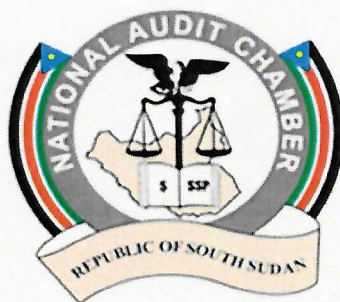


**THE REPUBLIC OF SOUTH SUDAN
NATIONAL AUDIT CHAMBER**



**COMPLIANCE AUDIT REPORT
OF THE AUDITOR GENERAL**

April 3, 2024

**TO: H.E. THE PRESIDENT, REPUBLIC OF SOUTH SUDAN
TO: Rt. Hon. SPEAKER, R-TNLA**

ON

**THE DISBURSEMENT AND UTILIZATION OF THE
EMERGENCY FUNDING UNDER THE FOOD SHOCK WINDOW
OF THE RAPID CREDIT FACILITY (FSW-RCF)**

FROM THE INTERNATIONAL MONETARY FUND (IMF)

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1.0. INTRODUCTION

The global oil price volatility and food shocks coupled with the persistent floods in South Sudan had worsened the humanitarian situation in the Country. The flooding led to reduced oil production and agricultural output, displaced communities and limited access to essential services and humanitarian aid. This was projected to cause severe food insecurity to about two-thirds of the population.

The Government of the Republic of South Sudan (GOSS) applied for and negotiated funding from the Food Shock Window of the Rapid Credit Facility (FSW-RCF) of the International Monetary Fund (IMF). This was meant to finance urgent Balance of Payments needs amounting to SDR 86.1 million.

2.0. DESCRIPTION OF THE SUBJECT MATTER INFORMATION AND THE UNDERLYING SUBJECT MATTER

The Subject Matter is the **Disbursement and Utilization of the Funds Received under the IMF's FSW-RCF**. Of the total facility amounting to USD 114,380,453, 60% (USD 68,628,272) was to be made available to the budget by having it on-lent by the Bank of South Sudan (BOSS) to GOSS under the same terms as obtained from the IMF.

To mitigate the impact of food price and climate shock on vulnerable groups, USD 15 Million from the part of the disbursement would be transferred to World Food Programme (WFP), USD 5 Million to International Organization for Migration (IOM) and the remainder used to predominantly finance spending by the Ministry of General Education and Instruction (MoGEI) and the Ministry of Health (MoH) through conditional transfers in line with the allocations made in the 2022/2023 budget approved by the National Assembly.

As part of transparency in the use of the resources, the Ministry of Finance and Planning (MoFP) committed to an audit of all Central Government spending funded from the disbursement and to publish the report of the Auditor-General promptly on the MoFP website.

MoFP submitted a preliminary narrative report on the utilization of the FSW-RCF, an expenditure statement and financial statement position to the National Audit Chamber on 03 January 2024. **(Appendix I).**

The subject matter is SIGNIFICANT because the FSW-RCF funds constitute 3.6% of the Country's total 2022/2023 budget of SSP 1,392,889,894,404 (using the 2022/2023 budget indicative exchange rate). In addition, the citizenry, IMF, developing partners and other stakeholders need to be assured that the funds were disbursed in accordance with the provisions of the Letter of Intent and other Agreements in place; utilized in an accountable and transparent manner and used for the intended purposes. The audit is also one of the Prior Actions to complete the review of the IMF Programme Monitoring with Board Involvement (PMB). **(Appendix 2,3,4 & 5)**

3.0. AUDIT SCOPE AND AUDIT OBJECTIVES

The scope of the audit will cover the disbursement of the funds to the respective entities as provided for in the Letter of Intent and the Agreements signed with various entities, and the utilization of the disbursements by the entities for the period between January 2023 (when the Letter of Intent was signed) up to 29 February 2024. While not explicitly aimed at identifying fraud, the audit is structured to detect material non-compliances, including potential fraudulent actions. Prevention of fraud is a managerial responsibility, but the audit's role is to detect and highlight discrepancies.

The overall objective was to evaluate whether the utilization of the IMF FSW-RCF funds was as presented in the expenditure statement submitted by MoFP for audit and in compliance with the Letter of Intent, Agreements in place and other applicable identified criteria. The audit focuses on the expenditure of the disbursements up to 29 February 2024.

The sub-objectives include:

- I. To confirm whether the disbursements were in accordance with the Letter of Intent signed by GOSS and the Agreements signed with the respective parties.
- II. To confirm that the Facility and the corresponding expenditure was planned for through the annual budget, work plans / development plans and procurement plans.
- III. To confirm transparency and accountability in the use of the Facility.
- IV. To confirm that the procurement of goods, works and services was in accordance with the relevant provisions Public Procurement and Disposal of Assets (PP&DA), Act 2018.
- V. To confirm that the payments to contractors and suppliers were in accordance with the relevant provisions of the Public Financial Management and Accountability (PFMA) Act, 2011 and the conditions of the contracts signed.
- VI. To confirm whether value for money was obtained from the expenditure financed through the Facility.

4.0. RESPONSIBILITIES OF THE MoFP AND THE AUDITOR-GENERAL

4.1. Responsibilities of the MoFP

According to the Letter of Intent, the Management of the MoFP is responsible for the disbursement of the funds to various entities as stipulated, and for ensuring that the resources are utilized in a lawful, accountable and transparent manner. The MoFP has prepared a Narrative Report and Financial Statement on the utilization of the funds.

4.2. Responsibilities of the Auditor-General

My responsibility is to independently express a conclusion on the disbursement and utilization of the FSW-RCF funds based on my audit. My mandate to perform this audit is stipulated in Article 186(7) and (8) of the Transitional Constitution of the Republic of South Sudan - As Amended; Section 52 of the PFMA Act, 2011; Sections 7, 12 and 36 of the Southern Sudan Audit Chamber Act, 2011 and the Letter of Intent.

The audit was conducted in accordance with ISSAI 400 and ISSAI 4000. The standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance as to whether the disbursement and utilization of the FSW-RCF funds is in compliance, in all material respects, with the terms of the Letter of Intent dated January 9, 2023, the Agreements signed between the MoFP and other parties and other identified relevant criteria.

An audit involves performing procedures to obtain sufficient and appropriate evidence to support my conclusion. The procedures performed depend on the auditor's professional judgment, including assessing the risk of material non-compliance, whether due to fraud or error. The audit procedures I performed are those I believe are appropriate in the circumstances. I believe that the audit evidence gathered is sufficient and appropriate to provide the basis for my Conclusion.

5.0. SUMMARY OF WORK PERFORMED AND METHODS USED

Adhering to ISSAI 400 and ISSAI 4000 standards, the following approach and methodology was adopted:

- Risk Assessment and Planning: A thorough analysis of potential risks and planning designed to address the identified risks.
- Audit Question Formulation: Creating specific audit questions focused on the disbursement and use of the Facility in order to obtain a comprehensive understanding of the MoFP's /adherence to the Terms of the Facility and other applicable criteria.
- Evidence Gathering: Collection of evidence through interviews and inquiries from representatives of MoFP, other Ministries and beneficiary entities, inspection of the condition of the stores and the supplies purchased, and reviewing documents including procurement process records, contracts, stores records and bank statements.
- Drawing Conclusions: Analyzing findings and drawing conclusions based on the evidence gathered to provide a sound conclusion on the level of compliance.

6.0. AUDIT CRITERIA

The audit criteria were derived from the following legal framework:

6.1. Public Financial Management and Accountability (PFMA) Act, 2011

- i. Sections 8 and 51 on roles of Accounting Officers.
- ii. Section 15 on elements of the budget.
- iii. Section 30(5)(b) on advance payments.
- iv. Section 33 requiring spending agencies to maintain adequate records of stores and non-current assets or fixed assets.
- v. Section 40 on loan proceeds as part of the consolidated fund.
- vi. Section 41 on utilization of loan proceeds in accordance with the applicable public procurement law.
- vii. Section 61 on management of Donor funding.
- viii. Section 64 on currency

6.2. Public Procurement and Disposal of Assets (PP&DA) Act, 2018

- i. Section 25(3) on appointment and duties of a Verification and Acceptance Committee.
- ii. Section 30 on the functions of a Public Procurement and Disposal of Assets unit.
- iii. Section 32(2) on the role of the user departments to prepare work plans for procurement and disposal of assets based on the approved budget and submit the plans to the Procurement Unit for implementation.
- iv. Section 33 on public procurement and disposal of assets Evaluation Committee.
- v. Section 39 of the PP&DA, 2018 on qualification of providers and contractors.
- vi. Section 46 on clarification of bids

- vii. Section 58 on methods of public procurement and disposal of assets.
- viii. Section 64 on examination and evaluation of bids.
- ix. Section 73(1-3) on the rules for single-source procurements.

