Republic of South Sudan

LAWS OF SOUTH SUDAN

Public Financial Management and Accountability Act, 2011

Public Financial Management and Accountability Act, 2011

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LAWS OF SOUTH SUDAN

Public Financial Management and Accountability Act, 2011

In accordance with the provisions of Article 55(3) (b) read together with Article 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, with the assent of the President of the Republic of South Sudan hereby enacts the following.

Chapter I

Preliminary Provisions

1. Title and Commencement

This Act shall be cited as the "Public Financial Management and Accountability Act, 2011" and shall come into force on the date of its signature by the President.

2. Repeal and Saving

Any existing legislation in South Sudan, that governs the same matters as set forth in this Bill, is hereby repealed or shall cease to operate in South Sudan; provided that, all proceedings, orders and regulations taken or made there under, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose

The purpose of this Act is to provide for the establishment of procedures to control the management of public finances of the Government, ensure accountability, regulate the preparation of the general budget and appropriation Bills, Establish Reserved Revenue, Contingency and Consolidated Funds, provide conditions and restrictions for borrowing and lending and to make regulations for the transfer of funds to the state governments, and any matters related thereof.

4. Authority and Application

(1) This Act is drafted in accordance with the provisions of Articles 87, 88, 91 and 180 of the Transitional Constitution of the Republic of South Sudan, 2011, which grants the Government authority over allocation of resources and revenues and general budget proposals.

(2) The provisions of this Act shall apply throughout South Sudan in all matters related to the functions and duties of the Ministry, the management of public finances and accountability thereof.

5. Interpretation

(1) In this Act, unless the context otherwise requires the following words and expressions shall carry the meanings assigned to them respectively:

"Accounting Officer" means a person designated, as a part of their official duties, under section 8 below, of this Act, as an accounting officer; and does not mean a separate position/job classification under Civil Service laws and regulations—

(a) with respect to a State, its director general of finance, and,

(b) with respect to other Spending Agencies—

(i) Its Undersecretary;

(ii) If it has no Undersecretary, it's Chief Executive Officer; or,

(iii) If it has neither an Undersecretary nor a Chief Executive Officer, the person who has principal day-to-day administrative authority over its operations and personnel. In the special case of an autonomous executive agency, these terms mean the director or head of that agency and not the Accounting Officer of the Spending Agency of which such Agency is a part. In the case of a Public Enterprise or Corporation, these terms mean the chief executive officer, managing director or other person having principal day-to-day administrative authority over its operations and personnel;

"Allocation" means funds allocated for expenditure as a part of the Budget;

"Appropriation" means legal authority to spend, as granted by the Legislative Assembly through an Appropriation Act or a Supplementary Appropriation Act;

"Appropriation Bill" means an Bill presented to the Assembly for approval of the expenditures contained within the Budget, giving legal authority to spend;

"Assembly" means the National Legislative Assembly;

"Auditor-General" means the person appointed or deemed to have been appointed Auditor-General pursuant to the Constitution and in accordance with the Audit Chamber law;

"Authorized Investment" shall mean government debt securities and bank deposit accounts denominated in a freely convertible currency whose rating is within the top three categories of an international ratings agency;

"Bank" means the Bank of South Sudan or its successor;

"Budget Ceiling" means the total budget allocation to an individual Spending Agency for expenditure within the Budget;

"Cash Limit" means the amount of money available to a Spending Agency and shall be set on the basis of revenue availability and expenditure priority, within the limits of the budget ceilings appropriated for each Spending Agency in the Approved Budget;

"Certifying Officer" means the individual within a Spending Agency, or a Public Enterprise or Corporation who is employed in that position pursuant to section13 below;

"Constitution" means the Transitional Constitution of the Republic of South Sudan, 2011;

"Public Bodies" refers to any institution whose establishment is mandated in the Constitution or by law;

"Consolidated Fund" means the Consolidated Fund of South Sudan, out of which all Government expenditures are made, following appropriation by the Legislative Assembly;

"Financial Officer" means the individual within a Spending Agency or a Public Enterprise or Corporation who is employed in that position pursuant to section 9 below;

"Financial Year" means a period of twelve months beginning on 1st July and ending on 30th June of the other year;

"Government" means the National Government;

