

CONTROLLING CORRUPTION IN THE PHILIPPINE BUDGET

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Author's Declaration

I, the undersigned **Neliza Noble Macapayag** hereby declare that I am the sole author of this thesis. To the best of my knowledge this thesis contains no material previously published by any other person except where due acknowledgement has been made. This thesis contains no material which has been accepted as part of the requirements of any other academic degree or non-degree program, in English or in any other language.

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ABSTRACT

The state of corruption in the Philippines has reached a deplorable state. The Philippine budget is identified as a source of corruption as it directly involves the allocation of public money. This study traced the Philippine budget process and identified the various actors that intervened therein. Through process tracing and content analysis, various risks of corruption were identified in each of the four phases of the budget process. These risks include the following: (1) the abuse of discretion by government officials; (2) the failure to make the process transparent; (3) the abuse of discretion in the use of lump sum funds; and (4) the abuse of the authority to reallocate savings in the budget. With the identification of these risks of corruption, appropriate policies were designed to control corruption in the Philippine budget.

Ad Majorem Dei Gloriam.

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INTRODUCTION

In July 2013, a scam allegedly involving ghost projects funded through the Priority Development and Assistance Fund (PDAF) of legislators was exposed in the Philippine Daily Inquirer. According to the whistleblowers, government projects were merely made to appear to have been implemented by nongovernment organizations (NGOs) set up by Janet Napoles (Napoles) in exchange for about 40-50% of the total value of the legislator's PDAF. The PDAF for each member of the House Representatives is about 70 Million Philippine Peso (Php)¹ and Php 200 Million for every senator. Thereafter, the legislator receives the remaining amount of his or her PDAF.

The PDAF is a Special Purpose Fund (SPF) in the General Appropriations Act (GAA) granted to Members of the Philippine Congress. It is a lump sum and discretionary fund intended to allow legislators to “fund small-scale infrastructure or community projects” (Nogales and Lagman 2012). The projects to be funded from the SPF, however, remain unidentified until their execution. As a consequence, the legislators are given wide discretion on which projects to fund. With lump sum funds such as the SPF in the GAA, the public money is vulnerable to abuse and misuse and the Philippine budget becomes a source of corruption. With the PDAF for FYs 2007-2009, the Commission on Audit (COA) estimated that about US\$ 222.22 million of public money was lost to corruption (COA Special Audits Office Report No. 2012-03). Moreover, on 19 November 2013, the Supreme Court of the Philippines has declared the PDAF unconstitutional (Belgica, et al. v. Secretary Ochoa, et al. 2013). The 2015 GAA, however, still allocated about 19% of the budget for lump sum funds. A large part of the public money, therefore, remains vulnerable to corruption.

¹ Current exchange rate: 1 US Dollar = 45.20 Philippine Peso.

Corruption has been defined in various ways. This thesis, however, adopts the definition of corruption by the World Bank as the abuse of public power for private gain. This definition finds wide usage under Philippine laws where corruption can only be committed by public officials for the mismanagement of public funds. Tanzi (1998) and Wildavsky (1984) specifically looked into the corruption in the budget. Tanzi (1998) generally studied the corruption that tends to be committed throughout the budget process while Wildavsky (1984) specifically examined corruption in the US budget process. Klitgaard (1988) studied the corruption in the revenue side of the Philippine budget. However, very little literature has been written on the corruption in the expenditure side of the Philippine budget process. While Noda (2011) examined the politicization of the Philippine budgeting system, there is no literature yet that examines the risks of corruption at every phase of the Philippine budget process. Thus, this thesis contributes to the literature by providing an analysis of the Philippine budget process and identifying the risks of corruption and the actors in each phase thereof. Thereafter, it proposes policies that control these identified risks of corruption. Therefore, this thesis primarily answers the question: *How can corruption in the Philippine budget be controlled*. It aims to control corruption in the budget to ensure that every hard-earned peso will contribute to a better life for every Filipino.

Given the wide topic of corruption in the budget, this thesis is limited to the analysis of the expenditure side of the budget process. In so doing, this thesis asserts that the risk of corruption is highest in those areas where money is directly involved between and among different actors. More importantly, in identifying these areas and actors, more effective corruption control policies may be drafted (Peteri 2008).

In order to properly address the research question, this thesis employs three research methods, namely: (1) desk research, (2) process tracing, and (3) content analysis. Desk research is relevant in the background study and in building the foundation upon which this thesis will

examine the risks of corruption in each phase of the budget process. Process tracing is especially useful in the analysis of the problem of corruption in the budget. By tracing the various steps in the budget process of the Philippines, this method identifies the risks of corruption in a particular phase. It traces the flow of the public money from the treasury to either private hands or delivery of public service. In particular, process tracing helps identify the various rules and regulations and actors that intervene in the budget process. This relevantly contributes to the design of an appropriate policy recommendation that can effectively control the risks of corruption in the budget. Finally, in claiming that the Philippine budget remains vulnerable to corruption and thus conclude that corruption in the present budget persists, this thesis conducts a content analysis of the 2015 GAA to identify the lump sum appropriations therein, which has been identified as a source of corruption.

This thesis is divided into 8 chapters. Chapter I provides a background of the state of corruption in the Philippines. Chapter II reviews the literature that has already been written about corruption in the budget, types of corruption and the models of corruption. Chapter III provides an overview of the Philippine budget system and introduces the phases and sub-phases of the budget process. Chapter IV to VII provides an analysis of each phase of the budget process. Each chapter analyzes the risks of corruption and the actors involved in a phase. Thereafter, each chapter recommends corruption control policies that address the identified risks of corruption. Chapter VIII examines the items in the 2015 GAA that remain vulnerable to corruption and recommends policies to control the risk of corruption in these items. Finally, this thesis concludes.

CHAPTER I: CORRUPTION IN THE PHILIPPINE BUDGET

In order to properly understand the problem addressed by this thesis, this chapter provides a background of the state of corruption in the Philippines. In particular, it focuses on the corruption in the expenditure side of the budget and provides a brief history of the lump sum and discretionary fund identified as a source of corruption.

The poor state of corruption in the Philippines came to the limelight when the country entered the Guinness Book of World Records in the late 1980s for what was referred to as the biggest corruption of all time during the dictatorship of former President Ferdinand Marcos. While the Marcos administration is considered the most corrupt, the succeeding government administrations, had their share of and have not successfully controlled corruption. The present administration of President Benigno Aquino has been aggressive in its fight against corruption. Despite its efforts, the country has only slightly improved in its ranking in the latest Corruption Perception Index published by Transparency International, as there remains a strong perception of corruption in the public sector. From a score of 36 in 2013 to a score of 38 in 2014, the Philippines now ranks 85th out of 175 countries (Transparency International 2014). This improvement is translated in the decreasing number of graft and corruption-related cases filed before the Office of the Ombudsman and the Sandiganbayan, the country's anti-graft court. In 2013, the Office of the Ombudsman received a total of 11,366 new complaints while in 2014, it received only 9,584 complaints for graft. Despite the decrease, however, the number of complaints still remain very high at the thousands level.

The Philippine budget is especially vulnerable to corruption because of the discretionary decision-making system embedded in it and the nontransparent processes in its preparation, legislation, execution and audit. Moreover, a big bulk of the budget is in the form of lump sum and discretionary funds. Furthermore, the budget allows the declaration of savings

from these lump sum funds and their reallocation to any other program or project. This wide discretion allows corruption for political or personal gain.

Lump sum allocations were first introduced in 1989 through the establishment of the Mindanao Development Fund (MDF) and the Visayas Development Fund (VDF). The funds were established to eradicate poverty and correct the horizontal imbalances between developed and less developed areas within the country. Thereafter, the Countrywide Development Fund (CDF) was created to replace both MDF and VDF. It changed the nature of the fund by extending its coverage to all electoral districts. There were news articles, however, that came out claiming that the CDF was actually payoffs of President Corazon Aquino to those who supported her revolutionary government.

During the Ramos administration, the CDF was reportedly utilized by the President to maintain the support of Congress (Noda 2011). In 1996, an exposé on the corruption in the CDF was published in the Philippine Daily Inquirer by an anonymous legislator later identified as Representative Romeo Candazo. He elaborated that legislators and government officials received kickbacks through the overpricing of the projects funded by their CDF and that these kickbacks “were standard operating procedure among legislators and ranged from 19% to 52% of the cost of the project” (Philippine Daily Inquirer 2013). Thereafter, President Estrada vowed to abolish the pork barrel. To offset, however, Congress inserted equivalent funds for compensation, namely, the Food Security Program, *Lingap para sa Mahirap* (Care For the Poor) Program Fund and the Rural/Urban Development Infrastructure Fund (Republic Act No. 8745 1999). In 2000, CDF was later renamed to the PDAF.

