary be permitted to carry forward operating as well as capital funds; should courts be permitted to fill positions at levels other than those approved in the budget) and the appropriate judicial body (e.g., the National Judicial Council or the individual court system) to whom authority should be granted in each case. A precursor of these reforms would be the creation of separate judicial branch accounts for each court system into which funding would be deposited, instead of funding being deposited with the executive branch.

A discussion of the policies in effect in each of the visited U.S. court systems, including any restrictions and the level at which these policies are administered, is included on pages 14-18 of Attachment I. Study participants also highlighted this issue as critical; action plans for resolving it were developed (see below).

### *Management of Capital Projects*

The Nigerian study tour participants are also seeking greater self-management by the judiciary of capital projects but members of the delegation differ in the degree of autonomy that would be appropriate. Alternatives include increased consultation with the judicial branch in the development of capital projects, allocation of capital funding to the court but project management retained by the executive branch and allocation of capital funding to and project management by the judiciary.

Executive branch representatives expressed some reluctance to allow the judiciary to control funds appropriated by the state legislature for capital projects, reiterating that a) the courts do not have the professional staff necessary to manage capital projects, b) the executive branch would like to review amounts appropriated in the budget mid-year to insure that the cost estimates are not inflated and c) funds must be held back because the revenue streams for state governments are not certain.

In the U.S. jurisdictions visited, this was the area in which the executive branch had the most authority in judicial branch affairs, with funding and project management retained by the executive branch.<sup>3</sup> The visited jurisdictions are seeking greater direct control over capital projects for the judiciary. However, the visited jurisdictions emphasized that by engaging in long-range capital planning based on filing and other trends, developing design standards for court facilities, and maintaining involvement while projects are under construction, the judicial branch is currently able to significantly influence the quality and quantity of court facilities provided.

This issue was believed to be of long-term significance but of less pressing concern than the other issues entailed in inter-branch relations.

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<sup>3</sup> It should be noted that in the United States, "capital" refers primarily to construction, refurbishment and maintenance of court facilities. In Nigeria, in contrast, "capital" is an expansive term understood to "special expenditures", including large equipment items (e.g., automobiles), small office equipment and what in the U.S. would be termed materials and supplies (e.g., forms, judges' robes).

C. State Government Authority in Judicial Branch Affairs

*Budgetary Authority*

The Nigerian national constitution calls for the National Judicial Council to “collect, control and disburse all monies, capital and recurring...” Despite this clear mandate, funding of state judiciaries in Nigeria continues to be divided between the national and state governments, with the national government funding the recurrent budget and the states funding the capital portion of the budget.<sup>4</sup> In addition, the states continue to be the recipient of all court fees and fines even though they received significant fiscal relief when the federal government agreed to fund the operating costs of the courts. The participants determined that, while the appropriate level for funding capital expenditures and receipt of court-generated revenues by the state need to be resolved in the future, there was not a consensus about the desirability of moving to full federal funding of state judiciaries. In any event, these issues were of less immediate concern than many of the others identified.

*Staffing Authority*

However, resolution of another arena of state authority was considered critical by the participants. The executive branch at the state level retains the authority to set staff salaries and determine the number of court staff through their Offices of Establishment, even though ongoing staff costs are funded by the national government. Since staff salaries represent a large portion of the operating costs of the courts, this renders much of the budget decision making process on the federal level meaningless. In the U.S. jurisdictions visited, the judicial branch was provided with a lump sum amount for staff salaries through the budget process, with the chief judicial body (the equivalent of the National Judicial Council) allocating funding to individual courts based on existing salary costs and cost of living increases.

Most critically for the study participants, in several states in Nigeria, including Lagos, the state Office of Establishment control hiring and discipline of court employees and some staff of the court (particularly in the accounting and secretarial support) are actually employees on loan from the state executive branch, impeding judicial branch independence.<sup>5</sup> In other states in Nigeria, the state Judicial Services Commission, chaired by the Chief Judge of the state, makes those determinations. In the case of the U.S. jurisdictions visited, the authority to hire and fire individual employees and to decide when to fill positions is held by the judicial branch. The participants recognized that the current practices in place in all Nigerian state courts and the federal system

<sup>4</sup> The federal judiciary is entirely funded by the federal government; the discussion of funding arrangements is thus not relevant to those courts.

<sup>5</sup> In some cases, staff are moved between the executive and judicial branch at the discretion of the executive branch.

should be considered before decisions were made about the preferred personnel system for the courts. Action plans for resolving this issue were developed (see below).