6.3. Other relevant audit criteria

- i. The GOSS Letter of Intent.
- ii. Approved budgets and allocations to Ministries.
- iii. Memorandum of Understanding between the BOSS and MoFP.
- iv. Contracts signed between the MoH and the suppliers of medicines and other medical supplies.
- v. Contracts signed between the MoGEI and the contractors.
- vi. Directed Multilateral Contribution Agreement between GOSS and WFP
- vii. Financing Agreement between GOSS and IOM.
- viii. Section 61 of Bank of South Sudan Act, 2011 on international reserve assets.

7.0. AUDITING STANDARDS AND LEVEL OF ASSURANCE

I conducted my audit in accordance with International Standards for Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the *Auditor-General Responsibilities for the Audit* section of my report. I am independent of the MoFP in accordance with ISSAI 130 on Code of Ethics together with the ethical requirements applicable to **perform compliance audits** in South Sudan. I believe that the audit evidence I have obtained is sufficient and appropriate and provide a basis for my conclusion with reasonable assurance. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material non-compliance when it exists.

8.0. CONCLUSION

Based on the audit procedures performed, the disbursement and utilization of the emergency funding received by Government of South Sudan through the Food Shock Window of the Rapid Credit Facility of the IMF was not in compliance, in all material respects, with the Letter of Intent and the identified audit criteria.

9.0. BASIS FOR CONCLUSION

9.1. Findings relating to disbursements and utilization of the funds by MoFP.

9.1.1. Narrative report and statement of expenditure submitted for audit.

Section 8(3) of PFMA Act, 2011 provides that the Accounting Officer for each Spending Agency shall ensure effective use of the resources budgeted under his Ministry, Agency or State. He or she shall control and be personally accountable to the Assembly for the promptness and correctness of the expenditure of public funds under his or her Spending Agency and for all resources received on account of the Spending Agency. However, the A preliminary Narrative Report and the Expenditure Statement was submitted by the MoFP on the spending of the FSW-RCF on 03 January 2024. MoFP thereafter submitted a revised Narrative Report, the Budget for the utilization of the FSW-RCF funds and a financial statement showing the receipts, payments and the outstanding balance as at 31

January 2024. However, the basis of accounting used, the statement of Management responsibilities and the Disclosure Notes to the balances reflected in the financial statements were not included, thus hindering the understandability of the report. In addition, supporting documents for the balance of **USD80,381,758** shown in the financial statement were not provided.

In the circumstances, effective use and accountability for the resources could not be confirmed.

9.2 Approval and basis for the amount of the funds allocated to various Central Government entities not provided.

Section 15 (4) of PFMA Act, 2011 provides that the Budget shall be financed by all revenues accruing to the Government, including oil revenues, taxes, non-tax revenue, loan proceeds and grants, both local and foreign, and monies raised for the purposes of financing Funds, sub-funds and special accounts referred to in the Constitution. In addition, the Letter of Intent provides that the funds will be utilized to finance spending by the MoGEI and the MoH through **conditional transfers**, which can be easily followed and reported in line with allocations made in 2022/2023 budget adopted by the National Assembly. However, the preliminary report prepared by the MoFP on FSW-RCF indicates that MoH and MoGEI received an amount of USD 10 million each and that the SSRA received USD 3 million. However, the basis and approval for the **amounts** of the FSW- RCF funds to be allocated and disbursed to each entity were not provided for audit.

Although MoFP in their response to the Management Letter explained that the allocation was based on the Letter of Intent, the evaluation of the budgets for the Ministries, identification of the priority projects and the subsequent decision on how the amounts available would be allocated including the conditions for the disbursements were not provided.

The basis and regularity for the allocation of the FSW-RCF funds could, therefore, not be confirmed.

9.3 Unsupported disbursement of USD3 million to South Sudan Revenue Authority (SSRA)

The Budget reflects an expenditure of USD 3 million by the SSRA. However, evidence of transfer of the funds to SSRA was not provided for audit. Further, the bank statement for bank account held by MoFP at BOSS reflects a withdrawal of USD 3 million on 18 July 2023. The explanation and the supporting documents for the withdrawal were not provided.

In addition, the MoFP management in their responses to the Management Letter explained that the funds would be refunded if the utilization was confirmed to be irregular. However, no evidence of the refund was provided for audit.

9.4 Disbursements to Ministry of Health Suppliers

The Financial Statement reflects payments of **USD 8,998,686 million** to the Ministry of Health. Compared to the budget of USD 10,000,000 million there is variance of **USD 1,001,314** which was not explained nor was any evidence provided to confirm the existence of the funds.

9.4.1 Failure to withhold tax.

Section 92(f), Chapter XIV of the Taxation Act, 2009 provides that GOSS institutions that make contract payment to contractors of the GOSS to withhold tax at the time of payment. Section 5 of

the Act provides that any GOSS Institution which makes contract payments to, or for the benefit of, a contractor of the GOSS shall withhold payment, regardless of whether the beneficiary of the payment is resident or not. However, the MoFP did not withhold any taxes from the payments amounting to USD 8,998,686 made to the four (4) suppliers of medicines and medical supplies.

Not withholding tax is not only illegal but may also hinder revenue collection by the Government.

9.5 Utilization of the funds by the MoH

9.5.1 Evidence of budgeting and procurement planning for medicines and medical supplies not provided.

Section 41 of PFMAA, 2011 provides that where applicable, loan proceeds shall be utilized in accordance with the Government procurement applicable law to public procurement. However, no evidence was provided that the medicines and medical supplies procured at a total cost of USD 9,298,686 had been planned for through work plans and procurement plans and with the involvement of the user departments. In addition, there was no evidence that the supplies had been included in the 2022/ 2023 budget of the Ministry. This is also contrary to Section 32(2) of the PP&DA Act, 2018 which requires user departments to prepare work plans for procurement and disposal of assets based on the approved budget and to submit the plans to the Procurement Unit for implementation, and Section 30(f) of the Act which requires a Procurement Unit to prepare the Plan of public procurement and disposal of assets activities of the procuring entity based on inputs from user departments

In the circumstances, it could not be confirmed that the procurement was in accordance with the identified needs for medicines and medical supplies in the Country and based on the approved budget.

9.5.2 Inappropriate method for procurement of medicines and medical supplies

The MoH engaged four contractors for the supply of medicines and medical supplies worth **USD 9,298,686** through single sourcing. In addition, no evidence was provided for the exceptional circumstances justifying single sourcing as provided by Section 58(6) of the PP&DA Act, 2018 and for compliance with the rules for single sourcing as provided for by Section 73(1-3) of the Act.

The regularity of the procurement and value for money on the payments could, therefore, not be confirmed.

9.5.3 Advance payment to suppliers

Section 30(5)(b) of PFMA Act, 2011 provides that where payment is to be made before the completion of the work, delivery of the goods or rendering of the service, Accounting Officers should certify that the payment is in accordance with the contract and payment guarantee or the appropriate security has been given in the name of the Government to secure due performance of the contracts. In addition, Section 7 of the contracts signed between the Ministry and the suppliers

provides that payments shall be made upon the delivery of the supplies and upon submission of the transport documents / bill of lading, shipment certificate and invoice on the delivered goods.

Payments to suppliers of medicines and medical supplies were made on 13 July 2023. However, the supplies were delivered in November 2023 to February 2024, and some were yet to be delivered in March 2024. In addition, the irrevocable unconditional bank guarantees in the amounts equal to the advance payments and which should remain effective until the advance payments are fully repaid were not provided.

In the circumstances, the regularity of the advance payments could not be confirmed. Also, in case of non-performance, the Ministry may not be able to recover the amounts paid.

9.5.4 Delay in supply and distribution of medicine and storage conditions.

Clause 5 of the contracts signed with the suppliers on 29 May 2023 provide that the period of delivery is three months immediately commencing from the date of signing the contract. However, the supplies were received in the period from November 2023 – March 2024. Further, the medicines and supplies had not been distributed and were still held in the stores in March 2024. The distribution plan/schedule to various health facilities across the country was not provided for audit. In addition, audit inspection of the stores revealed that the transport and storage conditions did not ensure safety from damage due to environmental factors including temperature, air, light and humidity.

The drugs may undergo deterioration leading to reduced potency and shelf-life and possible increase in toxicity.

9.5.5 Absence of the Verification and Acceptance Committee Reports.

A report on the quantity and condition of goods received was prepared by one person – the Controller of Stores and not the Verification and Acceptance Committee as required by Section 25(3) of PP&DA Act, 2018 which requires the Accounting Officer to appoint a Verification and Acceptance Committee whose duty shall be to verify and accept delivery of supplies, work, and services in consultation with the contract managers. No evidence was provided that the Committee had been appointed.