The PDAF Article in the 2000 GAA, which remained the same for the 2001-2004 GAAs, required the “prior consultation with the respective Representative of the District” before PDAF were directly released to the Implementing Agency (IA) and the realignment of funds was expressly allowed. Starting the 2011 GAA, the PDAF Article expressly provided for

the lump sum amounts allocated to the Members of Congress: Php 70 Million for each Member of the House of Representatives and Php 200 Million for each Senator. The realignment of the PDAF was also allowed upon the concurrence of the concerned legislator. In the 2012 and 2013 GAAs, although the PDAF Articles require that the “identification of projects and/or designation of beneficiaries shall conform to the priority list, standard or design prepared by each implementing agency...” (Republic Act No. 10155 2012; Republic Act No. 10352 2013), in practice, however, it was still the legislator who would choose and identify the project from the said priority list (Belgica, et al. 2013, 14).

On 16 August 2013, the COA released COA Special Audits Office Report No. 2012-032012-03 entitled “Priority Development Assistance Fund and Various Infrastructures including Local Projects” (COA Report) for the years 2007-2009 and found high irregularities in the disbursement and use of these funds. Thus, pursuant to the COA findings and supported by affidavits of six whistleblowers, cases for plunder and graft and corruption were filed against several legislators, officials of government agencies handling PDAF and Napoles on 16 September 2013 before the Sandiganbayan. On 19 November 2013, the Supreme Court of the Philippines, in a landmark case, has declared the PDAF unconstitutional holding, among other things, that the PDAF system “impaired public accountability in giving legislators a stake in the affairs of budget execution which they are required to monitor and scrutinize” (Belgica, et al. 2013, 69). Thus, it is apparent that the lump sum fund like the PDAF has become a source of corruption by legislators. Moreover, notwithstanding the declaration of the Supreme Court, the 2105 GAA still allocated about 19 % of the Php 2.606 Trillion budget for lump sum and discretionary funds consisting of the SPF and Unprogrammed Funds. Thus, about Php 501 Billion of public money remains vulnerable to corruption.

Before embarking on an in-depth discussion of the problem of corruption in the budget, it is important to situate this thesis in the broad literature that has been written on the topic. The

next chapter examines the related literature on corruption and the budget and identifies the specific contribution of this thesis in the said literature.

CHAPTER II: LITERATURE REVIEW

This chapter provides a review of the literature related to the topic of corruption: definition of corruption, types of corruption, corruption in the budget and the models of corruption. It provides brief discussions on what has already been written on these topics and thus, explains how this thesis can contribute to the wealth of literature on corruption.

A. Corruption

Corruption has been the subject of numerous literatures and has been defined in various different ways. Many of the prominent authors including Heidenheimer (1993) and Rose-Ackerman (1975) acknowledge that providing one definition for corruption is difficult given the broad range of activities that could be included in the term. The most popular definition of corruption, however, is that used by the World Bank as the abuse of public power for private benefit (Rose-Ackerman 1975; Becker and Stigler 1974; Klitgaard 1988). A perusal of Philippine laws would reveal that an actionable case for corruption is only the corruption in the public sphere and necessarily involves the mismanagement of public finances. Thus, this thesis adopts this Public-Office-Centered definition of corruption. In 2006, Balboa and Medalla explored the state of corruption and anti-corruption measures in the Philippines. They concluded that ruling groups could reduce accountability through lack of transparency or denial of audit (Balboa and Medalla 2006, 22). This thesis, therefore, examines the role of high-ranking public officials in the budget process.

B. Types of Corruption

Literature discusses different types of corruption such as grand, legislative and bureaucratic corruption. Grand corruption refers to the acts of elected officials, which exploit their power to allocate resources (Jain 2001). In this type of corruption, corrupt politicians can

change either the national policies or their implementation to serve their interests at the expense of the greater majority of the population (Jain 2001, 73-74).

Legislative corruption refers to the misuse of legislative powers by government. This type of corruption is motivated either by the desire to be re-elected (Kurer 1993; Lien 1990) or the maximization of economic benefits of the position (Klitgaard 1988). The first two types of corruption are also referred to as political or high-level corruption (Jain 1998, 2001; Tanzi 1998; Martinez-Vazquez, et al 2007). It arises when politicians or senior-level bureaucrats are “able to capture the state apparatus for their own private benefit or for the benefit of those close to them” (Martinez-Vazquez, et al 2007, 100).

Bureaucratic corruption refers to acts of appointed bureaucrats in their dealings with either their superiors, the elected official, or with the public (Jain 2001, 75). This type of corruption is also known as petty corruption where a bribe may be required or demanded by bureaucrats to render a service to which the public is entitled. This thesis examines all three types of corruption in the budget.

C. Corruption in the Budget

Tanzi (1998) has very broadly examined the relationship between and effects of corruption on government budgets. He concluded that various corrupt acts could happen in the budget process. Isaksen (2005) and Moschovis (2010) have built up on the work of Tanzi. They traced the budget process and identified the acts of corruption that tend to occur therein. Both works, however, broadly discussed the corruption that tends to happen in the process without focusing on a single state or budgeting system. Wildavsky (1984) has narrowed his analysis and examined the roles and behaviors of the various actors in the US budget process.

As to a specific study on the Philippines, Klitgaard (1988) has studied the corruption in the revenue side of the Philippine budget. In particular, he examined the corruption in the tax

system of the Philippines in the late 1970s. Noda (2011) has provided a relevant study of the politicization in the Philippine Budget System. In particular, he examined pork-barrel politics from an institutional and economic perspective. He, however, limited his study to the budget formulation phase of the budget process whereas this thesis will analyze the four phases of the Philippine budget process.

D. Models of Corruption

Jain (1998) provides an overview of the many types of corruption models found in the literature. Jain identifies two main approaches to modeling the three types of corruption discussed above, namely: the agency model and the resource allocation model. The agency model best explains political corruption while the resource allocation model best explains the bureaucratic corruption (Jain 1998). In the agency model, corruption arises from the abuse of power by high-level government officials (Rose-Ackerman 1975; Mauro 1995; Tanzi and Davoodi 1997). High-level government officials – represented by legislators or elected public officials – institute or manipulate existing national policy and legislation in favor of particular interest groups in exchange of rents or payments (Martinez-Vazquez, et al. 2007, 14). The resource allocation model applies to the rent-seeking behavior of government departments, agencies, bureaus and offices who compete for budgets (Faith 1980; Jain 1998, 2001; Martinez-Vazquez, et al. 2007). In explaining how corruption arises in the Philippine budget process, this thesis will use both models of corruption. With the agency model, this thesis examines how the Agent, the high-level government officials including elected officials and high-ranking bureaucrats, are able to manipulate existing budget rules and regulations either to increase their income or favor a particular person or group in exchange of monetary considerations to the detriment of the Principal, the Filipino people. With the resource allocation model, this thesis examines the rent-seeking behavior of bureaucrats in pursuing increased wealth.

After having situated itself in the broad literature on corruption in the budget, the succeeding chapters of this thesis will specifically examine and analyze the corruption in the Philippine budget.

CHAPTER III: THE PHILIPPINE BUDGET PROCESS

This chapter provides an overview of the Philippine budget system. As a backgrounder for the analysis of the risk of corruption in the individual budget phases in the next chapters, this chapter will provide a general description of the overall budget process.

The Philippine budget system employs a combination of line-item, performance and program budgeting as frameworks of its budget system. Its budget process is comprised of four phases, specifically: (1) Budget Preparation; (2) Budget Legislation; (3) Budget Execution; and (4) Budget Accountability. In the preparation phase, the Executive branch of the government under Department of Budget and Management (DBM) prepares the annual budget. It involves the following series of steps (DBM 2012; Budget ng Bayan):

- a. Determination of overall economic targets, expenditure levels and budget framework
- b. Issuance of the Budget Call
- c. Preparation of detailed budget estimates
- d. Technical Budget Hearings
- e. Executive Review
- f. Consolidation, Validation and Confirmation
- g. Presentation to the President and the Cabinet
- h. Submission of proposed budget to Congress by the President.

