

## Legal Framework & Operationalization

### Financial Autonomy Not Operational

The Bayelsa State Audit Law 2020<sup>125</sup> signed by Governor Douye Diri in August 2020 provides for financial autonomy for the Office of the Auditor-General. S. 27(1)(a) of the Audit Law indicates that “the Auditors-General (State) shall prepare and submit to the House the annual estimates of revenues and expenditure of the office of the Auditor-General for inclusion in the state budget.

Furthermore, S. 27(4) states that “any sum appropriated to the office by the House in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as first line charge in equal installment every month of the year”.

Response<sup>126</sup> received indicated that the legal provisions stated above have not been implemented in Bayelsa State despite enacting an Audit Law since 2020. Effectively implementing the audit law to allow for fiscal independence as provided for in the legal framework is necessary to enhance the optimal performance of the foremost accountability institution in Bayelsa State and enable it to implement freely and without interference its audit plans and programs.

### Administrative Independence Not Activated

The Audit Service Commission of Bayelsa State has not been inaugurated since assenting to the audit law in 2020. However, S.73 (1) of the State Audit Law established the Audit Service Commission with functions to include recommendation of persons for appointment as State Auditor-General and acting Auditor-General for State and Local Governments where such is needed. Also, the Commission is saddled with responsibility to handle all matters of recruitment, promotion and discipline of members of staff of the Offices of the Auditors-General for State or Local Governments among others.

A fully functional Audit Service Commission would guarantee administrative independence for the Office of the Auditor-General for Bayelsa State and limit reliance on the Civil Service Commission of the State for human resource matters relating to recruitment, discipline, promotion, and remuneration for staff of the Office of the Auditor-General.

### Appointment Procedure for the State Auditor-General is Transparent

The process for appointing the Auditor-General in Bayelsa State as provided for in the legal framework is transparent and competitive. While S.2(2) of the Audit Law indicates that “the position of the Auditor-General (State) shall be filled by the appointment of the most qualified person with cognate experience in service from the office”, S.3 states further that “in the absence of a suitable candidate as stated in section 2 above, the following additional procedure shall be required: (a) vacancy for the position of the Auditor-General shall be declared and shall be advertised in at least two National dailies and one local newspaper and (b) all applicants are to be subjected to the same process of selection”.

### Tenure of Office for the Auditor-General Not Secured

The Bayelsa State Audit Law 2020 did not provide for a secured tenure for the State Auditor-General. S. 2(3)(d) of the law provides that “the Auditor-General (State) shall be above forty years of age and where in public service, having not less than six months to retire”. Furthermore, S. 7 of the law states that “the Auditors-General shall not be removed from office before such retiring age as prescribed by the Law, save in accordance with the provisions of this Law”.

The legal provisions stated above did not provide for a definite term of office for State Auditor-General appointed from the Public Service of the State which could impact negatively on the stability of the office as tenure of successive Auditors-General will be inconsistent. The law created the possibility of having an Auditor-General who could spend as much as twenty years or as little as six months in office. While there could be an age limit to how long an Auditor-General can stay in office, the Bayelsa State Audit Law 2020 ought to have provided for a definitive term of office for an Auditor-General appointed from the State Public Service and such term of office should be clearly stated, consistent and predictable.

Term of office for Auditor-General must be well defined to guarantee independence. This will further ensure that an Auditor-General, whether appointed from within the Civil Service or Private Sector, is not subjected to the direction or control of any person or authority on the account of tenure instability.

125 <https://www.mof.by.gov.ng/download.php?file=AUDIT%20LAW%202020.pdf>

126 SAE Index 2023 Research Survey

### **Legal Mandate to Publish Audit Reports Online is Available**

The Bayelsa State Audit Law 2020 mandates the State Auditor-General to publish his/her reports online as soon as it is submitted to the State House of Assembly.

S.11(5) provides that “the Auditor-General (State) in the exercise of his responsibility shall publish the annual statutory audit report of the State Government electronically and manually after submission to the House”.

Publishing reports of the Auditor-General online to enable citizens access freely will enhance use of audit information to demand accountability.

### **Annual Activity Report for 2022 Not Published**

There is no evidence the Office of the Auditor-General for Bayelsa State published the annual activity report for the 2022 financial year online. Also, there’s no proof the report was submitted to the State House of Assembly.

The annual activity report for the Office of the Auditor-General should include the specific initiatives and activities undertaken during the previous/outgoing calendar year to strengthen the office and improve its performance as well as any impacts (financial and non-financial) that were achieved through audit.