#### **D. Judicial Branch Strategic Planning**

Two primary functions of strategic planning continued to be stressed, namely:

- developing long-range and annual goals, in part to support budget preparation and submission, and
- informing the other branches about the importance of court operations to the functioning of government and specific financial needs of the courts

As discussed in more depth in the previous report, the Nigerian judiciary currently does not have strategic plans at either the national or state level, possibly because simply receiving disbursements of allocated funds absorbs much of the judicial branch's attention. Strategic planning would assist the judiciary in setting and pursuing set objectives instead of simply responding to directives and financial mandates from the other branches.

Consensus between and among representatives of the judicial, legislative and executive branches regarding the judicial branch's role in Nigeria would be the foundation for any coherent budget process. Without a strategic planning process, the courts cannot begin to view themselves as stewards of the funds provided to them nor will the other branches be likely to grant the judiciary the necessary authority to do so.

The Virginia state court system and the federal judiciary have strong strategic planning efforts in place which emphasize the impact of the court system on other public agencies, litigants and the public. All three systems devote considerable energy to providing general background as well as detailed programmatic information to the legislative and executive branches, using both judges and judicial branch staff in this effort. The U.S. jurisdictions indicated that substantial success in receipt of requested funds emanates from their ability to relate the needs of the courts in a strategic and coordinated fashion.

While participants continued to find the strategic planning discussion very enlightening, more pressing concerns related to budget allocations, the role of the branches of government, and control over judicial branch resources and staffing were selected for immediate action planning.

#### **E. Functioning of the National Judicial Council**

A primary focus of the study tour centered on developing the proper relationship in budgetary matters between the National Judicial Council and the individual courts and improving the capabilities of the Judicial Council.

The National Judicial Council staff has a vital role to play in the process of reviewing and recommending budget requests from courts, compiling and submitting final annual budget requests on behalf of the council, and providing technical assistance and support to courts in development of annual budget requests.

### *Sufficient National Judicial Council Staffing*

The National Judicial Council does not have adequate resources to function in the role assigned to it in the constitution. At the time of the course, the National Judicial Council continued to have only two staff with roles in the national judicial budget process: the Secretary, who was serving in an acting capacity on loan from the Judicial Service Commission and a budget analyst. Action plans for resolving this issue were developed (see below). Resolution of this item is considered a precursor for development in the areas discussed below.

### *Budget Process*

Discussion of the functioning of the National Judicial Council focused on improving the budget process, rather than on changing the form and content of budget requests. All participants agreed that this was an area of focus for the next year.

While the Judicial Council performs nominal review of budget requests for reasonableness, insuring, for instance, that requested judicial positions have been approved, it does not currently play an active role in evaluating or prioritizing budget requests. Last year, the NJC used the "budget call" letter<sup>6</sup> developed by the executive branch to initiate the budget request process among courts. The NJC has also not provided a forum for state courts to discuss their budget requests.<sup>7</sup> Finally, there is not an established process for allocating appropriated federal funding to the courts when it is, as is common, less than the original request. The pilot courts in Nigeria indicated that allocated amounts do not match their submissions and that they are not aware of why specific reductions were made by the National Judicial Council in response to reductions in the requested appropriation by the National Assembly.

Examples of well-developed budget processes were provided by the visited jurisdictions. Key in the success of these efforts are involvement by representatives of the courts. In Virginia, advisory committees comprising representatives of the district and circuit courts review requests from the courts; on the federal level, seven program committees and the budget committee of the Administrative Office of the Courts review requests from the federal courts.

Creation of a coherent budget process was deemed critical by the study tour participants and was the subject of action planning (see below).

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<sup>6</sup> The document setting out the budget policies, procedures and priorities for the year's submissions.

<sup>7</sup> Federal courts were invited to discuss their budget requests with the NJC during last year's budget process.

### *Budget Formats*

As discussed in the earlier report, programmatic budgeting could assist the Nigerian judiciary by informing strategic planning and prioritization as is the case in Virginia and the United States federal courts. The visited jurisdictions confirmed that program budgeting allows organizations to cast the discussion with funding agencies in terms of what the organization is trying to accomplish in broad terms and better supports a strategic planning and budgeting effort.

However, the budgets for all Nigerian government entities at the federal and state levels are developed on a line-item basis. Providing a budget on a programmatic basis for the judiciary alone might not be feasible. A system under which the courts provide programmatic justifications to the National Judicial Council in focused area as well as line-item detail that could be forwarded to the Ministry of Finance and the National Assembly has workload implications.