The budget legislation phase starts upon the receipt of the President's Budget by the Speaker of the House of Representatives. This phase is composed of the following steps (Budget ng Bayan):

- a. House Deliberations
- b. Senate Deliberation
- c. Bicameral Deliberations

- d. Ratification and Enrollment
- e. The Veto Message
- f. Enactment

Once the GAA is enacted, the government can implement its programs and projects. The budget execution phase is composed of the following steps (Budget ng Bayan):

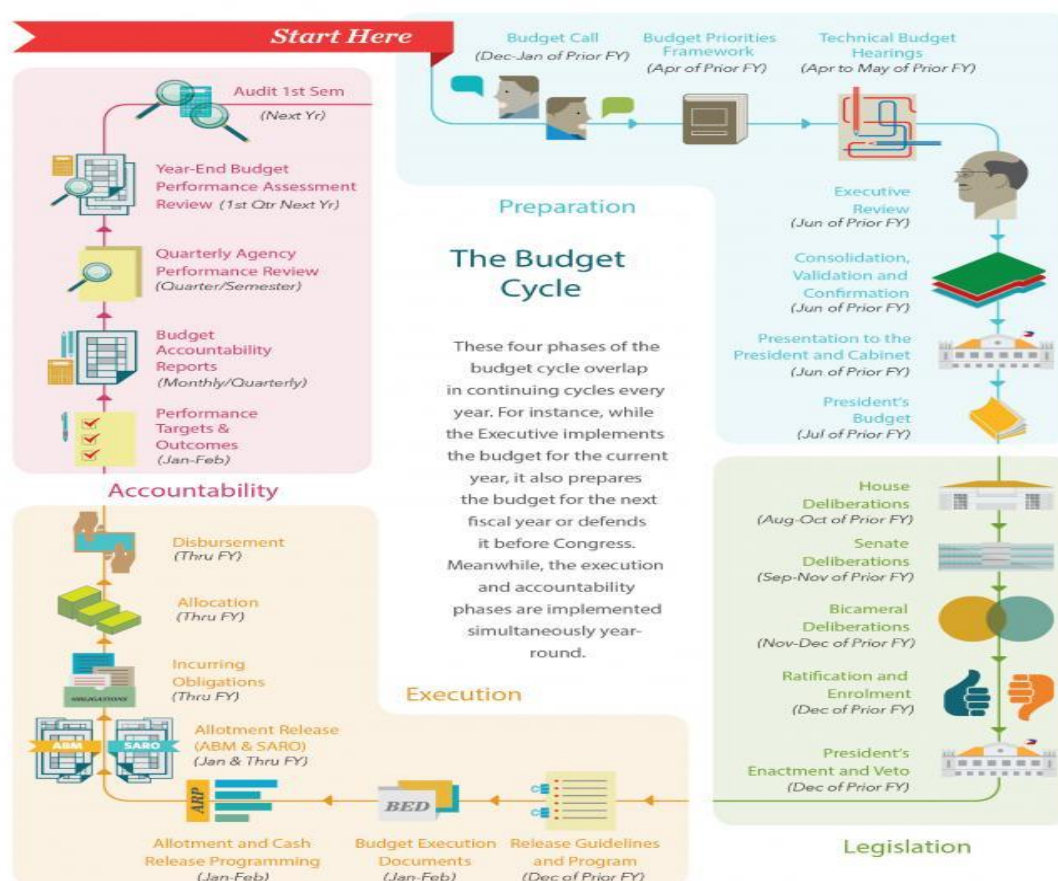
- a. Release Guidelines and Programs
- b. Budget Execution Documents
- c. Allotment Release
- d. Incurring Obligations
- e. Cash Allocation
- f. Disbursement

The budget accountability phase happens alongside the budget execution phase. To ensure proper and efficient spending of public funds, the Executive monitors their use in this phase. It is composed of the following steps (Budget ng Bayan):

- a. Performance and Target Outcomes
- b. Budget Accountability Reports
- c. Budget Accountability Reports
- d. Review of Agency Performance
- e. Audit

In sum, Figure 1 below graphically illustrates the budget process in the Philippines.

Figure 1. The Philippine Budget Cycle



Source: Budget ng Bayan

The Philippine budget is a typically annual budget generally divided into: (1) Departmental Spending; (2) Automatic Appropriations; (3) Special Purpose Funds; and (4) Unprogrammed Funds. Of these, SPFs and Unprogrammed Funds, both lump sum funds, pose the greatest risk of corruption. For SPFs, their specific “recipient departments or agencies and/or the programs and projects have not yet been identified during budget preparation and legislation” (DBM). Their use will only be identified during their execution. Unprogrammed Funds are provided for in the budget notwithstanding that corresponding resources do not yet support them (DBM 2012). Thus, both are provided in the budget without extensive detail on their use and purpose. Moreover, the budget specifically allows for the declaration of savings

from these two items and the reallocation of these savings to other programs and projects upon the discretion of the Executive branch.

Embedded in the Philippine budget system, therefore, is a discretionary system of decision-making. It has been established that “the opportunities of political corruption are more likely to arise in arrangements that allow for high levels of discretion in the distribution of public resources” (Martinez-Vazquez, et al 2007, 101). This wide discretion in budget allocation can lead to corruption for political or personal gain. While acts of corruption are inherently difficult to observe and may manifest only in the budget execution phase, “the various phases and sub-phases in the entire budget process relate to each other and imperfections in one stage may create corrupt opportunities in other phases” (Isaksen 2005, 4; Moschovis 2010, 68).

The following 4 chapters examine the individual phases of the Philippine budget process and provide an analysis of the risks of corruption therein along with the various actors that intervene in the process. Chapter 8 specifically analyzes the risks of corruption in providing for lump sum funds and allowing reallocation of savings in the 2015 GAA. Moreover, each chapter addresses the identified risks of corruption by recommending corruption control policies.

CHAPTER IV: BUDGET PREPARATION

In the budget preparation phase, the President and the high-ranking officials of the Executive branch, particularly the Secretary of the DBM, face numerous opportunities to abuse their political position and power in the allocation of resources for personal benefit. Due to the fact that this phase is closed to public scrutiny, as it is predominantly limited to the DBM and high-ranking officials of government agencies, the risk of corruption is high. No particular law or rules and regulations govern this phase of the budget process. The Constitution, however, requires the President to submit his budget to Congress 30 days from the opening of Congress on the fourth Monday of July. The following discusses the risks of corruption in each sub-phase of the budget preparation and thereafter, recommends corresponding corruption control policies.

A. Risks of Corruption

- a. Determination of overall economic targets, budget framework and expenditure levels

The Development Budget Coordinating Committee (DBCC) is composed of the DBM responsible for resources allocation and management, the Department of Finance responsible for resources allocation and management, the National Economic and Development Authority responsible for the overall macroeconomic policy and a representative of the Office of the President for presidential oversight. The Central Bank is responsible in overseeing the close coordination of the real, fiscal, monetary and external sectors of the economy. An Executive Technical Board composed of the Undersecretaries and Directors of the member agencies assists the DBCC.

Due to DBCC's close proximity to the President and the fact that its functions are highly

discretionary, they are presented with many opportunities for corruption. First, the DBCC is tasked to determine the overall economic target. It is usually an analytical job and provides little opportunity for corruption. It can be argued, however, that even at this stage, figures can be manipulated to prepare the opportunity for corrupt acts in latter phases. Second, the DBCC is tasked to determine the budget framework and recommend its approval to the President. The budget framework broadly describes the national policies, strategies and priorities of the current administration. It sets the ground for the determination of the levels of expenditure. Third, the DBCC is tasked to determine and recommend Presidential approval of the annual government expenditure program and the ceiling of government spending. This is the first step that turns the policies in the budget framework into concrete numbers in budget preparation (Isaksen 2005, 6).

If the budget framework is vague, it follows that the expenditure ceilings will likewise be vague. It will be especially difficult to link budget allocations to results and outcomes that are needed by the public. This vagueness presents a good opportunity for corruption especially that this phase is done in isolation from the public. Thus, when the budget framework and expenditure ceilings are unclear, the DBCC and their support staff can manipulate budget allocations to pave the ground for corruption at the latter phases of the budget process. Moreover, an agency with good connections to the DBCC staff can negotiate the increase of its budget.