"Internal Audit" means an independent, objective assurance and consulting activity designed to add value and improve an organization's operations and help it accomplish its objectives by bringing a systematic, disciplined approach to evaluating and improving the effectiveness of risk management, control, and governance processes;

"Internal Auditor" means the individual within a Spending Agency, or a Public Enterprise or Corporation who is employed in that position pursuant to section 11 below;

"Internal Control" means a set of processes and systems designed and effected to ensure that financial and other records are reliable and complete and which ensure compliance with applicable laws, regulations and policies, the orderly and efficient conduct of the entity's operations, and the proper recording and safeguarding of assets and resources;

"Loan" means any form of financing raised by the Government from a third party, which has to be repaid, either in part or in full, at a later date;

"Minister" means the minister responsible for finance and economic planning;

"Ministry" means the ministry responsible for finance and economic planning;

"National Emergencies" means the consequences of epidemics, unforeseen acts of nature or war which could not have been anticipated, and for which spending cannot be postponed without detriment to the public interest;

"Outputs" means goods produced or services provided;

"On-lending" means any form of lending of borrowed funds or own resources by Government to public or private enterprises or state governments;

"President" means the President of the Republic of South Sudan;

"Procurement Officer" means the individual within a Spending Agency, or a Public Enterprise or Corporation who is employed in that position pursuant to section 12 below;

"Public Money" or ***"Public Funds"*** means money or financial assets in the custody or under the control of any Spending Agency, including money that is held by the Spending Agency for the benefit of a person, body, or undertaking other than the

Spending Agency: and Money or financial assets in the custody or under the control of any person, body or undertaking maintaining such custody or exercising such control for or behalf of a Spending Agency. Items that become public money upon receipt include, but are not limited to, amounts received by a Spending Agency as—

(a) Taxes, fees, duties or user charges;
(b) Interest;
(c) Dividends or any other payments from undertakings;
(d) Proceeds from the sale of any property;
(e) Proceeds from rental or lease of any property;
(f) Proceeds received from licensing or selling any rights involving a public resource, including, but not limited to, radio spectrum rights, natural resource exploration or exploitation rights, and intellectual rights;
(g) Rents or royalties;
(h) Revenue of a Spending Agency;
(i) Fines, regulatory charges, damages from civil actions, and insurance proceeds; or
(j) Grants and gifts from international organizations, foreign governments, or any other source;

"*Public Officer*" means a person holding or acting in an office in the civil service;

"*Public Property*" means resources owned by the Government or in the custody or care of the Government;

"*Public Enterprise*" or **"*Public Corporation*"** means an enterprise or corporation established by an act of the Assembly in which the Government is able to do one or more of the following—

(a) control the composition of the board of directors of the enterprise or corporation;
(b) cast, or control the casting of more than fifty percent of the maximum number of votes that might be cast at a general meeting of the enterprise or corporation; and,
(c) control more than fifty percent of the issued share capital of the enterprise or corporation, excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital.

"*Recurrent Expenses*" include salaries and operating costs;

"*Reporting Officer*" means the individual within a Spending Agency or a Public Enterprise or Corporation who is employed in that position pursuant to section 10 below;

"*Reserve Funds*" means Government monies which are not appropriated and therefore are not available for expenditure;

"*Revenue Fund*" means the fund into which all funds received by the Government are deposited into;

"Spending Agency" means any Government Ministry, Commission, Public Corporation, Institution or Public Enterprise which receives a budget allocation in the *Appropriation Act;*

"State" refers to any of the ten states established by the Constitution;

"State Assembly" means the legislative assembly of a State;

"Supplementary Appropriation Bill" means a law to be passed by the Assembly, the purpose of which is to supplement the appropriation already granted by the *Appropriation Act;and*

"***Undersecretary"*** means a public servant, official or employee appointed by the President to be the chief executive officer of a ministry and includes the most senior public servant of a Spending Agency.

(2) Unless specified in subsection (1) above or otherwise, technical words and phrases in this Bill having a peculiar and appropriate meaning shall be construed and understood according to their technical meanings.