It could, therefore, not be confirmed that the correct quantity of the medicines and medical supplies was received and that the medicines and supplies met the specifications and standards defined in the contract.

9.5.6 Reconciliation of supplies as per quotations and delivery notes

The contracts signed with the suppliers of medicines and medical supplies contained catalogues showing the quantities and specifications of the medicines and medical supplies that were to be delivered. However, reconciliations of the supplies delivered by the contractors with those provided for in the contracts signed with the four suppliers were not provided for audit. The Ministry generated the Goods Received Notes based on the deliveries received from the suppliers without confirming the description and quantity of the items provided for in the contracts.

In addition, audit inspection to the stores on 13 March 2024, revealed that some refrigerated products, injectables and other medical consumables were yet to be delivered.

In the circumstances, it could not be confirmed that the medicines and medical supplies delivered were the ones enumerated in the contracts signed with the suppliers. Payments may also have been made for items that were not delivered.

9.5.7 Original contracts not provided.

Section 12(4)(a) of the Southern Sudan Audit Chamber Act, 2011 provides that the Auditor-General or any other person duly authorized in writing shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or public property in possession of any public officer or any other person who has received or dealt with public money or property. However, original contracts signed with the suppliers of medicines and medical supplies whose total contract sum was USD9,298,686 were not provided for audit.

Denial of documents for audit constitutes limitation of scope.

9.6 Utilization of the funds by the MoGEI

9.6.1 Construction / renovation of schools not planned for in budget, work plan and procurement plan.

The Letter of Intent provides that the funds will be utilized to finance spending by the Ministry of General Education and Instruction and the Ministry of Health through **conditional transfers**, which can be easily followed and reported in line with allocations made in 2022/2023 budget adopted by the National Assembly. In addition, Section 32(2) of the PP&DA Act, 2018 requires user departments to prepare work plans for procurement and disposal of assets based on the approved budget and submit the plans to the Procurement Unit for implementation. Further, Section 30(f) of the Act requires a Procurement Unit to prepare the Plan of public procurement and disposal of assets activities of the procuring entity bases on inputs from user departments. However, no evidence was provided that the schools identified for renovation or construction – as provided for vide letter Ref. RSS/MoGE&I/OM/J/11 dated 13 June 2023 by the Hon. Cabinet Minister to the Hon. Undersecretary Ministry of Education - had been planned for through work plans and procurement plans and with the involvement of the user departments. In addition, no evidence was provided that the Projects had been included in the 2022/ 2023 budget of the Ministry.

In addition, review of the schools identified for development under the FSW-RCF support revealed the distribution was as follows:

No.	State / Administrative Area	No. of Institutions	Percentage
1	Lakes	3	18%
2	Western Equatoria	2	12%
3	Upper Nile	1	6%
4	Northern Bahr-el Ghazal	2	12%
5	Warrap	3	18%
6	Jonglei	0	0%

7	Eastern Equatoria	2	12%
8	Unity	1	6%
9	Western Bahr-el Ghazal	1	6%
10	Central Equatoria	0	0%
11	Greater Pibor Administrative Area	2	12%
12	Ruweng Administrative Area	0	0%
13	Abyei Administrative Area	0	0%
	Total	17	100

In the circumstances, it could not be confirmed that the sharing and allocation of the resources was based on the premise that all states, localities and communities are entitled to equitable development without discrimination as required by Article 169 (5) of the Constitution.

9.6.2 Non-compliance with the procurement law in the award of contracts

Section 39(c) and (e) of the PP&DA Act, 2018 provides that providers and contractors shall have the legal capacity to enter into contracts and that they have fulfilled their obligations to pay taxes. However, review of the individual evaluations by the members of the Evaluation Committee for the procurement, revealed that eight (8) contractors were awarded contracts even though the bids submitted did not satisfy the criteria for legal compliance.

In addition, eight (8) contractors whose bids did not meet the technical evaluation criteria and another three contractors whose technical capacity was not evaluated, were awarded contracts. This is contrary to Section 39(a) of the PP&DA Act, 2018 which provides that providers and contractors shall have the necessary technical competence, financial resources, equipment and other physical facilities, managerial capability and reliability, experience and the personnel to perform the contract and Section 64(3) of the Act which provides that the procuring entity shall reject a bid if the bidder is not qualified or if the bid is not responsive.

Further, two contractors were engaged even though their bids could not be traced in the bids register and the bid opening minutes. Also, the contractor for the construction of a boundary fence and renovation of classrooms at Lui Girls had submitted a bid of USD2,053,015 but was awarded the contract at a sum of USD500,000 for the same works under unclear circumstances. This is contrary to Section 46(3) of the PP&DA 2018 which provides that no substantive change to qualification information and substantive change to a bid shall be sought, offered or permitted.

The anomalies constitute procurement irregularities. In addition, the contractors engaged may not have the capacity to deliver leading to delayed performance, poor workmanship, stalled projects and losses.

9.6.3 Advance Payments to contractors

Section 30(5)(b) of PFMA Act, 2011 provides that where payment is to be made before the completion of the work, delivery of the goods or rendering of the service, accounting officers should certify that the payment is in accordance with the contract and payment guarantee or the appropriate security has been given in the name of the Government to secure due performance of the contracts.

Section II (a) (on contract amounts and payments) of the contracts signed with the sixteen (16) contractors engaged by the MoGEI, provide that the Employer shall pay the contract sum to the contractors only for the **complete performance of work** in accordance with the terms and conditions of the contract. Section II (C) provides that the contractor shall submit his invoices only according to the payment conditions specifically set out in the contracts and accompanied by the written approval from the nominated engineer stating that the scope of the works set out in the defined stages of completion, to which the invoice refers has been satisfactorily completed and there are no defects. Section 34 of the contracts provides that **if stipulated in the contract**, the employer shall make advance payment to the contractor limited to 40% of the contract price by the date stated in the contract against an irrevocable unconditional bank guarantee in the amount equal to the advance payment. The guarantee shall remain effective until the advance payment has been fully repaid. The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the contractor following the schedule of completed percentages of the works on a payment basis.

The Ministry made advance payments amounting to **USD 2,934,419** to thirteen (13) contractors. However, the advance payments were not provided for in the contracts signed. In addition, the bank guarantees provided were to expire in March to April 2024. At the time of finalizing the audit report in March 2024, no evidence was provided that the advance payments had been recovered. Further, although the letter Ref. RSS/MoGE&I/USO/J/275 dated 25 January 2024 by the Undersecretary to the Director-General approved advance payments equivalent to 30% of the contracts. Three contractors were paid up to 40% of the contract sum.

In the circumstances, the payment of the advance amounts may be irregular. It could also not be confirmed that the advance amounts would be recovered before the expiry of the guarantees.

9.6.4 Failure to withhold tax.

Section 92(f), Chapter XIV of the Taxation Act, 2009 provides that GOSS institutions that make contract payment to contractors of the GOSS to withhold tax at the time of payment. Section 5 of the Act provides that any GOSS Institution which makes contract payments to, or for the benefit of, a contractor of the GOSS shall withhold payment, regardless of whether the beneficiary of the payment is resident or not. However, the MoGEI did not withhold any taxes from the payments amounting to **USD2,934,419** made to the thirteen (13) contractors.

Not withholding tax is not only illegal but may also hinder revenue collection by the Government.

9.6.5 Status of projects

Section II (a) (on contract amounts and payments) of the contracts signed with the sixteen (16) contractors engaged by the Ministry provides that the Employer shall pay the contract sum to the contractors only for the complete performance of work in accordance with the terms and conditions of the contract. Section III of the contracts signed between the MoGEI and the various sixteen contractors provides that the works shall be completed within three months. The Ministry was still in the process of signing the contract with the contractor for the construction of Centre for National and Foreign languages at a contract sum of **USD 500,000**. However, evidence of works certified and progress reports for the projects already commenced as at the time of audit, was not provided.

The Ministry may not obtain value for money for payments made. The implementation of the projects might be delayed, leading to increased costs and /or losses.

9.6.6 Unconfirmed existence of remaining balance of the disbursement

Following the allocation of USD10 million from the IMF RCF-FSW funds, the MoGEI entered into contractual obligations with sixteen (16) contractors in November to December 2023 for the construction / renovation of various schools and educational institutions at a total cost of USD 9,025,563. USD 10 million was transferred to the Ministry's bank account at Equity Bank on 05 January 2024. However, no satisfactory explanation was provided for the transfer of the funds to a commercial bank account. In addition, the bank statement for the bank account provided reflected that as at 16 February, 2024, MoGEI had paid USD2,934,419 to various contractors. The bank statement or bank balance confirmation as evidence of the remaining balance of USD7,065,581 in the bank account as at the time of the audit in March 2024, was not provided for audit.