- b. Issuance of the Budget Call by the DBM
- c. Preparation of detailed budget estimates
- d. Technical Budget Hearings

Various risks of corruption are identified in these sub-phases primarily because the Budget Call, which contains, among other things, the budget framework, economic and fiscal

targets, priority thrusts and budget levels of each agency, remains an internal document. Thus, its contents can still be subject of amendment to accommodate requests of favored agencies. Moreover, the DBM technical panel that holds the hearings, makes recommendations and consolidates the agency budget in a plan has a wide discretion on what to include in the budget plan. The abuse of discretion by the DBM technical panel is always a possibility, especially because this phase still remains internal and private between the panel and the agency concerned.

e. Executive Review

f. Consolidation, Validation and Confirmation

During executive review, the DBM Secretary and his senior officials exercise wide discretion as they are given the power to review, amend and prioritize agency and national programs. Their discretionary powers can easily be translated to “negotiable incentives for corruption” (Moschovis 2010, 67). Thus, the abuse of discretion and political interventions are serious possibilities at this phase especially that these phases are still undertaken in isolation of the public eye. It is only at the consolidation, validation and confirmation sub-phase that persons outside the DBM become privy to the process, as heads of major departments are invited to attend.

g. Presentation to the President and the Cabinet

This sub-phase presents yet another opportunity for corruption, this time by the President and his Cabinet, as they have the power to make final amendments to the proposed budget for further refinement and reprioritization of projects and programs before the budget is submitted to Congress. Again, the President and his Cabinet exercise wide discretion not only in reprioritizing of programs and projects, but also in the creation of items in the budget

that can be a source of corruption in the latter phases of the process such as lump sum funds. Lump sum funds are potential sources of corruption because they have no detail in the GAA and can thus easily be transferred by the President. It is important to note that up to this point, no budget document has been made public. The foregoing sub-phases remain internal to the government away from the scrutinizing eye of the public. As such, the discretion of the President and his Cabinet is unlimited and remains unchecked.

h. Submission of the proposed budget to Congress by the President.

This sub-phase does not involve any exercise of discretion on the part of the President and hence, does not provide an opportunity for corruption. Moreover, it is at this point that the budget process becomes transparent, as key budget documents are produced and made public.

B. Policy Recommendations

The budget preparation phase is critical not only because it initiates the whole budget process, but also because it lays the groundwork that becomes the basis for the functioning of the entire Philippine government. Two main risks of corruption are identified and addressed in this section: (1) the phase is not transparent; and (2) the President, his Cabinet, the DBM and the heads of government agencies exercise wide discretion in identifying and prioritizing government programs and in allocating resources for them.

First, it is evident that this phase is mostly restricted to the President, his Cabinet, the DBM and the heads of government agencies. The public is essentially excluded at this very crucial phase of determining government priorities and expenditures. As a policy to control corruption, this phase should be more transparent. In particular, the public should be consulted as to their needs and the DBM and heads of agencies should be guided by the results of this consultation in the determination of government priorities. Moreover, the discussions in every

sub-phase should be made transparent by immediately making public the documents produced therein, as compared to making them public only at the time of their submission to Congress. In particular, the budget call, which provides, among other things, for the budget framework and expenditure ceiling, should be made public at the time of its issuance. This will allow the public to follow the process and verify data submitted by government agencies. Thus, it will prevent the manipulation of the data as the process progresses from the line agencies to the high-ranking officials and up to the President and his Cabinet.

Second, making this phase transparent will also serve as a check on the exercise of discretion by the abovementioned public officials. It serves as a constraint to the possible abuse of discretion by these high-ranking officials, especially if the numbers in the documents made public greatly deviate from those proposed by government agencies. All submissions by government agencies should be published in their own websites and consolidated in the website of the DBM. Moreover, a rule should be passed providing for the specific items that need to be determined and indicated in the budget framework and expenditure ceilings in order to avoid the risk of corruption from their vagueness.

CHAPTER V: BUDGET LEGISLATION

The Constitution vests upon the House of Representatives the power to initiate all appropriation bills. The Senate, however, has the power to either concur or propose its own version of the bill (Philippine Constitution). Moreover, the Constitution confers the President the power to veto any item in an appropriation bill (Philippine Constitution). Congress, however, can overturn a presidential veto by a vote of two-thirds of its members with both houses voting separately. Apparent from these proceedings is the fact that Congress is also given wide discretion in the legislation of the budget. The following discusses the risks of corruption in each sub-phase of the budget legislation and recommends corresponding corruption control policies.

A. Risks of Corruption

- a. House Deliberations
- b. Senate Deliberations

The proper scrutiny of the proposed budget, a massive document with thousands of pages, entails a lot of work and time from the Congress. The review of the budget is in addition to the regular legislative work of Congress and the Constitution requires that a budget be adopted before the end of the fiscal year on 31st December. Thus, Congress cannot scrutinize the budget in its entirety, which widens the opportunities for corruption in the earlier phases and minimizes the risk of getting caught for corruption. Moreover, Congress has adopted the practice of giving respect to a co-equal branch of government. Therefore, budget proposals of the Office of the President, the Vice-President and the Judiciary are rarely scrutinized in detail. Moreover, the proposed budget of the Legislative branch is left unscrutinized.

These sub-phases involve the exercise of discretion on the part of Congress and thus,

provide many opportunities for corruption. First, it is a “long-standing practice for legislators to insert additional budgetary items for their respective constituency” (Noda 2011, 9). Legislators fight for bigger allocations in order to “bring home the bacon” to their local constituents (Dunleavy and O’Leary 1987, 106) which, in turn, will ensure reelection. Moreover, the award of programs or projects to NGOs or interest groups favored by a legislator or in which the legislator may have vested interest can also be inserted in the budget. Starting FY 2006, NGOs were encouraged to participate with respect to buildings of schools. One particular NGO, however, was specifically mentioned in both the 2006 Supplemental Budget and the 2007 GAA, which provided that the amount “allotted for the construction and completion of school buildings shall be made available to NGOs including the Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc.” (Republic Act No. 9358 2006). Through the congressional insertions, Members of Congress are able to “get additional powers to decide on how billions more in the national budget will be spent” (Noda 2011, 9). Thus, for FY 2010, then President Arroyo, in her veto message, made a clear statement that all Congressional insertions are rejected.

Second, although the Constitution provides that the President, the Senate President, the House Speaker, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, in the GAA, be authorized to augment any item in the budget for their respective offices from savings in other items of their respective budgets, Congress leaves the definition of savings in the General Appropriations Bill (GAB) vague. This provides an opportunity for corruption on the part of these mentioned officials, as savings can just be arbitrarily declared to allow funds to be reallocated into a project or program not provided for in the GAA.

Third, Congress also leaves without specificity the use of lump sum appropriations. For instance, from 1987 until it was declared unconstitutional in 2013, Members of Congress have

been receiving their share of these lump sum funds in the form of the PDAF. It is curious, however, that in the President's Budget for FY 2014, the President still provided for the PDAF of the Members of Congress in the amount of Php 25.2 Billion. The 2014 GAA, although it no longer provided for the PDAF, has created another budgetary item under the SPF, the Rehabilitation and Reconstruction Program, for about the same amount as the PDAF. A perusal of the 2014 GAA would reveal that there is no particular detail therein for the use of this fund.

c. Bicameral Deliberations

A Bicameral Conference Committee is created to reconcile conflicting provisions between the House and the Senate version of the GAB. The deliberations in the Bicameral Conference Committee (BICAM) provide another opportunity for Members of Congress to make congressional insertions. The Members of the BICAM have a "wide discretion in adding the insertions made in the two Houses and may even accommodate additional requests from both groups of the legislators" (Noda 2011, 9). It must be pointed out that unlike the proceedings before the House Committee on Appropriations, the Senate Committee on Finance and the plenary of both houses, the proceedings before the BICAM are not made open to the public and hence contribute to the risk of corruption.

d. Ratification and Enrollment

At this sub-phase, all disagreeing provisions between the House version and the Senate version have been settled and Congress needs only to ratify the BICAM version of the GAB. As such, there is no opportunity for corruption at this point in the process.

e. The Veto Message

In general, the President can only veto a bill in its entirety. An exception, however, is

the President's item-veto power in an appropriation bill. Congress, however, can overturn this veto through a two-thirds vote of its members. Although, except in 2005, the President has always exercised the item veto power, Congress has never attempted to overturn any item veto of a President. This is seen as a strategy by Congress to gain the favor of the President who will ultimately approve the disbursement of their lump sum and discretionary funds. This can be a strategic act on the part of Congress to lay the ground for the commission of corruption in the execution phase of the budget process.

f. Enactment

This sub-phase requires no discretionary act on the part of the Congress and the President, hence, it provides no opportunity for corruption.

B. Policy Recommendations

The budget legislation phase is also critical because it makes an expenditure legal and mandatory. This phase, therefore, can legalize acts of corruption. From the earlier discussions on the risk of corruption at this phase, three main risks of corruption are identified and addressed in this section: (1) Congress does not have enough time to scrutinize the entire budget to guard against corruption in the previous phase; (2) Congress exercises wide discretion in the allocation of public funds; and (3) the proceedings before the BICAM are not transparent.