Chapter II

General Budget Preparation and Process

6. Composition of the General Budget.

The General Budget shall be made up in the following outline—

(a) Salaries and Wages;

(b) Operational Costs, and

(c) Taxes Transfer Fees, Charges and Contribution of the Government in support of State—

(i) Taxation transfers;

(ii) Support of the current state budgets; and

(iii) Support of State development projects,

(d) Development and Contributions of the Government and the share capital of parastatal and other corporations—

(i) Projects; and

(ii) Government Funding Self-Funding.

7. Functions and Powers of the Ministry.

(1) The Ministry shall *inter-alia* and with respect to the general budget proposals and process, be responsible to develop and execute a macroeconomic, revenue and fiscal policy framework for the Government and shall advise the Government on the total resources to be allocated for public spending and the appropriate level of resources to be allocated to individual Ministries, Agencies and States.

(2) Without prejudice to the generality of the provisions of subsection (1) above, the Ministry shall perform and exercise the functions and powers appropriate and necessary for the efficient and effective Public Financial Management and Accountability and to include but not limited to the following:

(a) Budget Preparation, Execution, Management and Reporting;

(b) Public Procurement
(c) Internal Audit
(d) Preparations of the Government Accounts
(e) Inter-Governmental Fiscal and Economic Relations
(f) External Reporting to the International Financial Institutions, the President and the assembly and
(g) to perform and exercise any such other functions and powers assigned and or designated thereto by the President, Assembly, this Act, the Constitution and or any applicable law.

(3) The Ministry shall authorized After the appropriation of the Budget, the Undersecretary to set Cash Limits to govern appropriated expenditures during the Financial Year, and shall also establish the timeframe for the limits depending on revenue performance and the prevailing macro-economic situation.

(4) The Ministry shall supervise and monitor public finances of Government and shall be responsible for the management of the Consolidated Fund and Revenue Fund and the supervision and control of all matters relating to the financial affairs of the Government.

(5) The functions and powers of the Ministry referred there under the Provisions of sub-sections (1) in (2) above, shall be performed and exercised separately and or collectively by the Minister, any of the Undersecretaries, Directorate and or any public officer authorized by the Ministry thereof.

(6) Notwithstanding the generality of the provisions of subsections (5) above, the performance and exercise of the functions and powers of the Ministry by the Minister, Undersecretary, relevant Directorate and or public officer as the case may be, may be determined in the regulations to be issued in accordance with the provisions of this Act.

Chapter III

The Role of the Ministry in the Spending Agencies

8. Accounting Officer

(1) Each Spending Agency designated a budget allocation within the *Appropriation Act* shall be headed by an Accounting Officer and shall be assisted by the other officers noted below. In the case of Government Ministries, the Accounting Officer shall be the Undersecretary, whereas for other Public Bodies and Public Corporation, it will be the Executive Director or equivalent. In respect to State Ministries of Finance, the State Director General of Finance shall be the designated Accounting Officer.

(2) Each Spending Agency shall demonstrate outputs and targets relating to service delivery for past and future budgets to the Ministry and the President during the budget preparation, and during and at the end of the financial year.

The timeframe for reporting shall be established in the Regulations issued in accordance with the provisions of this Act.

(3) 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.

(4) An Accounting Officer shall have principal legal responsibility for ensuring that his or her Spending Agency, and its personnel, thoroughly and adequately comply with, observe and implement all applicable provisions of the present Act.

9. Financial Unit.

(1) Each, Spending Agency or Public Enterprise or Public Corporation shall have a Financial Unit headed by Financial Officer.

(2) A Financial Unit shall, *inter alia,* be specifically responsible for—

(a) Establishing internal financial controls within the Spending Agency, Public Enterprise or Public Corporation;

(b) Establishing an accountability framework for assessing and managing the performance of any personnel who are delegated such functions;

(c) Establishing and applying internal disciplinary measures to remedy situations where personnel with such delegated functions are not performing such functions adequately or properly; and

(d) Notifying the Undersecretary of Ministry of any circumstances giving rise to a reasonable belief that there has been a violation – by any person or undertaking - of the present law or any other law.

(3) Notwithstanding the foregoing, no provision of this section shall be interpreted or applied as authorizing a financial officer to interfere with any Accounting Officer during the lawful conduct of the duties assigned to such Accounting Officer by this Act or another law.