Federal and state governments in the Nigerian pilot sites also do not currently reexamine baseline expenditures to insure current programs are needed and operate effectively. The National Judicial Council could consider a modified form of zero based budgeting, requiring court programs to be justified in their entirety on a rotating basis. This is the system in use in the Maryland court system.

### *Consolidated or Individual Budget Submissions*

The Nigerian National Judicial Council forwards requests from the state courts to the executive and legislative branches as individual state submissions, not as integrated requests for branch-wide programs. This leads to discussion and determination by the National Assembly of each court system's budget and reduces the ability of the judicial branch to promote national judicial goals.

In the systems visited, the budget is developed based on requests from individual court systems but then expressed and funding appropriated on a statewide basis for each level of court (Supreme Court, courts of appeal, general jurisdiction trial courts and limited jurisdiction trial courts). Detail concerning the expenditures and needs of individual court jurisdictions is provided as supporting documentation. Allocations are provided to the central administrative arm of the courts with reductions made to the budget as a whole rather than to the individual court systems.

Despite the recognition among study tour participants that programmatic and zero based budgeting and provision of budget requests to the National Assembly on a national, rather than court-by-court basis could strengthen the judiciary's budget system, participants did not prioritize making reforms in the budget format given more pressing needs.

### *Performance Standards/Workload Formulas*

The Nigerian judiciary has not developed performance measures for any of its programs against which budget requests could be evaluated by the National Judicial Council and justified to the other branches of government. Measurement of the financial impact of workload increases would also benefit the courts.

Each of the jurisdictions visited has developed rigorous judgeship needs and staffing standards based primarily on weighted caseloads. The federal courts have, in addition, developed funding standards for non-staff support costs, with 95% of the federal budget being formula driven. The federal Administrative Office of the Courts utilizes these formulas to make downward as well as upward adjustments in individual courts' budgets. Representatives of the federal courts commented that using formula-driven budgeting discourages courts from unnecessarily spending funds in order to guarantee a given funding level in the subsequent year. While impressed with these systems, the Nigerian participants again felt that these innovations could be introduced at a later date.

### *Development and Use of Financial Reports*

The Council is in the process of creating financial reporting instruments. Thus, while this is viewed as a critical task, the study tour participants did not undergo action planning for this item.

## **F. Individual Court Capabilities**

The individual courts have generally established systems to perform basic budgeting functions. For example, courts develop data to support new allocations, defend budget requests before state bodies, implement the budget within the court, monitor expenditures and program performance and make mid-year adjustments. They do not currently prepare and defend budgets in the manner discussed in the previous report nor are they necessarily structured to provide the type of strategic planning and financial oversight envisioned for the judicial branch. The pilot courts determined that an assessment of the financial staffing needs and preferred structure of judicial branch financial operations should be developed. Action plans for resolving this issue were developed (see below).

In addition, participants recognized that exposure and access to technological tools commonly available elsewhere would have a dramatic impact on the ease of instituting these methods. For example, consistent, automated systems for collecting and tracking court expenditures would make monitoring and budget planning much simpler for both the courts and the National Judicial Council. With funding, this specific issue could be ameliorated. It was, however, felt to be less critical that developing adequate and appropriate financial staffing for the courts.

Kate Harrison  
Consultant Report

Because the study tour visited central court administrative offices rather than individual court systems, no attempt was made to assess the adequacy of local court financial staff or automated systems in the visited jurisdictions.

### III. Action Planning

From the plethora of issues presented to the group from the training in Nigeria, the study tour selected twelve areas as having the most salience in their courts:

- Regular and reliable funding; representation at meetings where funding distributions are discussed; transparency of amounts available in the Consolidated Revenue Funds
- Increased staff for the National Judicial Council/financial staff for courts
- Budget defense before and information from the National Judicial Council
- Budget flexibility in areas of movement of funds, carry forwards and reserve funds, with restrictions. It is recognized that budget flexibility is tied to strict compliance with financial regulations
- Self-management of personnel with respect to hiring, discipline and determination of when to fill positions, subject to budgetary allocation
- Self-management of capital projects with evaluation of completion of projects by the Ministry of Works. Establishment of allocation installments to allow projects to proceed on a predictable schedule.
- Compliance with financial regulations, including expenditure and revenue reporting; provision by the National Judicial Council of formats for reporting and accounting for funds expended and received; establishment of auditing procedures.
- Annual reporting of accomplishments to the National Judicial Council and National Assembly.
- Determination of which level of government (federal or state) is to fund capital projects; if capital funding becomes a federal responsibility, determine whether funds previously expended by states in support of the courts should be swept to the federal level.
- Recategorization of special expenditures (e.g., small equipment and materials and supplies, in contrast to major capital expenditures such as facilities and automobiles) as recurring, rather than capital, items in recognition of their ongoing nature and link to personnel expenditures. This would result in these expenditures becoming a federal responsibility.
- Computerization of courts to allow on-line communication with NJC. Includes word processing, internet and intranet access, data networks, and training of staff.