First, as established, the President's proposed budget is a massive document that Congress cannot scrutinize in its entirety under the present arrangement. This fact, however, should not be made an excuse of the failure to guard public money from corruption. Instead, Congress should be made accountable for its constitutional duty to scrutinize the budget. As a policy, Congress should be obligated to propose a schedule of hearings on each item of the budget. The Congress has the power to create sub-committees of both Finance and

Appropriations Committees that can hold examinations of particular budget items. With the scrutiny of all items in the budget, acts of corruption in the earlier phase can be checked and the possibility of getting caught for corruption is increased. This way, the risk of corruption is reduced.

Second, the Congress exercises a wide degree of discretion in the allocation of public money. In the exercise of this discretion, Congress makes congressional insertions in the budget to favor their constituency or projects. As a corruption control mechanism, therefore, the government should adopt a policy of disallowing congressional insertions. Echoing then president Arroyo's veto message for the 2010 GAA, it should be the government's policy to prohibit, disallow or reject congressional insertions in the budget. This policy should be made into a law in order for any attempt at a congressional insertion in any future GAA to be immediately void without need of a judicial determination.

Third, the proceeding before the BICAM is not open to the public. It is the most crucial sub-phase in budget legislation because it is the final act before the GAB becomes a law. As a corruption control policy, therefore, the version of the GAB before and after the BICAM should be made public in order for the public to be informed of the changes therein. Moreover, this policy will ensure that the allocations are not manipulated and that there will be no insertions after the conduct of public hearings. In effect, this will deter any abuse of discretion on the part of the Congress.

CHAPTER VI: BUDGET EXECUTION

This is the phase at which “financial transactions are made, where money changes hands and where corruption materializes into flows of money” (Isaksen 2005, 6). As such, it is governed not only by the GAA, but also by numerous rules and regulations for the proper disbursement and use of funds and the implementation of government programs and projects. The following discusses the risks of corruption in each sub-phase of the budget execution and recommends corresponding corruption control policies.

A. Risks of Corruption

The execution of the budget falls mainly upon the DBM. A wide degree of discretion is exercised by the high-ranking officials of the DBM, particularly its Secretary in the allowance of the disbursement of funds. Thus, many opportunities for corruption arise at these sub-phases.

- a. Release Guidelines and Programs
- b. Budget Execution Documents

These sub-phases ensure that funds are utilized properly in accordance with the GAA. Moreover, they are meant to reduce the exercise of discretion on the part of the DBM. Despite this intention, these rules and regulations are too numerous and require the intervention of many public officers. This provides an opportunity for corruption on the part of the public officer and an opportunity for bribery by the recipient of the fund to fast track the process.

- c. Allotment Release

Once an expenditure is determined to be in order, allotments which authorize an agency to enter into an obligation, are released by DBM to all agencies through the Agency Budget

Matrix (ABM) and individually via Special Allotment Release Orders (SAROs). The ABM disaggregates all programmed appropriations for each agency into two main expenditure categories: “not needing clearance” and “needing clearance.” On the one hand, for appropriations that do not require clearance or which have already been itemized in the GAA, the ABM serves as the comprehensive allotment release document. On the other hand, for appropriations that require clearance and the approval of the DBM and the President, such as lump sum funds, a SARO is issued after the approval of the Special Budget Request.

The release of allotments through the issuance of the SARO by the DBM creates another opportunity for corruption by officers of the DBM. In both expenditure categories which need or do not need clearance, corruptive acts may include the withholding of the allotment which authorizes an obligation until some form of monetary payment is received by the releasing officer. Moreover, in the case of expenditures that require clearance and approval, “it is ultimately the President who allows the release of the requested funding subject to his political preferences and intentions” (Noda 2011, 6). Hence, it can be said that majority of the budget items are subject to the disbursement control of the President. As such, presidential impoundment or the refusal of the President to authorize the release of a fund for an item in the budget becomes an important political bargaining tool to maintain influence over the Members of Congress when it comes to the release of their lump-sum allocations. In 2010, to minimize the control of the President over their lump sum funds in the budget, Congress has specifically prohibited the impoundment of appropriations (Republic Act No. 9970 2010).

d. Incurring Obligations

This phase presents a fertile ground for corruption. Corruptive acts at this sub-phase usually take the form of violating the procurement law, Republic Act No. 9184, which requires competitive bidding for everything the government needs to buy, construct or provide. In the

case of *Commission on Audit v. Regional Trial Court, et al* (G.R. No. 85285 1989), the Supreme Court acknowledged the problem of corruption in government procurement and found the following violations of the bidding process:

1. Collusion among bidders and public officials to combine interest and divide the profit;
2. Agreement among bidders and public officials to bid on separate portion of the work;
3. Pre-arranged or rigged bidding; and
4. Collusion among bidders and public officials to submit identical or uniform bids.

However, the risks of corruption in this sub-phase go beyond the public bidding and hence, beyond the coverage of the Procurement Law. According to former COA Commissioner, the government procurement process is also subverted through the falsification of documents (Ursal 2004). In addition, corruptive acts include non-delivery, incomplete delivery, or delivery of substandard materials and bribery of officials in connivance with procurement inspectors in cases where there is a need for certification that the goods delivered or infrastructure project is according to the contract (Ursal 2004). In 2009, the World Bank withdrew its US\$ 33 Million National Roads Improvement and Management Program (NRIMP) in the Philippines upon findings of its Integrity Vice Presidency of the involvement of politicians and government officials in the collusion among a group of local and foreign companies during the tender of two contracts under Phase 1 of the program (Integrity Vice Presidency 2009).

- e. Cash Allocation
- f. Disbursement

To authorize an agency to pay the obligations it incurs, DBM issues a disbursement

authority either in the form of a Notice of Cash Allocation (NCA), Non-Cash Availment Authority (NCAA) or Cash Disbursement Ceiling (CDC). Pursuant to Republic Act No. 9184, the fact that an obligation is authorized through the issuance of the SARO makes these two sub-phases a mere ministerial act. Once the expenditure is verified as proper, the NCA, NCAA or CDC is issued and payment is made. It can be the case, however, where the issuance of the NCA, NCAA or CDC is withheld to extract bribes from the party to whom payment is due.

B. Policy Recommendations

The budget execution phase is also crucial not only because there are risks of corruption in its sub-phases, but also and more importantly, it is when actual corruption happens. From the earlier discussions on the risk of corruption at this phase, three risks of corruption are identified and addressed in this section: (1) there are too many rules and regulations that govern this phase requiring the intervention of various actors; (2) in addition to violations of the Procurement Law, there are many corruptive acts not covered by it; and (3) the DBM officials, its Secretary and the President exercise wide discretion in the release of the budget.

First, with the intention of ensuring the proper disbursement of funds, the government has passed numerous rules and regulations to govern this phase. While the intention may be good, these numerous rules and regulations have required the intervention of many government officials to serve as checks in the process and thus, not only prolonged the process but complicated it as well. As illustrated in the case of *Commission on Audit v. Regional Trial Court*, this prolonged and complicated process has paved the way for corruption by the actors that are required to intervene. As a corruption control policy, therefore, government must adopt and pass a policy that simplifies the process by cutting it short and reducing the number of government officials required to intervene.

Second, as seen in the case of *Commission on Audit v. Regional Trial Court*, the Procurement Law is disregarded by agencies that implement projects pursuant to the budget. Over and above this, however, there are corruptive acts that are not anticipated and covered by the law. As a policy to control corruption in government procurement, therefore, transparency of the whole process must be heightened and public participation incentivized. A policy requiring wider dissemination of notices of bids must be adopted. The procuring entity will be obligated to send out invitations of bids and the failure to comply with this obligation will result in the nullification of the bidding process. Moreover, the public must be incentivized to participate by informing them of the benefits of and/or their stake in the government project or program.

Third, various government officials exercise wide discretion at this phase. One, the exercise of discretion by DBM officials, especially the Secretary thereof, in the release of allotment and in the issuance of the NCA, NCAA or CDC may lead to corruption. As a corruption control policy, DBM officials should not be given discretion in the release and issuance of the foregoing. There should be a checklist of documents to be submitted and/or processes to be undergone for the release of allotment and issuance of the NCA, NCAA or CDC in order for the process to be merely ministerial on the part of the DBM. Two, the President exercises wide discretion in the approval and disbursement of funds that require clearance. This gives the President control of a huge amount of funds, which he can disburse or impound subject to his political preferences and personal intentions. As a policy to limit the President's discretion, the requirements for the disbursement of funds that are subject to clearance must be provided for in the GAA and not left to the determination of the President. As much as possible, the conditions for the release of funds must be set forth in the GAA to reduce the exercise of discretion by any government official. Moreover, presidential

impoundment must be limited by allowing its exercise on justifiable grounds indicated in the GAA such as when the country is experiencing economic difficulties.

