

FINANCING ELECTORAL MANAGEMENT BODY AND ELECTORAL ACTIVITY COSTS IN NEPAL

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INTRODUCTION

Nepal became a federal democratic republic following the Interim Constitution drafted in 2007, after a decade-long power struggle between the monarchy, political parties and the Maoist insurgents. The Constitution of Nepal, promulgated in 2015, which provisioned for Nepal to have a bicameral parliament structure and to be divided into seven administrative regions, was formally adopted after the general elections in 2017. The federal legislative power in Nepal is exercised by the Federal Parliament, which is divided into the lower house, the House of Representatives with 275 members, and the upper house, the National Assembly with 59 members. The seven Provincial Assemblies in Nepal follow a unicameral legislative structure, with a total of 550 seats across all seven provinces.

Parliament members in Nepal are elected through a parallel electoral system, which includes both first-past-the-post and proportional representation electoral systems. Of the 275 members of the House of Representatives, 165 are elected through first-past-the-post and 110 through proportional representation. Similarly, of the 550 members of the Provincial Assemblies, 330 are elected through first-past-the-post and 220 through proportional representation.

1. OVERVIEW OF THE ELECTORAL MANAGEMENT FRAMEWORK

The Election Commission is the sole electoral management body in Nepal. As provisioned by article 245 of the Constitution of Nepal, the Election

Commission conducts and monitors the elections for president, vice-president, Federal Parliament, Provincial Assemblies and local levels of Nepal. The Election Commission is responsible for formulating and implementing election-related policies and directives, including voter management, political parties and candidate registration, voter education, resource management, security management and reporting election outcomes.

The Election Commission is headed by a Chief Election Commissioner and four Election Commissioners, appointed by the President of Nepal based on the recommendation of the Constitution Council (Nepal 2015). Centrally, the function of the Election Commission is performed through the secretariat of the commission, which is responsible for administration, operation and project implementation, as well as preparation of budgets and plans. Each of the seven provinces of Nepal has a provincial election office with its own administration, training and planning department, along with an election management department. Similarly, there are 70 district election offices, each with its own administration and planning and election management department.

The Election Commission has decentralized carrying out its election activities, with each district and province election office having the power to manage resources for the election in its respective area. The Chief Election Officer and other election officers in each district, appointed by the Election Commission, are responsible for managing resources and appointing the required human resource to conduct elections in their district. Each district election office has the authority to register and assess election candidates, and collect, count and declare election results in its district, in accordance with the guidelines set by the Election Commission.

The Election Commission works with other functions of the government to complete the election process. The transportation of ballot boxes from voting centres to vote counting centres is handled by the Ministry of Home Affairs. Similarly, the arrangement of security personnel for elections is facilitated through a high-level Election Security Committee, composed of representatives from the Election Commission, Ministry of Home Affairs, Nepal Army, Nepal Police, Armed Police Force, Ministry of Defence and National Investigation Department. The function of the high-level Election Security Committee is supplemented by an Election Security Coordination Committee, which acts as a liaison between the high-level and district-level security committees. The Election Security Coordination Committee for each district is in charge of planning, implementing and monitoring the provision of security personnel during and after elections.

The Election Commission has the power to make decisions in terms of disqualification of election candidates when a complaint is received regarding the candidate. While the Election Commission has the power to investigate cases related to the misuse of election materials—including ballot papers, irregularities in vote counting and undue influence on voters—the ultimate decision on these cases is made by the related judicial court. The decision related to the cancellation of election results can only be taken by the Supreme

Court of Nepal, according to the Election Offence and Punishment Act (Election Commission 2017b).

2. PUBLIC FINANCIAL MANAGEMENT FRAMEWORK

The expenses of the Election Commission, such as in conducting elections and oversight of elections, are funded through the Federal Consolidated Fund, according to the Election Commission Act 2017 (Election Commission 2017a). The Federal Consolidated Fund can be used for the administrative expenses of the Election Commission without the approval of the Federal Parliament (Nepal 2015). The commission can also seek separate financial resources or receive assistance in addition to the amount received through the budget (Election Commission 2017a). The budgeting process for the Election Commission follows the national budget system, which is income-driven with a ceiling on expenses. The allocated budget is released by the Financial Comptroller General Office (FCGO) to the Election Commission. The Release Distribution Recommendation Committee at the Election Commission is responsible for allocating the budget received across the commission's different functions. The amount approved by this committee is then released by the Treasury Controller Office to the respective election offices; and the Economic Coordination Committee is responsible for releasing the amount for expenses, keeping records and preparing reports, according to the House of Representatives and Provincial Parliament Member Election (Economic) Directive (Election Commission 2018a).