- Revenue retention without supplantation of existing federal and state funding; review of fee levels.

The study group further prioritized the first five areas, for which action planning was completed, with some analysis of steps to be taken in the remainder of areas.

Training in action planning was provided by National Center staff. The group completed action planning using the *SMART* approach:

Specific  
Measurable  
Attainable  
Realistic  
Time frame

The action plans for the five focus areas are found as Attachment III.

#### IV. Additional Technical Assistance Needs

Throughout the study tour, areas were identified for which an understanding of common practices in other jurisdictions could prove useful:

- 1) Revenue projections
- 2) Terms of provision of funds to the judiciary, for example, the period of funding (e.g., monthly, annually) and whether it occurs in arrears or in advance of expenditures. Putting alternative practices into place will require significantly greater transparency concerning the revenues available to the federal government.
- 3) Revenue collections
- 4) Expenditure reporting
- 5) Standardization of accounting practices at NJC and state and federal courts
- 6) Use of reserves
- 7) Computerization of payroll
- 8) Year-end accounting

It is recommended that the Nigerian pilot sites receive technical assistance in each of the above areas from experts from a variety of jurisdictions.

**Attachment II**  
**Questions for Participating Courts**

Budget format -- programmatic, line-item, mixed (copy)  
Any zero base budget justifications (e.g., on a rolling basis)

Level of review by executive branch

Involvement by courts in cross-branch forums

Authority for courts to:

- Move funding
- Carry forward funding across fiscal years
- Create reserves

Statutory or rule authority for disbursement of funds to the courts; any continuation funding?

Manner in which cost of living increases are provided

Are judicial branch accounts separated?

Establishment of staff positions/staff salary levels

Management of capital projects

Funding scheme

Revenue distributions

Functioning of AOC: role in setting budget priorities, reviewing/altering budget requests, preparing consolidated budgets, allocating funds

Any formula-driven funding?

Any performance standards?

Any outcome reports?

Adequacy of financial staffing at courts

#### Attachment IV Recommendations for Future Training From Initial Budget Training in Nigeria

From the responses elicited by the training components, as detailed in the previous sections of this evaluation, we feel that the budget process in the pilot states would be improved by facilitated discussions on the following topics:

- Strategic planning to assist the judiciary in articulating its needs. This should include community-focused planning.
- Trial Court Performance Standards to assist in the development of outcome and output measures and data collection instruments.

#### IV. Recommendations for Other Areas of Assistance

##### *The Role of Branches of Government*

1. Develop a system for allocating national and state funding on a regular (e.g., quarterly) basis, based perhaps on the prior year budget or continuing personnel and contract costs.
2. Provide the executive branch with a single opportunity to review and reduce the judicial branch budget request before the beginning of the fiscal year in exchange for the judiciary not returning for minor budget augmentations.
3. Allow development of specific judicial branch financial policies concerning carryforward of unused funds, establishment of reserves, and reallocations within and between courts.
4. Clarify the role of the state Ministry of Justice in judicial branch financial management.
5. Establish separate judicial branch accounts at the state level.
6. Provide for representation of the judiciary at funding allocation committees.
7. Evaluate the adequacy of management structures in individual courts to allow self-management of large-scale capital projects.
8. Develop a plan to inform the other branches of government about the importance of court operations to the functioning of government and also about the specific financial needs of the courts. This plan could include tours of courts by legislative

and executive branch representatives and the presentation of an annual "State of the Judiciary" address to the National Assembly by the Chief Justice.

### *Centralization of Funding*

1. Determine the appropriate level of government to be responsible for funding capital projects; consider redefining capital to encompass only large capital projects, to be funded by states, with allocations for smaller equipment purchases becoming a national responsibility.
2. Review the impact of state authority to establish staff positions and salary increases on the national budget.
3. Analyze state retention of revenues in light of state fiscal relief.