It could not be confirmed that the RCF-FSW funds had been ring fenced and that the Ministry would be able to meet its contractual obligations as they fall due.

9.7 Amount of USD 34.6 million allocated for budget support but not released.

The Letter of Intent provides that USD68.6 million of the approved USD114.4 million RCF funds be made available to the budget. USD15 million and USD5 million was to be disbursed to WFP and IOM, respectively and "the remainder of the part that goes to the budget will be used predominantly to finance spending by the MoGEI and the MoH". However, supporting documents for the disbursement of USD34.6 million of the USD68.6 million allocated for budget support in accordance with the Letter of Intent, were not provided.

In addition, no explanation was provided for the non-disbursement of the funds, and bank statements confirming the existence of the balances were not provided.

Description	Amount (USD)
Total allocation for budget support	68,628,272
Less accounted for transfers:	
- Transfers to WFP USD 15 million	
- Transfer to Ministry of Education USD 10 million	
- Transfer to Ministry of Health supplies USD 8,998,686	(33,998,686)
Budget support allocation not disbursed	34,629,586

With the total of USD 34.6 million having not been utilized to support social spending as intended, the purpose of the Facility may not have been achieved. In addition, the existence of the funds could not be confirmed.

9.8 Unsupported disbursement of USD 5 million to IOM

The Letter of Intent provides for the transfer of USD15 million and USD5 million to World Food Programme (WFP) and International Organization for Migration (IOM) respectively, to mitigate the

impact of food price and climate shocks on vulnerable groups. In addition, the Expenditure Statement provided for audit reflects payment of USD 5 million to IOM. However, supporting documents and evidence of the transfer of the funds to IOM were not provided for audit examination and verification. Additional information revealed that IOM had already implemented the Program between June to December 2023 and was in the process of submitting the claim to MoFP. This had not happened by time of audit.

In the circumstances, the disbursement of USD5 million to IOM and compliance with the provisions of the Letter of Intent could not be confirmed.

9.9 Utilization of RCF-FSW funds by WFP and IOM

Clause 4.1 of the Financing Agreement between GOSS and IOM, provides that the contribution shall in line with the single audit principle, be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules, directives, policies and procedures of IOM. In addition, Clause 4.1 of the Directed Multilateral Contribution Agreement between GOSS and WFP provides that the contribution shall be subject exclusively to the internal and external audit procedures established pursuant to WFP Regulations and Rules.

Further, the Final Narrative and Financial Reports and the Annual Country Report from the WFP and IOM respectively provided for under the Agreements signed between the two Institutions and the MoFP were not provided for audit.

In the circumstances, it was not possible to confirm that the two institutions utilized the RCF-FSW funds to mitigate the impact of food price and climate shocks on vulnerable groups in accordance with the terms of the Letter of Intent. The agreements signed between MoFP and the two institutions may also be in contravention of the South Sudan Audit Chamber Act, 2011 which provides the functions and duties of the Chamber which include to examine, verify, inquire into, audit and report on the accounts of any authority or body which receives funds from the Revenue Fund or public moneys including Non-Governmental Institutions and Parastatals.

9.10 Use of Integrated Financial Management Information System (IFMIS)

The Letter of Intent provides that all transactions carried out by GOSS would be recorded in the IFMIS. However, no evidence was provided that transactions relating to the FSW-RCF were recorded in the IFMIS.

In the circumstances, the commitment to transparency in the use of the FSW-RCF funds could not be confirmed.

9.11 Lack of dedicated account for the FSW-RCF funds and payments in USD

The Letter of Intent provides that the BOSS would create a separate monitored account at the Bank for International Settlements where the FSW-RCF funds would be credited. In addition, Article 1(3) of the Memorandum of Understanding (MoU) between the MoFP and the BOSS provides that after the transfer of USD 20 million to WFP and IOM, pending use by the MoFP, disbursements from IMF intended for direct budget financing will be held in the MoFP foreign currency (USD) account with the BOSS. Article 1(5) of the MoU provides that the remaining foreign currency amount will be converted as needed, to local currency for deposit into the MoFP account at the BOSS, at the

prevailing foreign exchange rate. However, the MoFP FSW-RCF funds were not processed through a dedicated bank account but were comingled with other MoFP revenues and payments in the non-oil revenue bank account. The payments were also made in USD contrary to Section 64 of the PFMA Act, 2011 which provides that the South Sudan Pounds (SSP) is the official legal tender in use and that any payments made or received shall be made in the official legal tender.

In the circumstances, it could not be confirmed that the FSW-RCF funds were utilized for the intended purpose.

9.12 FSW-RCF funds not included in 2022/2023 approved budget.

Section 15(3) of PFMA Act, 2011 provides that all revenues and expenditures of the Government shall be on-budget and shall be made public as provided under the provisions of this Act. Section 15(4) of the Act provides that the Budget shall consist of all public spending by the Government, including recurrent and capital spending, transfers, interest payments and debt servicing, and expenditure by Funds, Sub-Funds and special accounts referred to in the Constitution. However, the loan proceeds from the RCF-FSW were not reflected in the 2022/2023 budget. In addition, no evidence was provided that the utilization of the RCF-FSW was approved by the Assembly through a Supplementary Appropriation Bill as provided by Section 18 of PFMA Act, 2011.

It could therefore not be confirmed that the utilization of the RCF-FSW was approved by the National Assembly.

9.13 Utilization of RCF-FSW by the BoSS

The Letter of Intent and the Memorandum of Understanding between the MoFP and the BOSS provides that SDR 34.4 million of the funds received by the Republic of South Sudan under the RCF-FSW will be kept as international reserve assets by the BOSS to improve the international reserve position of South Sudan.

Section 11 of the Memorandum of Economic and Financial Policies annexed to the Letter of Intent provides that BOSS would implement the reserve money targeting framework by targeting an annual reserve money growth rate of 10 % or lower and conduct regular foreign exchange auctions to aid price discovery in relation to the exchange rate and publish auctions data on BOSS website in a timely manner.

However, no evidence was provided how the SDR 34.4 million led to an improved international reserve position of the Country. In addition, details of foreign exchange auctions data were not available in the BOSS website.

10 RECOMMENDATIONS

In accordance with my mandate under Section 13 of the Southern Sudan Audit Chamber Act, 2011, I make the following recommendations:

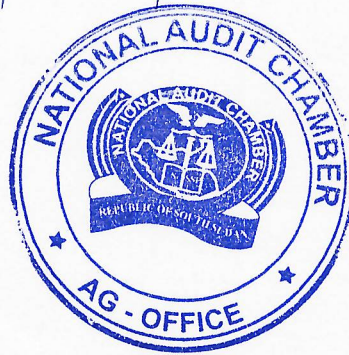
- i. MoFP should provide full accountability for the FSW-RCF funds allocated to budget support.
- ii. All revenues and expenditures of the Government should be on-budget and according to the approval by the National Assembly.

- iii. Outstanding payments by MoFP to finance social spending, to mitigate the impact of food shock to vulnerable groups and legitimate dues to government entities and suppliers should be settled in accordance with the Letter of Intent and the signed Agreements.
- iv. To improve the transparency of government operations, the MoFP should ensure that all payments are processed through IFMIS.
- v. The outstanding RCF-FSW funds should be processed through a dedicated account as provided in the Letter of Intent.
- vi. The procurement of goods works and services should be preceded by a thorough needs assessment and public participation and be appropriately planned for through work plans, procurement plans and budgets.
- vii. The allocation of resources should be done in a fair and equitable manner.
- viii. Award of contracts should be done only in accordance with the law and to bidders who have demonstrated capacity to deliver to avoid delays in implementation of contracts, poor workmanship and sub-standards goods, non-performance and eventual loss of public funds.
- ix. Advance payments should be avoided and where necessary, be paid in accordance with the contract terms and with adequate guarantees to avoid loss of public funds.
- x. MoGEI should actively follow-up with the contractors through supervision by the engineers, site inspections and progress review meetings to ensure timely implementation of the projects.
- xi. MoGEI should ensure that the FSW-RCF funds are ring fenced for settlement of the obligations to the contractors already engaged and not diverted to other purposes.
- xii. MoH should undertake a reconciliation of the medicines and medical supplies delivered by the suppliers with those in the catalogues annexed to the contracts and demand that the suppliers make good for any variances.
- xiii. MoH should constitute a Verification and Acceptance Committee comprising competent personnel to assess the quality of the medicines and the medical supplies delivered and to accept or reject the deliveries on behalf of the Ministry. The Committee should also ensure that the medicines are transported and stored in the right conditions to prevent damage and deterioration.
- xiv. The MoH should expedite a needs assessment across the Country for the medicines and medical supplies already delivered and embark on the distribution of the medicines and supplies without further delay.
- xv. Final Narrative and Financial Reports and the Annual Country Report from the WFP and IOM, respectively provided for under the Agreements signed between the two Institutions and the MoFP be provided to the National Audit Chamber for further risk assessment.
- xvi. An assessment on the impact of the WFP and IOM Programs financed by the RCF disbursement be conducted jointly by the GOSS and the two institutions as required in the Letter of Intent and the findings be publicized.
- xvii. The BOSS should provide a report detailing out the impact of the Facility on the Balance of Payments position and the international reserves of the Country. Foreign currency auctions data should be published in the BOSS website.
- xviii. The GOSS should ensure that the legal framework regarding public financial management and procurement and disposal of public assets is up to date, comprehensive and robust enough and that Regulations guiding the implementation of the laws are developed and enacted.