In addition to the amount obtained through the national budget, the Election Commission receives revenue from its district and local-level offices. In the fiscal year 2021/2022, the Election Commission and election offices across the country earned revenue of NPR 11.93 million, which represented less than 1 per cent of the total budget of NPR 6.83 billion attributed to the Election Commission for its operational costs. The revenue of the Election Commission is mainly derived from 'administrative penalties, fines and forfeiture', which represented 30.45 per cent of total revenue (Election Commission 2023). These include fines imposed on candidates for failing to submit campaign spending reports to the Election Commission within the specified deadlines and for not making such expenditure public, and fines imposed for violation of the Election Code of Conduct published by the commission.

Similarly, 'other administrative fee' represented 24.67 per cent and 'irregularities' represented 15 per cent of the total revenue of the Election Commission (Election Commission 2023). 'Forfeiture of retention money' made up 22.3 per cent of the total revenue, as aspiring candidates have to forfeit the deposit amount if a candidate under the first-past-the-post system secures less than 10 per cent of the total votes, and if a candidate's political party fails to obtain at least one seat in the parliament under the proportional representation system, according to the House of Representatives Member Election Act (Election Commission 2018b).

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The Election Commission also receives foreign aid from international development institutions and countries in the form of material and technical support. In the fiscal year 2021/2022, the commission received capacity-building and technical support from the Election Support Project of the United Nations Development Programme (UNDP) and from the International Foundation for Electoral Support Nepal, as well as financial and technical support from Nepal Law Society (Election Commission 2023). Similarly, in the local election of 2017, the Election Commission received NPR 140 million for the procurement of stationery from China, NPR 190 million for the purchase of small vehicles from India, and NPR 90 million from the UNDP for electronic equipment (EOC-Nepal 2018). The Government of India has gifted the Election Commission, Nepal Police, Armed Police Force and Nepal Army approximately 2,400 vehicles to date for the purpose of elections (ANI News 2022).

The procurement of material and consultancy services for the Election Commission are governed by the Government of Nepal's Public Procurement Act (Public Procurement Management Office 2007). The materials required by the Election Commission need to be procured by inviting open bids and sealed quotations, and competitive proposals must be requested for the procurement of consultancy services. The Evaluation Committee within the Election Commission is responsible for examining the bids to determine the suitability of vendors for the required procurement of materials and services. In cases where the due process of public procurement cannot be completed on time for the immediate management of election material and services, the Election Commission can shorten the procurement process or purchase directly by disclosing the reason, according to the Election Commission Act (Election Commission 2017a). This provision has been used by the Election Commission for the procurement of materials for the 2022 local elections, citing that the election materials would not have arrived in time for the elections if the due public procurement process was followed (Election Commission 2023). The majority of the materials procured by the Election Commission were obtained through the Electronic Government Procurement platform in the 2022 local elections.

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3. BUDGET FORMULATION AND APPROVAL MECHANISMS

The national budget of Nepal is prepared centrally by the Ministry of Finance and the National Planning Commission (NPC) through a National Revenue Estimation Committee. This committee is responsible for preparing the estimates of total revenue sources for the year and setting an expense ceiling based on the estimated revenue. The Election Commission and other ministries and constitutional bodies prepare detailed estimate budgets for three years, taking into account the national revenue sources and expense ceiling, as well as their expected revenue, donations, loans and expenses under predetermined headings. The NPC and Ministry of Finance evaluate the budget sent by the Election Commission and other ministries and then prepare the final budget, which needs to be ratified by the Federal Parliament.

The national budget is produced annually before the end of the ongoing fiscal year and covers the period from mid-July to mid-July of the following year. The national budget is adjusted throughout the fiscal year, taking into account the changes in resource requirements of different functions of the government, including the Election Commission. For the fiscal year 2021/2022, the Election Commission was allocated an initial budget of NPR 554 million, which was later revised to NPR 6.83 billion by the end of the fiscal year, taking into account the upcoming elections. The Government of Nepal reallocates an approved budgetary amount from one budget line to another during the fiscal year, when circumstances that were assumed during the preparation of the budget change. This process, known as virement, ensures that the underspent allocated budget in one budget head can be utilized by another underfunded budget head. In the fiscal year 2021/2022, the net virement received by the Election Commission amounted to NPR 6.29 billion, of which the majority was received for the purpose of recurrent expenditure (FCGO 2023).