10. Reporting Unit.

(1) Each, Spending Agency or Public Enterprise or Public Corporation shall have a Reporting Unit headed by Reporting Officer

(2) Every Reporting Unit shall be responsible for the proper and lawful financial operations of the concerned Spending Agency or Public Enterprise or Public Corporation—

(a) ensuring that all transactions are accurately recorded in the Treasury Accounting Record;

(b) ensuring that all legitimate invoices received are promptly submitted for payment through the Treasury system; and,

(c) overseeing and supervising all aspects of budget reporting.

(3) Notwithstanding the foregoing—

(a) the Accounting Officer of a Public Enterprise or Public Corporation may enter into an agreement with the Accounting Officer of the budget organization exercising such control with respect to the sharing of the services of a single Reporting Unit, and

(b) the Accounting Officer of an autonomous executive agency may enter into an agreement with the Accounting Officer of the budget organization of which it is a part with respect to the sharing of the services of a single Reporting Unit.

11. Internal Audit Unit.

(1) Each Spending Agency or Public Enterprise or Public Corporation shall have an Internal Audit Unit headed by Internal Auditor.

(2) Notwithstanding the foregoing—

(a) the Accounting Officer of a Public Enterprise or Public Corporation may enter into an agreement with the Accounting Officer of the Spending Agency exercising such control with respect to the sharing of the services of a single Internal Audit Unit; and

(b) the Accounting Officer of an autonomous Spending Agency may enter into an agreement with the Accounting Officer of the Spending Agency of which it is a part with respect to the sharing of the services of a single Internal Audit Unit; and

(c) shall report administratively to the Accounting Officer and functionally to the minister responsible for the Spending Agency.

(4) The Internal Audit Unit shall report to the Accounting Officer and the Director General of Internal Audit.

(5) The Internal Audit Unit shall be given unrestricted access to offices, persons, documents and records of their Spending Agency necessary for the conduct of internal audits. The Minister shall make provisions for protection of Internal Audit Units in the Regulations.

(6) The Director General of Internal Audit at the Ministry shall issue policies and procedures to guide the Internal Audit Unit in the planning, conducting and reporting on internal audits.

(7) Each Internal Audit Unit shall in accordance with this Act carry out an internal audit of its Spending Agency and submit reports on the internal audits it carries out to the Accounting Officer.

(8) The Accounting Officer of a Spending Agency is responsible for ensuring that recommendations contained in internal audit reports are implemented within a timeframe agreed with the Internal Audit Unit.

(9) No request for payments shall be approved without prior endorsement by the Internal Audit Unit.

12. Procurement Unit.

(1) Each Spending Agency or Public Enterprise or Public Corporation shall have a Procurement Officer, who shall be responsible for conducting the Spending Agency's procurement activities in accordance with the public procurement law.

(2) Notwithstanding the foregoing—

(a) the Accounting Officer of a Public Enterprise or Corporation may enter into an agreement with the Accounting Officer of the Spending Agency exercising such control with respect to the sharing of the services of the Spending Agency's Procurement Officer; and

(b) the Accounting Officer of an autonomous executive agency may enter into an agreement with the Accounting Officer of the Spending Agency of which it is a part with respect to the sharing of the services of the Spending Agency's Procurement Officer.

13. Certifying Unit.

(1) Each Spending Agency or Public Enterprise or Public Corporation shall have a Certifying Unit headed by Certifying Officer

(2) Notwithstanding the foregoing,

(a) the Accounting Officer of a Public Enterprise or Public Corporation may enter into an agreement with the Accounting Officer of the Spending Agency exercising such control with respect to the sharing of the services of a single Certifying Unit, and

(b) the Accounting Officer of a Spending Agency may enter into an agreement with the Accounting Officer of the Spending Agency of which it is a part with respect to the sharing of the services of a single Certifying Unit.

(3) The Certifying Unit shall be responsible for—

(a) ensuring that the applicable terms of a public contract have been fulfilled before any payment under such contract is made or authorized; and

(b) ensuring that the expenditure of Public Money under any public contract is done in accordance with the regulations. The Certifying Unit shall also perform any other task required of a Certifying Unit under the regulations.

(4) The Certifying Unit shall identify and promptly report in writing all events of non-compliance to the Accounting Officer, the Reporting Unit and any other senior official of the Spending Agency or Public Enterprise or Public Corporation. Instances of non-compliance with the public procurement law shall also be reported to the Auditor-General. The Certifying Unit shall maintain comprehensive written records on all such instances of non-compliance for a period of at least seven (7) years.