Signed.....

Amb. Steven Kiona Wonda
Auditor-General
Republic of South Sudan

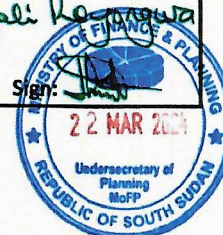
22 March 2024



11 Appendix 1

IMF RCF- FSW FINANCIAL STATEMENT AS AT END OF 31 . 01 . 2024

Date	Particulars	Amount	
		USD	USD
13. 07. 2023	Opening Balance	-	
13. 07. 2023	Receipts	114,380,453.00	
	Total Receipts		114,380,453.00
	Less Payments:		
11. 07. 2023	Payment for food supplies to World Food Programme(WFP)	15,000,000.00	
13. 07. 2023	Payment for medical supplies to MoH(Eagle Pharm. Co. Ltd)	2,213,000.00	
13. 07. 2023	Bank charges	2.90	
13. 07. 2023	Payment for medical supplies to MoH(Prime Pharm. Co. Ltd)	2,499,149.90	
13. 07. 2023	Bank charges	2.90	
13. 07. 2023	Payment for medical supplies to MoH(Next Level Gen. Co. Ltd)	3,586,536.16	
13. 07. 2023	Bank charges	2.98	
21. July. 2023	Solo Phamaceuticals	700,000.00	
05. 01. 2024	Payment for renovation of Schools to Ministry of Education	10,000,000.00	
	Total Payments		33,998,694.84
	Bal C/F		80,381,758.16
Prepared by: <i>Abate Chaplain Japheth</i> Approved by: <i>Benjamin Ayali Kejoma</i> Date: <i>22/03/2024</i> Sign: <i>[Signature]</i> Date: <i>22/03/2024</i> Sign: <i>[Signature]</i>			



12 Appendix 2

NARRATIVE REPORT ON THE UTILIZATION OF RCF - FSW

I. Background and the Context of Request for Emergency Funding from IMF under Food Shock Window

The Government of the Republic of South Sudan (GRSS) had applied for and negotiated emergency financing under **Food Shock Window (FSW)** with the IMF. A total amount equivalent to SDR 86.1million (about **US\$ 114.4 million** or **35%** of the quota) was approved by the IMF Board on January 19,2023 and disbursed four days later to the GRSS' account. The purpose of the RCF - FSW was to support the government in mitigating the impact of food price and climate shocks on vulnerable groups. This amount was both for balance of payment support and budget support to finance the expected fiscal gap in FY2022/2023 – SSP 254 billion (about 5 percent of GDP). The 60 percent of this support US\$67.6 million to be made available to the budget by having it on-lent by BSS to the government on the same terms as obtained from IMF.

The recent devastating floods that have hit South Sudan for the fourth year in a row in conjunctions with the impact from the latest global food and fuel shocks are exacerbating our already difficult humanitarian situation. The flooding has reduced oil production and agricultural output, displaced communities, and has had a severe impact on people's access to essential services and humanitarian aid. The challenging humanitarian situation has deteriorated further with about two-thirds of the population estimated to experience severe food insecurity.

GRSS initiated the discussions with the IMF on a possible RCF - FSW and staff monitored program (SMP) to address the huge financing gap in the FY 2022/2023 Budget. This was in addition to a PFM reform program that would, hopefully, unlock access to a larger pool of donor resources in the medium term.

II. Narrative on the Use of the RCF Proceeds

This report provides a narrative of the utilization of the RCF - FSW funds as follows:

1. The **Federal Reserve Bank of New York**, was the correspondent bank in which the USD equivalent from IMF would be credited. Two accounts exist for the Ministry of Finance and Planning (MoFP) in both USD and SSP currencies in the Bank of South Sudan (BoSS) dedicated for the RCF funds. Upon receipt of this payment from IMF, the Bank of South Sudan will transfer the USD equivalent of **SDR 86.1 million** to the Ministry of Finance Account (RCF Account) at the Bank of South Sudan (BoSS). On



5th April 2021, the amount of **US\$ 114.4 million** was credited to BoSS Account in the Federal Reserve Bank of New York.

The **SDR 51.6 million** (about **US\$ 67.6 million**) which is 60 percent of the budget support was allocated as follows: -

- World Food Program (WFP) was allocated **US\$ 15 million** to address food insecurity
- International Office for Migration (IOM) also to receive **US\$ 5 million** for the same purpose of food insecurity
- Ministry of Health (MoH) was allocated **US\$ 10 million** for medical supplies
- Ministry of General Education & Instruction (MoGEI) also receive **US\$ 10 million** for renovation of National Schools
- South Sudan Revenue Authority also to receive **US\$ 3 million** for the acquisition of their equipment

The **SDR 34.4 million** was for Balance of Payment (BoP) which was kept by Bank of South Sudan as International Reserve Assets to improve the International Reserve position of South Sudan.

2. The following set of documents were signed between the Ministry of Finance and Planning and the Bank of South Sudan (BoSS)
 - a) The memorandum of Economic and Financial policy (MEFP) which deal with Fiscal and Monetary policies.
 - b) Technical Memorandum of Understanding, which defines the quantitative targets.
 - c) The Letter of Intent (LOI)
 - d) The Memorandum of Understanding with World Food Program
 - e) The Memorandum of Understanding with International Office for Migration

**RCF - FSW
BUDGET BREAKDOWN**

DATE	ITEMS	SDR		EXCHANGE RATE	USD	
		DR	CR		DR	CR
	Receipts - IMF RCF - FSW	86.1		1.329	114.4	
	Less payments:					
	Budget support quota - MoFP		51.6			68.6
	Balance of payment/International Reserve - BSS		34.4			45.7
	Transaction charges		0.1			0.1
	G. Total	86.1	86.1	1.329	114.4	114.4
	Proceeds from IMF RCF - FSW	51.6		1.329	68.6	
	Less payments:					
	World Food Programme(WFP)		11.3			15.0
	International Office for Migration(IOM)		3.8			5.0
	Ministry of Health		7.5			10.0
	Ministry of General Education & Instruction		7.5			10.0
	South Sudan Revenue Authority		2.3			3.0
	Closing balance		19.2			25.6
	G. Total	51.6	51.6		68.6	68.6

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13 Appendix 3

Letter of Intent

Juba, Republic of South Sudan, January 9, 2023

Ms. Kristalina Georgieva
Managing Director
International Monetary Fund
700 19th Street N.W.
Washington, D.C. 20431

Dear Ms. Georgieva:

Since the start of the Staff Monitored Program (SMP) in March 2021, we have advanced important economic reforms. This includes the enactment of a successful FX reform and improvements in public finance management (PFM). Specifically, we liberalized the FX market and unified the official and parallel exchange rates, eliminating a premium of over 200 percent between the two at the beginning of the SMP. In addition, we have eliminated all domestic salary arrears, which amounted to 5 months in January 2021, and have introduced revenue and customs administration reforms that have resulted in a significant increase in non-oil revenue collection. We have also increased the transparency of fiscal and monetary operations, including by publishing: budget implementation reports for FY2020/21, FY2021/22, and the first quarter of FY2022/23; the stock of external debt as of end-December 2021; monthly monetary surveys; regular FX auction reports; and the audit reports of the two disbursements under the Rapid Credit Facility.