The Treasury Controller Office disburses the budgeted amount monthly to the government bodies, based on the monthly breakdown of the yearly budget as determined by the respective government bodies (FCGO 2017). The Treasury Single Account management system is used by the government to manage cash and release funds from the budget, which is reconciled daily with bank statements (Asian Development Bank n.d.).

The Election Commission prepares different budgets for its ongoing administrative costs and for events such as an election. Based on expenses for the current fiscal year and considering any additional programmes and activities, the Election Commission prepares the estimate of expenses for the next fiscal year. While preparing the expense estimate for the upcoming fiscal year, the Election Commission needs to take into consideration the government's policies and programmes, along with their own programmes. The major component of the Election Commission budget and expenditure is employee costs, while the capital expense is minimal. In the non-election fiscal year 2020/2021, the Election Commission spent NPR 489.28 million, of which 36.19 per cent was spent on employee salaries, 15.8 per cent on contract service fees and 14.5 per cent on other programme expenses, while only 5.96 per cent was spent as capital expenditure (FCGO 2022).

For election years, the Election Commission prepares separate budgets for elections at the local level, Federal Parliament level and Provincial Assemblies level. The Election Commission budgeted that the recent local-level election concluded in 2022 would cost NPR 8.11 billion, of which only NPR 5.04 billion was spent. The budget for the 2022 local elections was determined by using a 30 per cent increment on the previous budget for the 2017 local elections, to account for inflation and the need for additional material and manpower for voter education (Sharma 2022).

A detailed breakdown of the budget allocated for local elections is shown in Table 1. Operational expenses were the major expense budgeted for by the Election Commission, which accounted for 66.92 per cent of the total budget,

The Election Commission prepares the estimate of expenses for the next fiscal year following an incremental budget model.

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followed by election material at 12.34 per cent. The capital expense budgeted for the local election was 0.86 per cent of the total budget, as Nepal does not use technically advanced electoral methods for its elections. Aside from the expenses incurred by the Election Commission for conducting the elections, the mobilization of security forces before and during the time of elections, undertaken mostly by Nepal Police and Nepal Army, is also a significant expense. For instance, a total of NPR 6.29 billion was allocated for security forces during the 2022 local elections and NPR 7.09 billion during the 2022 federal and provincial elections.

Of the NPR 5.04 billion spent in the 2022 local elections, NPR 1.03 billion was spent by the Election Commission and NPR 3.95 billion was spent by local-level and district election offices on conducting the elections. NPR 14.5 million was spent by the Ministry of Communication and Information Technology to ensure that the Election Code of Conduct was promoted through the media and to conduct a study on the use of electronic voting equipment for elections (Election Commission 2023). The Ministry of Home Affairs spent NPR 45 million for the purpose of transferring ballot boxes.

NPR 3.06 billion from the allocated budget for the 2022 local elections and approximately NPR 3 billion from the allocated budget for the 2022 Federal Parliament and Provincial Assembly elections was not spent (Republica 2023)

Table 1. Breakdown of the budget made available to the Election Commission for 2022 local elections

Current expenditure	NPR (millions)
Election material	1,001
Election operation	5,428
Election awareness and training	531
Office management	652
Transportation	300
Insurance	100
Contingency	26
Subtotal	8,038
Capital expenditure	
Computer, laptop and other machines	50
Furniture and fixtures	20
Subtotal	70
Total	8,108

and has been returned to the Treasury. The underspending of allocated budget by the Election Commission is due to the measures taken to reduce logistics costs and reduce amenities for election staff (Sharma 2022).

The election offices are responsible for keeping a record of their revenue and expenses of ongoing activities and elections conducted in their areas of responsibility. The local election offices are required to submit their budget sheet, expense details, purchase form and bank book to the district Treasury Controller Office for internal audit within five days of the announcement of the election results. The district Treasury Controller Office conducts the audit within seven days of the election and submits the audit report and approved financial statement to the Election Commission and the related local office. The Election Commission then submits the report to FCGO for a final audit. The Election Commission is required to submit an annual report to the president detailing its activities and functions during the year.

4. CHALLENGES, RISKS AND SOLUTIONS

Since the Election Commission follows the national budget system, it adheres to the same rules and faces the same problems inherent in public finance management in Nepal. The introduction of the Treasury Single Account system has improved the transparency in public expenditure, as the system registers cash transactions categorized by function and economic codes in real time. While the introduction of the Treasury Single Account system into public finance has improved the monitoring of budget execution and available cash, there are further challenges that need to be addressed for effective funding of the Election Commission.