14. Vacancies.

(1) In the event that a vacancy occurs in any of the units described in this chapter, it shall be filled within ninety (90) days.

(2) No person may hold more than one position in any Spending Agency.

(3) With the exception of the Accounting Officer, all employees of the units described in this chapter shall be employees of the Ministry seconded to the Spending Agencies.

Chapter IV

Budget and Appropriations

15. Elements of the Budget

(1) The President shall cause to be presented to the Assembly, an Act for the allocation of resources and revenue, known as the budget proposal, in accordance with the provisions of the Constitution. The Minister shall prepare and present the budget proposal on behalf of the President.

(2) The budget proposal referred there under the provisions of subsection (1) above shall include a general evaluation of the economic and financial performance and situation, detailed estimates of the proposed revenue and expenditure for the forthcoming year compared to those of the previous financial year, a statement of the general budget, any reserve funds, transfers thereto or allocations there from, and explanatory notes of any special budgets or financial estimates, policies or measures to be taken by the Government within the framework of the general budget.

(3) All revenues and expenditures of the Government shall be on-budget and shall be made public as provided under the provisions of this Act.

(4) 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. 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.

(5) The Financial Year shall cover a period of 12 months, which shall run from 1st July to 30th June each year.

16. Principles of the Budget

(1) To ensure the sustainability of the public finances, the detailed forecast of proposed revenue for the forthcoming year shall be presented to the Assembly within a consistent three (3) year macro-economic framework, which forecasts the annual revenues available to the Government over the coming three year period, consistent with its fiscal and monetary programs and plans for economic and social development.

(2) To ensure the sustainability of public spending, including multi-year projects and programmes, the detailed estimates of proposed expenditure for the forthcoming year shall be presented to the Assembly within a three year Medium Term Expenditure Framework which allocates resources annually by Spending Agency over the coming three year period.

(3) Public spending shall match with the available financing. In the event that expenditures proposed in the Budget for the forthcoming financial year are in excess of the proposed revenues, the Budget shall indicate how the shortfall may be financed, whether by raising additional taxes, domestic or external borrowing, or an allocation from reserve funds.

17. Appropriation Bill.

(1) Public spending shall be incurred and revenues shall be collected only with the authority of the Assembly, in accordance with the provisions of the Constitution and this Act.

(2) The President shall cause the proposals of total expenditure contained in the Budget to be submitted to the Assembly as an appropriation Bill. Proposals for taxes, fees and other levies as well as borrowing, investment or saving bonds shall be presented as financial Bills. The Minister shall prepare the *Appropriation Bill* and all financial Bills on behalf of the President.

(3) The Assembly shall deliberate, and may amend, reject or adopt the Budget chapter by chapter, including schedules, and it shall thereafter pass the *Appropriation Bill* in its totality.

(4) In the event that the Assembly makes amendments to the Budget which increase the budgetary allocation to certain expenditure items, these amendments shall be financed by equivalent cuts in other expenditure items as identified by the Assembly, enabling it to pass the *Appropriation Bill* in its totality, as presented to it by the Minister on behalf of the President.

(5) All expenditure proposals contained within the Budget shall be appropriated, and no Government expenditures shall be off-budget. The appropriation shall be for budgetary expenditure for the forthcoming financial year in its totality, as well as chapter by chapter, and Spending Agency by Spending Agency. The appropriation for each Spending Agency shall be known as the Agency's budget ceiling. The appropriation shall also cover any allocation for contingency and Reserve Funds.

(6) (a) Programs and Projects appropriated for more than one year life span at the end of the financial year shall be paid out of Consolidated Reserve Funds as National Government contractual financial obligations in accordance to the constitution and this Act;

(b) A report of the paid out expenditure from the Consolidated Reserve Funds shall be laid before the Assembly by the President through the Minister of Finance within three months of expenditure

(7) Where the procedure of adopting the general budget and the *Appropriation Bill* is delayed beyond the beginning of the financial year, recurrent expenditure shall continue in accordance with the draft estimates presented to the Assembly, as if the same had been appropriated by law for the New Year in monthly increments.