We have taken corrective measures over the recent months to bring the SMP back on track following slippages against the monetary and fiscal targets for end-August 2022. Fiscal pressures in FY2021/22 proved greater than anticipated, reflecting mainly increased spending on peace-related sectors and continued lifting of crude oil by Sudan in excess of agreed transit fees, despite the end of the Transitional Financial Arrangement in March 2022. Simultaneously, oil resources earmarked for capital spending doubled to 20,000 bpd during the second half of the financial year. Together with large principal repayments, this created sizeable salary arrears and unanticipated financing needs, contributing to a temporary resumption of oil advances, and monetary financing in the second half of the fiscal year. Monetary financing led to a significant depreciation of the exchange rate that has put additional pressure on prices. We have taken several corrective measures, including halting monetary financing since August 2022. This has stabilized the exchange rate and is expected to restore inflation to single digits over the course of the fiscal year. We have also completed all the reforms targeted under the structural benchmarks for the third SMP review.

We face urgent balance of payments (BOP) needs. Recent devastating floods that have hit South Sudan for the fourth year in a row in conjunction with the impact from the latest global food and fuel shocks are exacerbating an already difficult humanitarian situation. The flooding has reduced oil production and agricultural output, displaced communities, and has had a severe impact on people's access to essential services and humanitarian aid. The challenging humanitarian



situation has deteriorated further, with about two-thirds of the population estimated to experience severe food insecurity this year, the highest level since independence.

We are requesting emergency funding from the IMF under the food shock window of the Rapid Credit Facility (RCF) to finance our urgent BOP needs, amounting to SDR 86.1 million, or 35 percent of quota (about US\$[112.7] million). We expect these funds to be disbursed to the BoSS, which will create a separate monitored account at the Bank for International Settlements (BIS) or US Federal Reserve (Fed) to help ensure transparency and accountability. Considering the sizable expected fiscal gap in FY2022/23 – SSP 254 billion (about 5 percent of GDP) – we ask for about 60 percent of this support (US\$[67.6] million) to be made available to the budget by having it on-lent by the BoSS to the government on the same terms as obtained from the IMF, which will be credited to a dedicated account at the BOSS. We have already prepared, in consultation with Fund staff, a memorandum of understanding (MOU) between the Ministry of Finance and Planning (MoFP) and the BoSS, stipulating responsibilities for servicing in a timely manner the financial obligations to the IMF for this disbursement under the RCF. To help us mitigate the impact of food price and climate shocks on vulnerable groups, we will immediately transfer US\$15 million from the part of the RCF disbursement that goes to the budget to the World Food Programme (WFP), in line with government commitments to provide financial support to WFP in South Sudan, and another US\$5 million to the International Organization for Migration (IOM). The Government of South Sudan (GoSS) will sign separate MOUs with the WFP and IOM that will specify the programs to be funded by these transfers. The remainder of the part that goes to the budget will be used predominantly to finance spending by the Ministry of General Education and Instruction and the Ministry of Health through conditional transfers, which can be easily followed and reported, in line with the allocations made in the FY2022/23 budget adopted by the National Assembly.

We are committed to transparency in the use of these resources. We will ensure that all transactions carried out by the GoSS are recorded in the IFMIS. The Auditor General (AG) will complete by end-September 2023 an audit of all central government spending funded from this disbursement, and the final AG report will be published promptly on the MoFP website. In parallel with this, with assistance from the World Bank the MoFP will conduct a system's review of the expenditure chain in at least 3 States with a view to identifying measures to enhance compliance with the use of conditional transfers from the central government. The GoSS is also committed to conduct, jointly with the WFP and IOM, an assessment on the impact of the WFP and of the IOM programs financed by the envisaged transfer of part of the RCF disbursement discussed above, and to make public the findings of these assessments.

The government and the BoSS are strongly committed to deepening further the economic reforms started under the SMP, to put South Sudan on a path of sustainable and inclusive growth. To that end, the focus of our economic reform program in the near term will be on maintaining macroeconomic stability, strengthening the monetary policy framework, preserving exchange rate unification, and strengthening governance.

- *Restoring fiscal discipline and maintaining debt sustainability.* The FY2022/23 budget will be executed without recourse to monetary financing with a view to maintaining exchange rate

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and price stability, while ringfencing social spending. This will be achieved via reforms to increase non-oil revenue further and containing spending within the resource envelope, while giving priority to spending on salaries, health and education spending, and peacebuilding. We will also refrain from contracting non-concessional debt, except for: (i) debt management operations that improve key liquidity and/or solvency debt burden indicators without adversely affecting the risk rating; or (ii) transactions that finance, while avoiding excessive external borrowing, critical investment projects with a high social and economic return that are integral to our national development program, and for which concessional financing is not available. We will consult with the IMF staff prior to contracting any new non-concessional borrowing including oil presales and/or advances.

- *Strengthening the monetary policy framework and improving the functioning of the FX market.* We are committed to refraining from monetary financing and the BoSS will operationalize the monetary policy framework based on reserve money targeting. This will be achieved by setting quarterly reserve money targets and using FX interventions and the new term deposit facility (TDF) to steer reserve money consistent with the targets. We will continue regular FX auctions to facilitate price discovery in the market, and will expand our monetary policy toolkit, including by enhancing the newly introduced TDF.
- *Strengthening governance.* We have started to implement reforms aimed at strengthening our PFM systems, which are critical for supporting good governance and transparency, and for effectively delivering the essential goods and services on which citizens and economic development rely. Consistent with the Immediate Action Plan for PFM reforms, the focus of reforms in this area will be on: strengthening the macro-fiscal framework and budget process; making further progress towards the Treasury Single Account; improving cash management practices; establishing a public procurement and asset disposal authority; starting the rollout of the electronic payroll for government employees using the biometric system; and implementing the outstanding recommendations of the IMF safeguards assessment.

In support of our reform agenda and program, the GoSS requests an IMF Staff-Monitored Program with Board Involvement (PMB) from January 31 to October 31, 2023. We consider the PMB to be essential in supporting our macroeconomic and stabilization efforts, building a track record of sound policy towards a future Fund-supported program, and an indispensable further step towards deepening relations with the international community, including the mobilization of financial support for critical development and poverty-reduction measures on concessional terms. The enclosed MEFP and the Technical Memorandum of Understanding (TMU) provide comprehensive details of our reform agenda and program.

We will not introduce any measures or policies that would compound our BOP difficulties and will not impose new or intensify existing trade restrictions. We will also not introduce or intensify existing restrictions on payments and transfers for current international transactions; introduce or modify multiple currency practices; or enter into bilateral payments agreements which are inconsistent with Article VIII of the IMF's Articles of Agreement. The GoSS will provide IMF staff

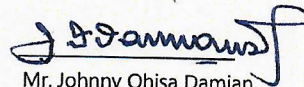


with such information as may be requested in connection with the progress made in implementing the economic and financial policies and in achieving the objectives of the program. The GoSS authorizes the IMF to publish this letter, the attached MEFP and TMU, and the related staff report, and the debt sustainability analysis (DSA) prepared by the IMF and World Bank staff, including placement of these documents on the IMF website.

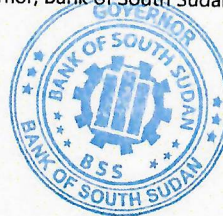
Sincerely yours,



Mr. Dier Tong Ngor
Minister, Ministry of Finance and Planning



Mr. Johnny Ohisa Damian
Governor, Bank of South Sudan



Attachment

- I. Memorandum of Economic and Financial Policies

14 Appendix 4

LEG A1 – Donor Agreement EN
Updated: May 2023 2023

**FINANCING AGREEMENT
BETWEEN
THE GOVERNMENT OF SOUTH SUDAN
AND THE
INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM)
ON
THE EMERGENCY FINANCING SUPPORT TO SOUTH SUDAN UNDER THE
INTERNATIONAL MONETARY FUND'S FOOD SHOCK WINDOW**

IOM office-specific Ref. No.:	
IOM Project Code:	SS10P0714
LEG Approval Code:	SSD/FUND/MH001/2023

This Agreement (the "Agreement") is entered into by the Government of South Sudan, (the "Donor"), through its Ministry of Finance and Planning and the International Organization for Migration ("IOM"), a related organization of the United Nations, acting through its country office in Juba, South Sudan, represented by Peter Van Der Auweraert, IOM South Sudan Chief of Mission. The Donor and IOM are also hereinafter referred to individually as a "Party" and collectively as the "Parties."

1. Introduction and Integral Documents

- 1.1 The Donor agrees to provide IOM with financial support for the Project in accordance with the terms and conditions of this Agreement and its Annexes, if any.
- 1.2 The following documents form an integral part of this Agreement:
 - (a) Annex A – Project Document; and
 - (b) Annex B – Project Budget.