Irregularities, which are financial transactions conducted without completing due process, have been a significant issue in public financial management in Nepal. In the fiscal year 2021/2022, the Election Commission had NPR 24.52 million in irregularities, of which NPR 21.53 million were from the budget, NPR 2.96 million were from deposits, and the rest were from revenue. The irregularities are classified into three types: to be recovered, to be regularized, and matured advances. In the fiscal year 2021/2022, the Election Commission had: NPR 16.61 million that needed to be regularized due to inadequate documents and processes followed; NPR 6.01 million that needed to be recovered from misappropriation and losses; and NPR 1.89 million in matured advances (FCGO 2023). For the purpose of conducting elections, the local election offices mobilize existing government employees, who then return to their respective organizations once the elections are completed. As a result of this system of hiring manpower for elections, the Election Commission faces challenges in the settlement of accumulated irregularities, especially when employees are promoted or transferred over the course of time (Election Commission 2023).

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It is possible that the budget and programmes for the Election Commission were approved without taking into consideration the applicable financial procedure laws and directives, which can only be addressed through the NPC and the Ministry of Finance, since they oversee the approval of the budget. An ineffective internal control system, which could lead to incomplete accounting of transactions, can be optimized by adopting international standards and providing accounting and reporting training to relevant staff within the Election Commission.

While the Election Commission has underspent the budget allocated for the local and Federal Parliament elections, it does have outstanding advances payable to vendors. In the November 2022 parliamentary elections, the Election Commission was unable to pay NPR 2 billion (28.5 per cent of total expenditure) to the private sector for the printing of ballot papers, voter education and the purchase of election material (Luitel 2023). The national budget for the fiscal year 2022/2023 was reduced by 20 per cent due to a shortfall in government revenue, and the regular payment process was frozen, which in turn had an impact on the vendor payments to be made by the Election Commission. Since the Election Commission follows the national budget system, the funding for its ongoing activities and its election cycle activities is delayed when changes are required in the national budget due to different economic factors. A memorandum of understanding regarding funding disbursement can be signed between the government and the Election Commission so that changes in the national budget do not affect the crucial electoral process.

The Election Commission receives funding from the national budget, and therefore it requires parliamentary approval for implementing large-scale changes, such as the use of electronic voting machines (EVMs).

Since the Election Commission receives funding from the national budget, it requires parliamentary approval for implementing large-scale changes, such as the use of electronic voting machines (EVMs). Nepal has not used EVMs since the 2008 election, where the machines were piloted for the first time in Kathmandu. The Election Commission had previously tried to use EVMs for the 2017 elections but the proposal was rejected by the political parties, citing the lack of time to make the purchase and to educate voters regarding the use of EVMs before the selected election date (*The Kathmandu Post* 2017). In the fiscal year 2021/2022, the Ministry of Communication and Information Technology presented a report to the Election Commission recommending the use of EVMs, which was sent for parliamentary approval through the Ministry of Home Affairs (Election Commission 2023). The Election Commission needed government facilitation, either for donor funding or for government-to-government contracts, to import the EVMs but there was a lack of response from the government (Sangroula 2022). As poll rigging is not possible when using EVMs, some have cited this as a reason for the reluctance of political parties to adopt EVMs (Sangroula 2022). Despite the initial high investment cost for EVMs, their use would improve efficiency and reduce voter fraud, significantly cutting administrative costs through the reduced use of manpower. The Election Commission can coordinate with the government to plan for the use of EVMs in the next parliamentary elections, by piloting them first in a few constituencies and then gradually implementing them in the

remaining constituencies. This would spread the cost of EVMs over several years and provide enough time to educate voters on their use.

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ABBREVIATIONS

- EVM Electronic voting machine
- FCGO Financial Comptroller General Office
- NPC National Planning Commission
- UNDP United Nations Development Programme

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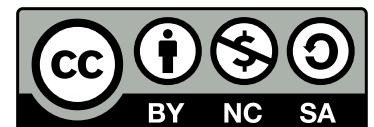
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This Brief is part of the Financing Electoral Management and Electoral Activities project.

Design and layout: International IDEA

DOI: <https://doi.org/10.31752/idea.2024.6>

ISBN: 978-91-7671-735-6 (PDF)



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