### *Functioning of National Judicial Council and the Courts*

1. Introduce procedures and provide sufficient staff to allow the National Judicial Council to analyze and consolidate budget requests and make budget allocations.
2. Determine whether a modified form of program budgeting in targeted areas would benefit the judicial branch and consider periodic zero-base assessments, again in targeted areas.
3. Develop performance standards and formats to support programmatic budget narratives.
4. Provide a process for the courts to defend budget requests before the National Judicial Council.
5. Develop a process for collecting data concerning the total numbers/cost of authorized and filled positions.
6. Develop outcome reports to be used by the courts.
7. Assess the need for increased financial management staff at pilot courts.
8. Develop a process and schedule for making systematic improvements in modernized financial monitoring and other tools for administration of the courts.
9. Determine process for requesting mid-year budget augmentations, e.g., in the case of significant unforeseen circumstances and the provision of cost of living increases.

## ACTION PLANNING WORKSHEET

Major Goal/Objective/Outcome:

I. Regular and Reliable Funding

	TASKS/ ACTIVITIES	RESPONSIBILITY	MILESTONE/ DUE DATE	WHOM TO INVOLVE/CONTACT	BUDGET/COST CONSIDERATIONS	OBSTACLES
1	Seek legislation providing for quarterly allocations on stated dates	NJC	Sept., 2000	National Assembly	None	Executive branch concerns
2	Seek transparency in figures concerning available revenues	NJC	Ongoing	National Assembly	None	Executive branch concerns
3	Seek attendance at allocation committee (Revenue Mobilization and Fiscal Accounts Allocation Committee); review existing legislation concerning the committee	NJC	Sept., 2000	Federal Ministry of Finance National Assembly	None	Executive branch concerns
4	Advocate for specific and pronounced allocations for the judiciary in the national budget	NJC Court Representa- tives	December, 2000	National Attorney General National Assembly	None	Executive branch concerns

## ACTION PLANNING WORKSHEET

Major Goal/Objective/Outcome:

II. Acquire Sufficient Staff for NJC and Sufficient Financial Staff for Courts

	TASKS/ ACTIVITIES	RESPONSIBILITY	MILESTONE/ DUE DATE	WHOM TO INVOLVE/CONTACT	BUDGET/COST CONSIDERATIONS	OBSTACLES
IA.	Sufficient staff for NJC					
1	Determine tasks to be performed	NJC Secretary	July, 2001	NJC Committee	None	
2	Begin recruitment of Director of Finance	NJC Secretary, NJC	September-01 to begin	Rule of Law Advisory Committee; Chief Judges to contact NJC representatives; joint meetings of leg. & budget tours	No additional cost: funds for 80 positions provided in budget	Sensitivity to appearance; pressuring NJC; temporary appointment of Secretary
3	Begin recruitment of lower grade positions	NJC Secretary	September-01 to complete	Rule of Law Advisory Committee; Chief Judges to contact NJC representatives; joint meetings of leg. & budget tours	No additional cost: funds for 80 positions provided in budget	Need to receive authorization for temporary Secretary to begin recruitment
4	Establish hiring procedures	Appts. Committee/ NJC Secretary	July, 2001		None	
IB.	Financial staff at courts					
1	Inform state courts about dedication of judicial accounting and clerical employees who have traditionally been executive branch staff (has already occurred for Federal courts)	NJC Secretary	Sept., 2001			State Executive Branch concerned about loss of staffing
2	Develop model organizational structure, focused on financial operations, with emphasis on need	Pilot Courts	March, 2002	Finance Director's Association for professional advice	Costs of production and distribution	

<p>for professional budget staffing. Begin by surveying all states concerning current organizational structure.</p>			<p>NJC to send letter to state courts stating that CJs from pilot courts will contact them</p> <p>Rule of Law Advisory Committee</p>		
<p>3 Determine funding needed to bring courts to desirable staffing</p>	<p>State Courts/NJC</p>	<p>May, 2002</p>		<p>Unknown at this time</p>	

## ACTION PLANNING WORKSHEET

Major Goal/Objective/Outcome:

III. Opportunity for budget defense before NJC/provision of allocation information from NJC to the courts - improve information and training