### **Audited Financial Statement for 2022 Published Online**

The Office of the Auditor-General for Bayelsa State published audited financial statement for 2022<sup>127</sup> financial year on a dedicated website. The audit report on the account of the Bayelsa State Government was not accessible online. Making the audit report (which includes audit issues, observations and recommendations) publicly available to citizens enhances civic advocacy and investigative journalism on public finance management practices using audit information.

### **Implementation of Audit Recommendations for 2021 Ongoing**

Feedback indicated that implementation of audit recommendations and House resolutions for 2021 financial year is ongoing. It is not evident if the Office of the Auditor-General and House of Assembly has effective mechanisms for monitoring implementations of audit recommendations and resolutions.

### **No Evidence of Performance Audit for 2022**

There is no evidence to show that a performance audit was conducted in 2022 on Government’s projects, programs or policies by the Office of the Auditor-General for Bayelsa State.

Performance audit refers to an independent examination of a program, function, operation or the management systems and procedures of a governmental entity to assess whether the entity is achieving economy, efficiency, and effectiveness in the employment of available resources.

### **Citizens’ Accountability Report for 2022 Not Published Online**

The Bayelsa State Government did not publish the Citizens’ Accountability Report for the 2022 financial year.

A Citizens’ Accountability Report (CAR) is a series of graphic and tabular illustrations of the contents of the Audited Financial Statements prepared by a government agency on behalf of the government to the citizens to ensure accountability of public funds. This report details the government’s performance in carrying out the duties assigned to it and the utilization of funds in the coffers of the government.

### **PAC Review of 2022 Audit Report Not Started**

The Public Accounts Committee of Bayelsa State House of Assembly has not commenced review of the 2022 audit report. The PAC did not respond to the SAE Index questionnaire despite repeated

127 [https://s3.eu-west-2.amazonaws.com/openstates.ng.storage/documents/dataset\\_BAYELSA-STATE-ACCOUNTANT-GENERAL39S-FINANCIAL-STATEMENT-2022.pdf](https://s3.eu-west-2.amazonaws.com/openstates.ng.storage/documents/dataset_BAYELSA-STATE-ACCOUNTANT-GENERAL39S-FINANCIAL-STATEMENT-2022.pdf)

engagements. There's also no indication the PAC has any mechanism for monitoring implementation of its resolutions.

The PAC is encouraged to improve its effectiveness and ensure reports of the Auditor-General for 2022 and other pending audit reports are given expeditious consideration. The PAC should also involve civil society and media actors when reviewing audit reports and ensure its resolutions reflect the experiences and feedback from citizen groups particularly those who are victims of audit findings and other public accountability gaps.

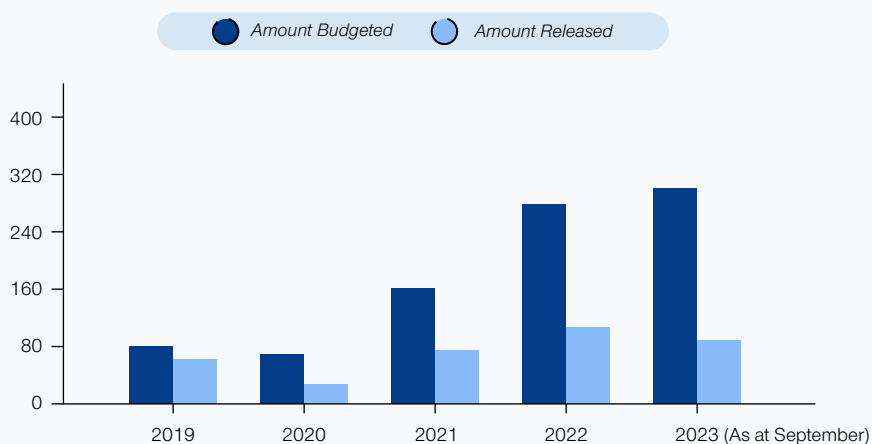
### CS/Media Actors not Involved in the Audit Process

There is no indication that civil society and media actors are involved in the audit process of Bayelsa

State. Also, the report of the Auditor-General on the account of the Bayelsa State government for 2022 is not accessible to the public. Only the audited financial statement is accessible to citizens electronically and such document does not provide the required comprehensive information that enables civic groups to engage adequately with state actors on use of public resources.

It is important that civic groups who are mostly affected by audit issues and public finance management gaps can engage with the Office of the Auditor-General and Public Accounts Committee to ensure their opinions and experiences reflect in planning and executing audit functions as well as the oversight role of the State's Parliament.

SAI Budgets and Releases (NGN'm) (2019 - 2023)



SOURCE: OAU/IGS