2. Contribution

- 2.1 The Donor hereby agrees to provide financial support to the IOM project titled Emergency Assistance to Conflict-Affected Population through Cash-Based Interventions in South Sudan (the "Project") in the amount of USD 5,000,000.00 (Five Million United States Dollars) (the "Contribution").
- 2.2 The Contribution shall be used by IOM towards financing the costs of the Project outlined in the Project Document (Annex A) and the Project Budget (Annex B). The Contribution shall include the IOM mandatory project overhead cost of 7%, as approved by all IOM Member-States through Council Resolution.
- 2.3 The Contribution shall be paid in one instalment by the Donor in USD as determined in Article 2.1 into the following bank account within 15 days from signing this Agreement, quoting the above IOM SS10P0714 to facilitate the recording of the Contribution into IOM's accounts:

Beneficiary Bank: Citibank, N.A.
Address: 399 Park Avenue, New York, NY
SWIFT Code / BIC: CITIUS33
ABA Routing No.: 021000089
Account Name: IOM Geneva
USD Account Number: 30557053

- 2.3 The Donor shall notify IOM by email to revenue@iom.int and ssudanrmu@iom.int of the following: (a) the amount transferred; (b) the value at date of the transfer; (c) that the transfer is from the Donor pursuant to this Agreement including the above IOM SS10P0714.
- 2.4 If the payment of the Contribution is made or the Contribution itself is confirmed in other currency than the Project Currency, the value of the Contribution in the Project Currency will be determined by the United Nations operational rate of exchange rate prevailing at the time of receipt of the Contribution by IOM. Any increase or decrease in the value of the Contribution expressed in Project Currency due to changes in the UN operational rate of exchange between the date of signature of this Agreement and the date of IOM's receipt of the Contribution will increase or decrease funds available for implementing the activity. When applicable, IOM may inform the Donor of a reduction in the value of the Contribution expressed in Project Currency with a view to determining whether any further financing could be provided by the Donor. Should further financing not be available, the activities to be provided by IOM may be reduced, suspended or terminated upon written notification to the Donor by IOM in order to accommodate the reduction in the value of the Contribution.
- 2.5 IOM reserves the right to start the Project only upon IOM's receipt of the first payment as per the payment schedule agreed under Article 2.3. In the event that IOM does not receive the Contribution as per the payment schedule agreed under Article 2.3 or does not receive the Contribution in full within the agreed payment schedule, IOM may contact the Donor who shall hold a discussion with IOM with a view to determining when the payment of the Contribution or the remaining Contribution will be initiated. In the event of not receiving the Contribution fully in accordance with the payment schedule agreed under Article 2.3, the activities provided by IOM under the Project may be reduced, suspended, postponed or terminated by IOM upon IOM's written notification to the Donor with immediate effect.
- 2.6 The Donor's obligations under this Agreement shall not be affected by or contingent on (i) any rights or obligations of the Donor or of IOM under other contracts or agreements between IOM and the Donor, or (ii) IOM's performance of other project activities or any result of audit, evaluation and monitoring not directly relevant to this Agreement.
- 2.7 IOM shall not be liable for any delay in performing or failure to perform any of its obligations under this Agreement if IOM does not receive the Contribution fully in accordance with the payment schedule as per Article 2.3 of this Agreement.

3. Project Duration



- 3.1 The duration of the Project shall be from 1 June 2023 to 30 November 2023.

4. Administration of the Contribution

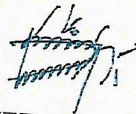
- 4.1 IOM shall receive and administer the Contribution in accordance with its regulations, rules, directives, policies and procedures. The Contribution shall, in line with the single audit principle, be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules, directives, policies and procedures of IOM.
- 4.2 The activities administered under this agreement are budgeted and reported in USD (the "Project Currency").
- 4.3 IOM shall maintain a separate project account in accordance with its own regulations, rules, directives, policies and procedures to administer and track all financial transactions related to the Project, which will be converted to the Project Currency using the prevailing United Nations operational rate of exchange in accordance with IOM policies.
- 4.4 Any part of the Contribution which has not been used upon completion of the Project, as reported in the final financial report, shall be refunded to the Donor unless otherwise agreed by the Parties. Interest income generated from any contribution, if any, will be credited to IOM's accounts as miscellaneous income.
- 4.5 The personnel for the Project shall be recruited, employed and supervised by IOM in accordance with its regulations, rules, directives, policies and procedures. The Ministry of Finance and planning shall nominate a focal person to be part of project execution.
- 4.6 Procurement for the Project shall be undertaken by IOM in accordance with its regulations, rules, directives, policies and procedures.

5. Reports

- 5.1 IOM shall provide the Donor with the following reports during implementation of the Project:

Type of Report	Reporting Due Date	Reporting Period
Final Narrative and Financial Reports	22 March 2024	23 June 2023 to 22 December 2023

- 5.2 All project reports shall be issued by IOM in the Project Currency and in accordance with its regulations, rules, directives, policies and procedures and using IOM's standard project reporting templates.



- 5.3 A joint team made of IOM and MoFP's Monitoring and Evaluation Committee shall carry out a midterm and end-term monitoring and evaluation of the project. All IOM activities are monitored and evaluated in accordance with IOM Regulations and Rules.

6. Assurances

- 6.1 IOM is firmly committed to the IOM Standards of Conduct and has a zero-tolerance towards irregular practices, wrongdoing and misconduct, including but not limited to financial malpractice, impropriety or fraud, failure to comply with rules, regulations or policies, criminal activity, professional malpractice, improper conduct or unethical behaviour, conflict of interest without disclosure, waste of resources, abuse of authority, corruption and mismanagement, whether perpetrated by IOM staff, executing agencies, contractors or consultants. The Parties agree that it is important to take all necessary and reasonable precautions to avoid any irregular practices, wrongdoing or misconduct. IOM takes all allegations of irregular practices, wrongdoing and misconduct seriously and shall conduct an investigation, if in IOM's sole discretion, the allegation is deemed credible and merits an investigation. All investigations shall be carried out in accordance with the IOM regulations, rules, directives, policies and procedures.
- 6.2 The Parties have a zero-tolerance towards sexual exploitation and abuse. IOM shall take all reasonable steps to prevent the sexual exploitation and abuse of any person linked to the delivery of the activities under this Agreement. Subject to the IOM regulations, rules, directives, policies, and procedures governing its operations, IOM shall without undue delay report any credible allegations or actual incidents of sexual exploitation and abuse related to this Agreement to the Secretary-General of the United Nations through the Secretary-General's reporting mechanism on Sexual Exploitation and Abuse at <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/data-allegations-un-system-wide>. Such reporting on sexual exploitation and abuse shall be without prejudice to the privileges and immunities of IOM.
- 6.3 Consistent with applicable United Nations Security Council resolutions, the Parties are firmly committed to the international fight against terrorism, and in particular, financing terrorism. IOM undertakes to use reasonable efforts to ensure that no resources provided under this Agreement are made available or used to provide support to individuals or entities associated with terrorism which are named on the United Nations Security Council Consolidated Sanctions List, as may be amended.

7. Ownership of property financed from the Contribution

Ownership of equipment, supplies and other properties financed from the Contribution shall vest in IOM. Such properties shall be disposed of in accordance with the IOM's regulations, rules, directives, policies and procedures, unless otherwise agreed between the Donor and IOM in writing.

8. Force Majeure

- 8.1 IOM shall not be liable for any delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure is caused by *force majeure*, which means any unforeseeable and irresistible act of nature, any act of war (whether

declared or not), invasion, revolution, insurrection, terrorism, blockade or embargo, strikes, Governmental or state restrictions, natural disaster, epidemic, public health crisis, and any other circumstances which are not caused by nor within the control of IOM.

- 8.2 As soon as possible after the occurrence of a *force majeure* event which impacts the ability of IOM to comply with its obligations under this Agreement, IOM will give notice and full details in writing to the Donor of the existence of the *force majeure* event and the likelihood of delay. On receipt of such notice, IOM and the Donor shall consult with a view to resuming performance of the impacted activities under this Agreement and ensuring coverage by the Donor of unavoidable expenditures incurred by IOM during the period of *force majeure*. Following consultation with the Donor, IOM shall be entitled without liability to suspend the implementation of some or all activities under this Agreement to the extent that it is not possible for IOM to implement the activities due to *force majeure*.

9. Confidentiality and Data Protection

- 9.1 Subject to Articles 10.2, 10.3, and 10.4 below, the terms of this Agreement and all information including personal data which comes into the Parties' possession or knowledge in connection with this Agreement or the Project is to be treated as strictly confidential.
- 9.2 IOM shall comply with the IOM Data Protection Principles in the event that it collects, receives, uses, transfers, stores or otherwise processes any personal data in the performance of this Agreement. No personal data of IOM beneficiaries shall be communicated to any third party without the prior written approval of the beneficiary concerned. The obligations under this Article 10 shall survive the expiration or termination of this Agreement.
- 9.3 IOM may disclose information related to this Agreement, such as the name and address of the Donor, the value of the Contribution, and the title, nature and purpose of the Project, to the extent required by IOM's reporting mechanisms and commitment to any transparency and accountability initiatives.