CHAPTER VII: BUDGET ACCOUNTABILITY

This phase happens simultaneously with budget execution, where the DBM monitors whether funds are utilized efficiently and assesses agency (Budget ng Bayan). The performance targets identified and established during the preparation of Budget Execution Documents (BEDs) guide the DBM in its assessment of the use of the funds by agencies. The following discusses the risks of corruption in the sub-phases of the budget accountability and recommends corruption control policies that address these risks.

A. Risks of Corruption

- a. Performance and Target Outcomes
- b. Budget Accountability Reports
- c. Review of Agency Performance

Prior to the execution of the enacted National Budget, performance targets are identified and established during the preparation of BEDs. As such, agencies are held accountable not only for how public funds are used, but also for how the funds attained their performance targets and outcomes (Budget ng Bayan). Budget Accountability Reports are required to show how agencies used their funds and identify their corresponding physical accomplishments (Budget ng Bayan). The DBM regularly reviews the fiscal performance of agencies. Quarterly, the DBM conducts Agency Performance Reviews (APRs) while annually, it conducts a Budget Performance Assessment Review (BPAR).

As seen from the COA Report, the DBM fails to perform these functions. These failures to monitor the use of funds and the implementation of programs provide greater incentive for corruption in the early phases of the budget process.

d. Audit

The COA is the agency with the jurisdiction to conduct the audit of the use of public funds. The DBM uses these audits in evaluating agency performance, determining budgetary levels for agencies and addressing issues in fund usage. The COA, the supposedly independent commission tasked to audit the use of public funds, fails to carry out its mandate. First, the COA does not entirely enjoy autonomy. Its Chairperson is an appointee of the President and its budget remains subject to the scrutiny of Congress. Second, as can be seen from its Report on the PDAF and VILP, it does not have access to relevant information and documents. Despite its repeated demands for the necessary documents to conduct an audit, the DBM was unable to provide them these documents. Third, the COA is unable to conduct a timely audit of the disbursements of funds pursuant to the GAA. In the case of FYs 2007, 2008 and 2009, it took the COA about five years to complete the audit of only two items in the budget, namely: the PDAF and the VILP. All these provide a greater incentive for corruption in the early phases of the budget.

B. Policy Recommendations

The budget accountability phase serves as a check of the entire budget process by ensuring that there can be no corrupt practices and act. From the earlier discussions on the risk of corruption at this phase, two risks of corruption are identified and addressed in this section: (1) the COA has not been able to conduct a regular audit of the fund disbursements authorized by the GAA; and (2) the COA is not completely autonomous.

First, as seen in the audit of the PDAF for FYs 2007-2009, the COA has been remiss in its constitutional duty to conduct timely audit of government disbursements. This fact has increased the possibility of corruption in the earlier phases of the budget process as the risk of getting caught is reduced. As a policy, COA must be made accountable to comply with its

constitutional mandate and penalized if it fails to do so. Moreover, it can be the case that delay is due to the failure of government agencies to provide the necessary documents to COA. In order to prevent this, it must be a policy of the government to penalize government agencies for their failure to provide access and submit complete documents for audit to COA. As it currently stands, there are no serious legal consequences for failure to provide documents to the COA. Thus, a policy providing for enforceable legal consequences in case of failure to submit documents to COA must be adopted.

Second, the COA is not completely insulated from political influence, because it is not completely autonomous as envisioned by the Constitution. The COA Chairperson remains a presidential appointee and COA's budget remains subject to congressional scrutiny notwithstanding the grant of fiscal autonomy under the Constitution. To insulate COA from any influence, Congress should be reminded of this fiscal autonomy at the time of budget legislation. Moreover, the choice of the COA Chairperson must not be left entirely to the decision of the President. As a policy to limit the President's discretion and prevent any future influence, a short-list of candidates should be prepared by a council, similar to the Judicial and Bar Council, from which the President can choose the Chairperson.

CHAPTER VIII: LUMP SUM FUNDS AND SAVINGS IN THE 2015 GAA

After analyzing in detail each phase of the budget process, this chapter examines the 2015 GAA particularly the provisions on lump sum funds and savings. This chapter concludes that with these items in the budget, the 2015 GAA remains vulnerable to corruption. Thereafter, this chapter recommends policies to address the risks of corruption brought about by these two dangerous items in the budget. It is important to note at this point that the 2015 GAA is also referred to as the ‘election budget’ by budget watchdogs like the Social Watch Philippines. With the next Presidential and National elections in May 2016, the 2015 GAA is seen as source of campaign funds and hence, it is more vulnerable to corruption.

The 2015 budget is Php 2.606 Trillion, 15.1% higher than the 2014 budget. Of this amount, only 51.7% are for departmental spending and hence, were subjected to scrutiny by Congress. The rest of the remaining amount were not scrutinized or cannot be scrutinized: the Php 816 Billion are automatic appropriations and hence, not subject to scrutiny anymore; the remaining Php 378.6 Billion for s and Php 123 Billion for Unprogrammed Funds cannot be scrutinized for lack of details in the GAA. Table 1 below breaks down the 2015 GAA into the Departmental Spending, Automatic Appropriation, SPFs and Unprogrammed Funds.

Table 1. Breakdown of 2015 GAA

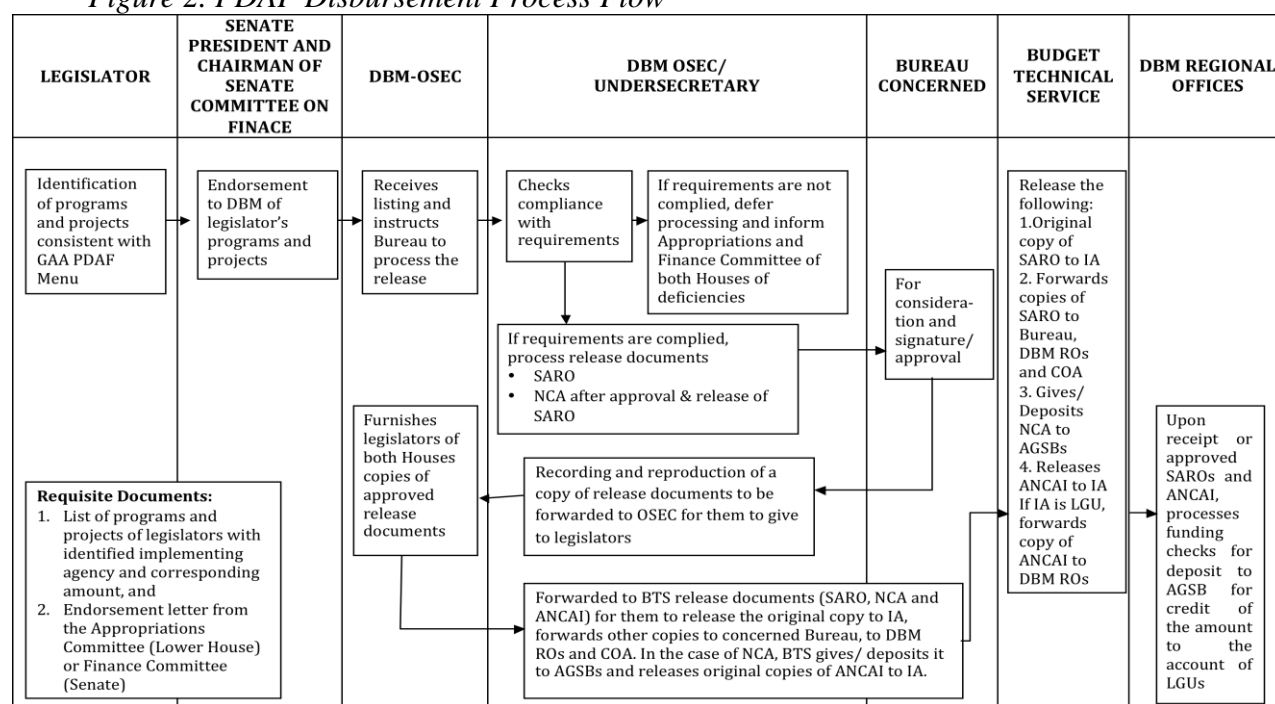
Budget Item	Percentage to Total Budget	Amount in Philippine Peso
Departmental Spending	51.70%	1,411,400,000,000
Automatic Appropriations	29.90%	816,100,000,000
Special Purpose Funds	13.90%	378,602,800,000
Unprogrammed Funds	4.50%	123,060,000,000
Total	100%	2,606,000,000,000

A. Lump Sum Funds

The President and the Members of Congress enjoy wide discretion in the disbursement

of their respective lump sum appropriations in the SPFs. In the case of Congress, up until the year 2013, they had the PDAF to disburse as they please. The President, up to the present, has the liberty to disburse items under the SPF as he pleases, as their use are subject to his approval. The problem with these funds is that their expenditure is highly invisible and therefore, at risk to corruption. In the case of the PDAF, its process only became transparent when the PDAF scam was revealed by whistleblowers. According to the DBM, the disbursement of the PDAF is initiated by the legislator who identified the programs and projects to be funded by his or her PDAF. The list of programs and projects of legislators with the identified IAs and corresponding amount is thereafter endorsed to the DBM and the release of the funds for the programs and projects is processed. Figure 2 below traces the process for the disbursement of the PDAF.