18. Supplementary Appropriation Bill

(1) After passing of the *Appropriation Bill*, no funds shall be transferred from one chapter to another during the financial year, nor shall any money be spent on an item that is not provided for in the budget, without the approval of the Assembly through a Supplementary Appropriation Bill.

(2) Surplus funds over revenue estimates and funds out of the legal reserve shall not also be spent save by a Supplementary Appropriation Bill.

(3) Whenever new circumstances occur, or a matter of public concern proves not to have been satisfactorily addressed by the general budget, the President may during the financial year cause to be submitted to the Assembly a financial Bill, a Supplementary Appropriation Bill, or an allocation from the reserve funds, to which the same provisions set out in respect of passing the general Budget and *Appropriation Bill* shall apply. The Minister shall prepare all such submissions on behalf of the President.

(4) All requests for supplementary appropriation submitted by the Minister on behalf of the President to the Assembly shall clearly detail the source of financing. Sources may include a reduction in other appropriated budget items, an allocation from reserve funds where extant or new revenue raising measures detailed through a financial Bill.

(5) Supplementary appropriations shall not exceed five percent (5%) of the total annual budget unless approved by the Assembly in the event of a national emergency.

19. Proposed New Laws or Amendments to Laws

(1) Whenever the Government is considering to propose a new law or an amendment to an existing law to the Assembly, the Government shall first require the sponsoring ministry or body to submit to the Government and the Ministry a budgetary and economic impact statement that provides a detailed

assessment of the likely effects that such proposed legislation may have on the Budget and the economy of South Sudan. The Ministry shall review such statement and provide the Government with their independent opinion on such matters.

(2) If the proposed new law or amendment may assign new responsibilities to States with respect to the budgetary and economic impact, the Ministry responsible for local government shall also provide the Government with its opinion after consulting with the States. If the Government approves such proposed legislation and transmits it to the Assembly for consideration, the Government shall provide the Assembly with such statement.

(3) Where the Government is developing a draft law for submission to the Assembly, and such draft law, may require the expenditure of Public Money in the fiscal year during which such law is adopted, the Minister shall prepare and submit to the Government, for transmission to the Assembly with the draft law, a report indicating the source or sources of funding.

20. Executive Directives with Financial Implications.

(1) Any directive by the executive authority of a Spending Agency to any Financial Officer having financial implications for the Spending Agency shall be in writing.

(2) If the implementation of the directive is likely to result in an unauthorized expenditure, the Accounting Officer shall inform the concerned executive authority in writing of the likelihood of such unauthorized expenditure, and failure in serving, the accounting officer may be guilty of an offence and upon conviction shall be punishable in accordance with provisions of section 65 and section 66 of this Act.

(3) Any Minister and or any head of a Spending Agency shall seek the prior approval from the Minister and the Minister responsible for labour and public service before proposing or entering into agreement on any salary or emolument issue that has financial and budgetary implications, including staffing levels, salary levels, allowances, social benefits, pension entitlements, and in-kind benefits.

21. National Revenue Fund and Reserve Funds

(1) All revenues collected for or by the Government shall be pooled into a National Revenue Fund administered by the Ministry. The National Revenue Fund shall embrace all accounts and sub-funds, into which monies due to the Government are collected, deposited and reported.

(2) The Ministry shall maintain individual revenue accounts for each revenue item, including oil revenue, non-oil revenues, grants, transfers, loan proceeds, monies raised for the purposes of Financing Funds, Sub-Funds and special funds and accounts referred to in the Constitution, and they shall collectively constitute the National Revenue Fund.

(3) All monies accruing to the Government, including monies previously paid into the National Revenue Fund, which are not appropriated by the Assembly for expenditure through the *Appropriation Act* or a Supplementary Appropriation Law shall form part of the legal reserve of the Government, otherwise known as Reserve Funds.

(4) Any surplus funds collected and deposited in the National Revenue Fund over and above the annual budget revenue estimates during the Financial Year shall also form part of the Reserve Funds, as the appropriated Reserve Funds which shall remain unspent at the end of the Financial Year.

22. Consolidated Fund.

(1) The National Revenue Fund and Reserve Funds referred there-under the provisions of section 21 above, shall together constitute the Consolidated Fund, from which all Government expenditures shall be made.

(2) No Government expenditures shall be financed from outside the Consolidated Fund.