	TASKS/ ACTIVITIES	RESPONSIBILITY	MILESTONE/ DUE DATE	WHOM TO INVOLVE/CONTACT	BUDGET/COST CONSIDERATIONS	OBSTACLES
1	Collect budget call circulars from Executive Branch; develop judicial branch budget circular with input from the Senate and House Judiciary Committees	NJC	June 1, 2001	Senate and House Judiciary Committee  Technical assistance from executive branch	N/A	
2	Send judicial branch budget circular to the courts' Chief Registrars to begin budget preparation	NJC	June 1, 2001 and each year thereafter		N/A	
3	Hold seminars with courts concerning new procedures/revenue limitations	NJC	July, 2001 and each year thereafter	Technical assistance from executive branch	Travel/cost of production/distribution of materials	
4	Develop in-house budget committee of NJC staff to collect and collate requests from courts and develop lists of areas for discussion with courts concerning unusual requests or lack of conformance with circular	NJC	August 1, 2001 Sept., 2001 and each year thereafter	May need to borrow staff from National Judicial Services Commission	N/A	Staffing levels of NJC currently insufficient to perform this level of analysis (see Action Plan II)  Wealthier court systems may resist having budgets compared with other systems
5	Provide opportunity and timetable for courts to comment on identified areas of concern	NJC	Sept. 2001 and each year thereafter			Time constraints may limit opportunity for this to take place thoroughly for next year's budget submission
6	Bring budget to NJC committee	NJC	October, 2001 and each year thereafter			
7	Inform courts of amounts to be forwarded to Legislature	NJC	November, 2001 and each year thereafter			
8	Inform courts of appropriation	NJC	December, 2001			

decisions of Legislature and  
general reasons for reductions

and each year  
thereafter

## ACTION PLANNING WORKSHEET

Major Goal/Objective/Outcome:

IV. Develop Financial Policies for the Judiciary

	TASKS/ ACTIVITIES	RESPONSIBILITY	MILESTONE/ DUE DATE	WHOM TO INVOLVE/CONTACT	BUDGET/COST CONSIDERATIONS	OBSTACLES
1	Activate Self Accounting including use of separate judicial accounts	State Courts		NJC to provide legal support for state court position	None	Some state governments likely to oppose financial independence for judicial branch
2	Broaden the level at which funds are allocated and controlled Restrict movement to within recurrent and within capital budget; do not allow movement across court systems (e.g., court of appeals to high court) Approval by NJC required	National Assembly NJC	March, 2002	Legislature Executive Branch	None	Courts and NJC will be required to provide increased accountability since some external strictures lifted; financial policies and reporting structures will first need to be developed
3	Develop policy to allow carry forward of capital funds by state courts with NJC approval  Clarifying memo to federal courts re existing authority to carryforward capital funding	National Assembly/ NJC	March, 2002	Legislature Executive Branch	Could result in fewer funds available to other agencies; however, may also encourage improved management of capital projects	Some state governments likely to oppose greater independent capital funding for judicial branch
4	Clarify whether constitution permits executive branch to provide a reserve fund to the judiciary (as it does for the legislature); if not, develop legislation to permit reserve Once passed, NJC to contact Ministry of Finance concerning implementation procedures	NJC	March, 2002	Staff of Fed. Judiciary Committee to provide copy of of legislation to NJC	None	Courts and NJC will be required to provide increased accountability; financial policies and reporting structures will first need to be developed

## ACTION PLANNING WORKSHEET

Major Goal/Objective/Outcome:

V. Self management of personnel with respect to hiring, promotion, discipline, determining timing for filling positions  
 Subject to budgetary allowances (#s and types of positions fixed in the budget)

	TASKS/ ACTIVITIES	RESPONSIBILITY	MILESTONE/ DUE DATE	WHOM TO INVOLVE/CONTACT	BUDGET/COST CONSIDERATIONS	OBSTACLES
1	Contact state systems concerning current personnel systems (Federal Courts are using JSC regulations for hiring, promotion and termination but are still facing restrictions from fed. Establishment in filling available positions)	Pilot Courts	December, 2001	All state court systems  NJC to provide introductory letter concerning goals of project		State Offices of Establishment may resist loss of control over staffing matters particularly since they continue to pay court employee pension costs (similar to local gov't employees who receive state pensions) & related benefits
2	Refine preferred personnel management approach based on input from state court systems and Constitutional restrictions	Pilot Courts	March, 2002	All state court systems		
3	Communication to state and federal governments clarifying that courts do not need approval from Establishment for personnel actions	NJC	January, 2002	National Assembly staff		
4	Develop and include personnel rules in next year's budget call circular	NJC	May, 2002	National Assembly staff		