Figure 2. PDAF Disbursement Process Flow



Apparent from this process is the wide discretion given to Members of Congress not only on the program to be funded by his/her PDAF but also on who implements the project and for how

much. Thus, in the audit of the PDAF for the years 2007-2009, the COA found irregularities in the use and disbursement of these funds. In particular, the COA found the following, among other things (COA Special Audits Office Report No. 2012-03, 14-17):

1. IAs were released with funds even if they did not have the administrative and technical capabilities to implement the project
2. No public bidding was conducted. The NGOs were selected on the basis of the endorsement by the sponsoring legislators.
3. There was utter disregard of the existing rules and regulations by the IAs in the use of the funds. Moreover, the reports submitted by NGOs and the IAs were supported with fabricated documents containing forged signatures. In particular, the COA found the following:
 - a. About six NGOs were incorporated by legislators or their relatives;
 - b. A number of NGOs were unknown, not duly registered or cannot be located at their given addresses. Some addresses point to residential units without any indication that they are offices;
 - c. Suppliers of NGOs cannot be located at their given addresses;
 - d. From the documents submitted by NGOs, it appeared that some of them were incorporated and/or managed by the same persons. Moreover, these persons appeared to be connected or have been connected to other NGOs; and
 - e. The list of beneficiaries submitted by one NGO was taken from the list of board examination passers for different professions and from a list of bar examination passers.

From the findings of the COA, it can be concluded that the lump sum funds in the budget is easily vulnerable to misuse. The use of the funds is discretionary upon certain public officials and is not properly monitored. These facts make lump sum funds a viable source of corruption.

Notwithstanding the findings of the COA, the 2015 GAA still provides for the lump sum funds in the form of SPFs and Unprogrammed Funds.

1. SPFs in the 2015 GAA

The SPFs are managed by the DBM, with the approval of the President. Table 2 below breaks down the SPFs in the 2015 GAA.

Table 2. Special Purpose Funds in the 2015 GAA

Special Purpose Funds	Amount
Pension and Gratuity Fund	140,566,000,000
Miscellaneous Personnel Benefits Fund	118,142,400,000
Budgetary Support to Government Corporations	61,319,400,000
Rehabilitation and Reconstruction Program	1,000,000,000
Allocation to Local Government Units	33,131,000,000
National Disaster Risk Reduction and Management Fund (Calamity Fund)	14,000,000,000
International Commitments Fund	7,444,000,000
E-Government Fund	1,000,000,000
Contingent Fund	2,000,000,000
Overall Savings	0
Total	378,602,800,000

A perusal of the 2015 GAA would reveal incomplete details on how these funds will be used and disbursed. Thus, it provides an opportunity for corruption. The following are examples of the many broad provisions in the 2015 GAA for the uses of particular SPFs:

1. For the *Budgetary Support to Government Corporations*, it merely states that the amount of Php 61.3 Billion may be used by government corporations to augment any deficiency in their operating expenditures.
2. For the *Miscellaneous Personnel Benefits Fund*, the 2015 GAA merely provides 5 broad uses of this huge Php 118 Billion fund.
3. The *Contingent Fund* is obviously a discretionary fund of the President as it is administered by his office and its use is subject to his approval. Moreover, it appears that the fund could be used for anything including foreign travels of the President. The

only limitation is that it cannot be used for the purchase of a motor vehicle.

2. Unprogrammed Funds in the 2015 GAA

Unprogrammed Funds are standby appropriations authorized under the GAA which may be availed of and released only when the government's revenue collection exceeds the original revenue target. Table 3 below provides a breakdown of the items listed under Unprogrammed Funds in the 2015 GAA.

Table 3. Unprogrammed Funds in the 2015 GAA

Unprogrammed Funds	Amount
Budgetary Support to Government Corporations	5,060,800,000
Support to Foreign-Assisted Projects	3,095,300,000
General Fund Adjustment (for the share of ARMM)	800,000,000
General Fund Adjustment for Use of Excess Income by Agencies	200,000,000
Support for Infrastructure Projects and Social program	20,000,000,000
AFP Modernization Program	10,000,000,000
Risk Management Program	30,000,000,000
Equity Value Buy-out of the Metro Rail Transit Corp.	53,900,000,000
Total	123,056,100,000

A review of the 2015 GAA would reveal that it provides no detail of the intended utilization of the Unprogrammed Funds. For instance, in allocating Php 20 Billion for Support for Infrastructure Projects and Social programs, the 2015 GAA merely states that the fund shall be used in support of the following:

1. Social protection program;
2. Social services; and
3. Infrastructure project.

It provided no further details on these three purposes, no specific agency that will implement it and how. Moreover, the 2015 GAA provides multiple allocations for the same purpose. In particular, the item Budgetary Support to Government Corporations was allocated twice: first,

as an item under the SPF for Php 61.3 Billion and second, as an item under Unprogrammed Funds for Php 5.06 Billion.

Thus, not only has the 2015 GAA obscured the purpose and actual utilization of the SPFs and Unprogrammed Funds, it grants almost absolute discretion to the President in determining where the funds should go and when to release them. As already established, opportunities for corruption are more likely to happen in arrangements that provide a wide discretion in the distribution of public resources (Martinez-Vazquez, et al. 2007, 101).

B. Reallocation of Savings

Another item in the budget vulnerable to corruption is the Constitutional authority to augment any item in the budget from savings in other items of the budget by named officials. For instance, savings can easily be declared and used according to the discretion of the President. This discretion, if left unchecked, can be abused and used for political or personal gain such as the use of these savings to secure the votes of senators in the impeachment of former Chief Justice Renato C. Corona. Thus, on 25 September 2013, Senator Ejercito Estrada delivered a privilege speech in the Senate revealing that some Senators, including himself, had been allotted an additional Php 50 Million each as “incentive” for voting in favor of the impeachment of Chief Justice Corona. The DBM explained that the funds released to the Senators had been part of the Disbursement Acceleration Program (DAP), a program designed to help accelerate economic expansion. According to DBM, DAP releases are sourced from savings generated by the Government, and from Unprogrammed Funds. Thus, according to the DBM, the savings had been derived from (Araullo et al. v. President Aquino et al. 2014):

- (1) the pooling of unreleased appropriations, like unreleased Personnel Services appropriations that would lapse at the end of the year, unreleased appropriations of slow-moving projects and discontinued projects per zero-based budgeting findings; and
- (2) the withdrawal of unobligated allotments also for slow-moving programs and projects that had been earlier released to the agencies of the National Government.

Table 4 below lists the releases made to senators from the DAP by the DBM:

Table 4. DAP Releases to Senators

Senators	Amount (In Philippine Peso)
Greg Honasan	50 Million
Francis Escudero	99 Million
Antonio Trillanes	50 Million
Manuel Villar	50 Million
Ramon Revilla	50 Million
Francis Pangilinan	30 Million
Loren Legarda	50 Million
Lito Lapid	50 Million
Jinggoy Estrada	50 Million
Alan Cayetano	50 Million
Edgardo Angara	50 Million
Ralph Recto	50 Million
Koko Pimentel	45.5 Million
Vicente Sotto	50 Million
Teofisto Guingona	43 Million
Sergio Osmena	50 Million
Frank Drilon	100 Million
Juan Ponce Enrile	92 Million
Pia Cayetano	50 Million
Joker Arroyo	47 Million
Total	1.105 Billion

Thereafter, on 1 July 2014, in the case of *Araullo et al. v. President Aquino et al.* (G.R. Nos. 209287, 209135, 209136, 209155, 209164, 209260, 209442, 209517 & 209569 2014) (Araullo case), the Supreme Court declared the DAP unconstitutional holding that it violates the Constitution and the doctrine of separation of powers, namely (Araullo et al. 2014, 90-91):

- “1. The withdrawal of unobligated allotments from the IAs, and the declaration of the withdrawn unobligated allotments and unreleased appropriations as savings prior to the end of the fiscal year and without complying with the statutory definition of savings contained in the GAAs;
2. The cross-border transfers of the savings of the Executive to augment the appropriations of other offices outside the Executive; and
3. The funding of projects, activities and programs that were not covered by any appropriation in the GAA.”