IOM, since 1 March 2017, is a member of the International Aid Transparency Initiative (IATI) and works towards applying the IATI standards with a view to publishing information incrementally through the IATI platform.

10. Intellectual Property

All intellectual property and other proprietary rights including, but not limited to, patents, copyrights, trademarks and ownership of data resulting from the Project shall be vested in IOM, including, without any limitation, the rights to use, reproduce, adapt, publish and distribute any item or part thereof.

11. Notices

Any notice given pursuant to this Agreement will be valid only if it is in writing and received by the other Party at the following address:



International Organization for Migration (IOM)

Attn: Peter Van Der Auweraert, Chief of Mission, IOM South Sudan
New Industrial Area, Northern Bari, Juba, South Sudan
Email: PVANDERAUWER@iom.int

Government of South Sudan

Attn: Hon. Dier Tong Ngor, Minister, Ministry of Finance and Planning
P.O Box 80-Juba South Sudan
Email: dier.tong@mofp.gov.ss

12. Dispute Resolution

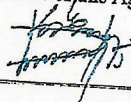
- 12.1 Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, shall be settled amicably by negotiation between the Parties.
- 12.2 In the event that the dispute, controversy or claim has not been resolved by negotiation within 3 (three) months of receipt of the notice from one party of the existence of such dispute, controversy or claim, either Party may request that the dispute, controversy or claim is resolved by conciliation by one conciliator in accordance with the UNCITRAL Conciliation Rules of 1980. Article 16 of the UNCITRAL Conciliation Rules does not apply.
- 12.3 In the event that such conciliation is unsuccessful, either Party may submit the dispute, controversy or claim to arbitration no later than 3 (three) months following the date of termination of conciliation proceedings as per Article 15 of the UNCITRAL Conciliation Rules. The arbitration will be carried out in accordance with the 2010 UNCITRAL arbitration rules as adopted in 2013. The number of arbitrators shall be one and the language of arbitral proceedings shall be English, unless otherwise agreed by the Parties in writing. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award will be final and binding.
- 12.4 The present Agreement as well as the arbitration agreement above shall be governed by the terms of the present Agreement and supplemented by internationally accepted general principles of law for the issues not covered by the Agreement, to the exclusion of any single national system of law that would defer the Agreement to the laws of any given jurisdiction. Internationally accepted general principles of law shall be deemed to include the UNIDROIT Principles of International Commercial Contracts. Dispute resolution shall be pursued confidentially by both Parties. This Article survives the expiration or termination of the present Agreement.

13. Status of IOM

Nothing in or relating to the Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the International Organization for Migration as an intergovernmental organization.

14. Waiver

Failure by either Party to insist in any one or more instances on a strict performance of any of the provisions of this Agreement shall not constitute a waiver or relinquishment of the right to



enforce the provisions of this Agreement in future instances, but this right shall continue and remain in full force and effect.

1. Termination

Either Party may terminate this Agreement for cause by 30 (thirty) days written notification to the other Party. In the event that this Agreement is terminated prior to the completion of the Project, IOM may continue to hold any unutilized Contribution until all commitments and liabilities incurred up to the date of termination for the implementation of the Project have been satisfied and project activities have been brought to an orderly conclusion. IOM shall not be obliged to repay any funds irrevocably committed in good faith by IOM before the date of notice of such termination.

2. Severability

If any part of this Agreement is found to be invalid or unenforceable, that part will be severed from this Agreement and the remainder of the Agreement shall remain in full force.

3. Entire Agreement

This Agreement embodies the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement.

4. Final Clauses

19.1 This Agreement shall enter into force on 23 June 2023 upon its signature by authorized representatives of the Parties. It will remain in force until completion of all obligations of the Parties under this Agreement.

19.2 Amendments may be made by mutual agreement in writing between the Parties.

Signed in duplicate in English, on the dates and at the places indicated below.

For and on behalf of
The Government of South Sudan,
Ministry of Finance

Signature

Name:
Position:
Date:
Place:

For and on behalf of
The International Organization for
Migration

Signature

Name:
Position:
Date:
Place:

15 Appendix 5

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MINISTRY OF FINANCE AND PLANNING
AND
THE BANK OF SOUTH SUDAN**

**Regarding the Respective Responsibilities of the Ministry of Finance and Planning and the
Bank of South Sudan in connection with the Republic of South Sudan's Rapid Credit
Facility through the Food Shock Window from the International Monetary Fund**

January 9, 2023

The Ministry of Finance and Planning ("MOFP") and the Bank of South Sudan ("BOSS") herein after called the "Parties"

considering:

- that on January 23, 2023, the International Monetary Fund ("IMF") is expected to consider a disbursement to the Republic of South Sudan under the Rapid Credit Facility – Food Shock Window (RCF-FSW) in the total amount of SDR 86 million (35 percent of quota);
- SDR 51.6 million of the funds received by the Republic of South Sudan under the RCF-FSW will be used to provide direct budget financing. Of this amount, an amount equivalent to US\$ 20 million will be earmarked to address food insecurity and channeled to the World Food Program (WFP) and the International Organization for Migration (IOM).
- SDR 34.4 million of the funds received by the Republic of South Sudan under the RCF-FSW will be kept as international reserve assets by the BOSS to improve the international reserve position of South Sudan; and
- that both Parties shall act in accordance with relevant domestic laws and regulations, including the Bank of South Sudan Act and the Public Financial Management and Accountability Act, while agreeing with the following framework on the modalities of the use, accounting treatment, and repayment of IMF financing and the servicing of any related costs, and enter under this Memorandum of Understanding (MoU) under the following terms:

Article 1

Request and Receipt of the RCF-FSW from the IMF

1. The full RCF-FSW disbursement will be made to the BOSS in the first instance, which will create a separate monitored account for this purpose at the Bank for International Settlement (BIS) or the US Federal Reserve (Fed).
2. With respect to the portion of the RCF-FSW disbursements made available for budget financing, the MOFP, as the fiscal agent of the Republic of South Sudan, will identify in the disbursement request to the IMF the accounts of the BOSS to which the disbursed amounts shall be credited.
3. Pending use by the MOFP, disbursements from IMF intended for direct budget financing will be held in the MOFP foreign currency (US\$) account number NO. 00269212001216 with the BOSS.
4. US\$ 15 million and US\$ 5 million will be allocated to the World Food Program and the International Organization for Migration, respectively, in accordance with Memoranda of Understanding to be signed shortly with each of these organizations.

5. The remaining foreign currency amount will be converted, as needed, to local currency for deposit into the MOFP account at the BOSS, at the prevailing FX reference rate.
6. The BOSS, through its BIS or Fed account, shall receive the remaining portion of the disbursed amount and record it in its accounts and balance sheet along with all assets and liabilities resulting from it, including any interest payment due or charges to be paid.

Article 2

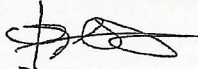
Service and Repayment of the RCF-FSW Received from the IMF

1. The funds received from the IMF for direct budget financing under the RCF-FSW are a liability of the Republic of South Sudan.
2. Servicing of the obligations to the IMF that relate to the direct budget financing is fulfilled without a financial burden to the BOSS. Repayments and all costs related to this amount, including interest (if any), are the responsibility of the MOFP.
3. The payments to the IMF will be made through the BOSS under its role as the MOFP fiscal agent, from the MOFP accounts at the BOSS in accordance with domestic legislation including the BOSS Act, the repayment schedule, and procedures of the IMF.
4. The BOSS will inform the MOFP about any repayment due to the IMF, including the currency composition. The MOFP is responsible for foreign exchange differences arising from the RCF obligations to the IMF.
5. The MOFP will ensure that there will be sufficient funds in the designated accounts to cover payments. In the event that the MOFP does not hold sufficient funds in the designated accounts, the BOSS would proceed with the due payment amount, which would become a liability of the MOFP to the BOSS.
6. The institutional arrangements between the MOFP and BOSS in this regard, including accounting treatment, are governed by the laws of the Republic of South Sudan.

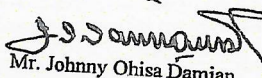
Article 3

Term of Validity of this Agreement

This memorandum, which may be amended in writing by mutual agreement, shall be in effect until all repayments to the IMF related to the RCF-FSW disbursement have been made.


Mr. Dier Tong Ngor

Minister, Ministry of Finance and Planning


Mr. Johnny Ohisa Damian

Governor, Bank of South Sudan