The 2015 GAA, as affirmed by the President’s Veto message, however, directly contravenes

the Constitution and the foregoing pronouncement by the Supreme Court when it allows cross-border transfers of savings for the items under the SPFs, with the exception of the Calamity Fund and the Allocation to Local Government Units. The 2015 GAA specifically provides the following:

“The amounts appropriated herein shall be administered by the Executive Branch. Savings from the said fund may be used to augment deficiency in the budget of the Judiciary Branch, Legislative Branch and Executive Branch of the government including Constitutional Commissions and Offices, subject to Section 35, Chapter 5, Book VI of E.O. No. 292...”

The foregoing provision in the 2015 GAA is a clear contravention of the limited authority granted by the Constitution, as it expressly allows cross-border transfers of funds as determined by the President. Moreover, the 2015 GAA redefined savings and gave the Executive branch the power to declare unused funds as savings as a result of the following (Section 70, Republic Act No. 10651 2015, 1539):

1. Discontinuance or abandonment of an ongoing program, activity or project by the head of the agency;
2. Non-commencement of program, activity or project for which an appropriation has been released;
3. Decreased costs resulting from improved efficiency during the implementation or until completion of programs, activities and projects;
4. Difference between the approved budget for the contract and contract price; and
5. Unused compensation arising from: (a) unfilled, vacant or abolished positions; (b) non-entitlement to allowance and benefits; (c) leaves of absence without pay; and (4) unutilized pension and retirement benefits.

Thus, the President or the Executive branch has the power to stop a project or disallow the filling of vacant positions and declare the funds intended for them as savings at any time before the end of the fiscal year. Thereafter, these savings may be used for whatever purpose

the President intends. It, therefore, does not matter that the Members of Congress no longer have their PDAF to use as they please. The President, who has sole discretion on the disbursement of the SPFs, is authorized by the 2015 GAA to declare savings from the SPFs and transfer the same to augment the budget of the Legislative branch. As can be seen from Table 5 below, notwithstanding the removal of the PDAF in the budget, the total allocation for the SPF has increased with huge increases in other items such as the Pension and Gratuity Fund, Miscellaneous Personnel Benefits Fund and Budgetary Support to Government Corporations, all of which allow reallocation of savings therein by the President.

Table 5. Allocations for SPF for FYs 2012-2015

SPF	2013	2014	2015
Pension and Gratuity Fund	98,715,143,000	120,495,952,000	140,566,000,000
Miscellaneous Personnel Benefits Fund	69,089,206,000	53,535,086,000	118,142,400,000
Budgetary Support to Government Corporations	44,664,500,000	46,255,210,000	61,319,400,000
Priority Development Assistance Fund	24,790,000,000		
Rehabilitation and Reconstruction Program		20,000,000,000	1,000,000,000
Allocation to Local Government Units	17,529,452,000	19,588,843,000	33,131,000,000
Calamity Fund	7,500,000,000	13,000,000,000	14,000,000,000
International Commitments Fund	2,636,723,000	4,815,644,000	7,444,000,000
E-Government Fund	1,000,000,000	2,478,900,000	1,000,000,000
Department of Education-School Building Program	1,000,000,000	1,000,000,000	
Contingent Fund	1,000,000,000	1,000,000,000	2,000,000,000
Feasibility Studies Fund		400,000,000	
Overall Savings	10,488,800,000	0	0
Total	278,413,824,000	282,569,635,000	378,602,800,000

C. Policy Recommendations

As established, both lump sum funds and reallocation of savings are risky provisions in the budget. The following recommends the policies that aim to control the corruption in these item and provision in the budget.

1. Lump sum Funds

In order to control corruption of lump sum funds, the following should be adopted as a policy:

1. Lump sum funds should be abolished. From the budget preparation phase, the budget should no longer provide for lump sum funds.
2. These lump sum funds should be further disaggregated with their intended purpose specifically provided for in the GAA. In the budget legislation phase, the GAB must specifically state the purposes of the funds and the process of their disbursement.
3. Some items in the SPF can be integrated in the budget of the following regular government agencies and corporations:
 - a. The Budgetary Support to Government Corporations can be placed under the item Corporate Operating Budget of the NEP; and
 - b. The DepEd School Building program can be placed under the budget of the Department of Education
4. The execution and disbursement of funds must not be left entirely to the decision of the President. As discussed above, the GAA must provide for the particular conditions of the use of the funds in order to limit the control and discretion of the President with regard to these funds.
5. Pursuant to the decision of the Supreme Court in the PDAF case, Congress must not be allocated lump sum and discretionary funds because “any form of post-enactment authority in the implementation or enforcement of the budget, unrelated to congressional oversight, is violative of the principle of separation of powers and thus, unconstitutional” (Belgica et al 2013)
6. Members of Congress cannot intrude into budget execution as such would constitute acts of grave abuse of discretion and hence, unconstitutional (Belgica et al 2013).
7. The Office of the President and the DBM should be obligated to report fund releases of Unprogrammed Funds. As it stands, only releases of programmed funds are reported.

2. Reallocation of Savings

In order to control corruption in the reallocation of savings, it is important to revisit and uphold, at all times, the constitutional provision on savings. The Constitution only allows transfer of appropriations from savings within an office. Notwithstanding the clear prohibition on cross-border transfers, the President has provided for it in his budget and Congress has allowed it to stay in the GAA. This utter disregard of the constitutional prohibition must not be left unpunished. The Supreme Court in the Araullo case merely declared these transfers as unconstitutional without penalizing the violation of the Constitution. There is, therefore, no clear deterrent of its future commission by the President, Senate President, Speaker of the House, Chief Justice and heads of the Constitutional Commissions. As a policy to control corruption of savings through reallocation, the government should uphold and abide by the constitutional prohibition and allow reallocation only within the office.

Moreover, arbitrary declaration of savings due to either the vague definition of savings or the flip-flop of such definition has been established as providing an opportunity for corruption. In the Araullo case, the Supreme Court declared unconstitutional the withdrawal of unobligated allotments from and unreleased appropriations of IAs and their declaration as savings prior to the end of the fiscal year. To circumvent the Supreme Court decision, the President and Congress provided for a definition of savings in the GAA that would make it legal for them to declare withdrawn unobligated allotments and unreleased appropriations prior to the end of the fiscal year. This is a clear abuse of discretion; hence, in order to control misuse of savings, the government must adopt and institutionalize the definition of savings. A law providing for when the President, Speaker of the House, Chief Justice and heads of the Constitutional Commissions may declare savings should be passed in order to prevent vagueness in its declaration. Moreover, it would also prevent the President and Congress from arbitrarily changing when savings may be declared by providing for varying definitions in the

yearly GAA.

CONCLUSION

Corruption in the Philippines has become a disease that has plagued and continues to plague the country's budget system. This thesis asserts that there are risks of corruption in areas where public money is involved. Thus, it undertook the task of controlling corruption in the Philippine budget by identifying the risks of corruption along with their actors in each phase of the budget process and proposing policies that specifically address these risks. In order to identify and address these risks, this thesis employed desk research, process tracing and content analysis as research methods.

After a thorough study, this thesis has established that there are risks of corruption at every phase of the budget process. In particular, this thesis has established that there are risks of corruption when the allocation of public resources are prepared, legislated, disbursed and accounted. These risks include the following: (1) abuse of discretion by government officials; (2) failure to make the process transparent; (3) the abuse of discretion in the use of lump sum funds; and (4) abuse of the authority to reallocate savings in the budget.

The identification of these risks is crucial in designing policies that can effectively control the corruption therein. It has enabled this thesis to propose appropriate and responsive corruption control policies that specifically target the source of the corruption. Thus, with this study, it is expected that the risks of corruption in the budget will be controlled to ensure that every single peso is spent on meaningful projects and programs aimed at uplifting the lives of every Filipino.

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