(3) No funds shall be withdrawn from the Consolidated Fund without the authorization of the Assembly through an Appropriation Bill or a Supplementary Appropriation Bill, save in conformity with the provisions of the Constitution and this Act.

(4) The National Revenue Fund, Reserve Funds and Consolidated Fund shall be managed by the Ministry.

23. Contingency Fund.

(1) There shall be a Contingency Fund for addressing National Emergencies pursuant to the provisions of the Constitution.

(2) Funds shall be allocated to the Contingency Fund and appropriated by the Assembly as part of the annual budget and shall be replenished through either a supplementary allocation or future annual budget allocations. Spending from the Contingency Fund shall be authorized by a resolution of the Council of Ministers. Rules and limits on such authorizations shall be set forth in regulations issued in accordance with the provisions of this Act.

(3) A report on the use of Funds from the Contingency Fund shall be laid before the Assembly by the President through the Minister within 3 months of expenditure.

24. Classified Expenditure.

(1) In the interest of security, there may be classified expenditure items within the budget of the Ministry of Defense and Veterans' Affairs and National Security

Service within the office of the President, which shall not be open to the general scrutiny of the Assembly.

(2) Only particular expenditure items within the budgets of the Ministry of Defense and Veterans' Affairs and National Security Service within the office of the President shall be treated as classified. The expenditures of all other Spending Agencies shall be treated as unclassified.

(3) The Council of Ministers shall determine whether any expenditure item within the budget of any Spending Agency referred there under the provisions of subsections (1) and (2) above shall be treated as classified, in accordance with the criteria and procedure to be set forth in the regulation under the provisions of this Act.

(4) Classified expenditures shall be budgeted within the designated Spending Agencies' budget ceilings, and shall not be considered as outside of the budget.

(5) The Minister shall only avail details on classified expenditure items to the Speaker of the Assembly and the Chairpersons of the Standing Specialized Committees on Economy, Development & Finance, and Standing Specialized Committee on Security and Public Order.

(6) The audit of the classified expenditures shall be done by the Auditor-General, and the classified audit report shall be reviewed by the Chairperson of the Standing Specialized Committee on Economy, Development & Finance and approved by the Speaker of the Assembly and the President.

25. Annual Budget Timetable.

(1) The Minister shall present preliminary annual estimates of resources and revenues, consistent with the Government fiscal and monetary programmes and plans for economic and social development, together with indicative budget ceilings for each year of the forthcoming three year Medium Term Expenditure Framework period to the Council of Ministers for approval by the 15th of November each financial year.

(2) If the items set forth in subsection (1) above are approved by the Council of Ministers, the Ministry shall require Spending Agencies to prepare three year budget plans for the next three financial years based on the indicative ceilings by the end of January of same financial year. The three-year budget plans shall indicate the activities of each Spending Agency that it intends to finance over the next three financial years, consistent with their indicative budget ceilings and the policy priorities of Government. Once prepared, Spending Agencies' budget plans shall be subjected to a formal review process chaired by the Ministry.

(3) With the approval of the President, the Minister shall present the preliminary annual estimates of resources and revenues and three year budget plans to the Standing Specialized Committee on Economy, Development & Finance of the

Assembly by the end of February of the same financial year for consultation. The Minister shall also present revenue and expenditure outturns for the previous Financial Year, and estimated outturns for the current Financial Year.

(4) In light of the information provided in the three year budget plans, the consultations with the Standing Specialized Committee on Economy, Development & Finance of the Assembly and any material changes in the prevailing economic or financial situation affecting the estimates of resources and revenues, the Minister shall present the final annual estimates of resources and revenues and budget ceiling proposals for the next three financial years to the Council of Ministers for approval by 15th March of the financial year.

(5) Following approval of the Council of Ministers, the Ministry shall not later than 31st March of the same financial year issue all Government Spending Agencies with their final budget ceilings, along with instructions for preparing their detailed budget estimates. The Minister shall also not later than 31st March of the financial year provide State Ministries of Finance with estimates of Government transfers to States, consistent with the budget ceilings.

(6) The Budget proposal referred there-under the provisions of subsections (1) and (2) above shall be presented to the President who shall cause it to be submitted to the Assembly by not later than the 15th May of each financial year.

26. Passage of Budget.

(1) The Minister shall compile the detailed Budget estimates and submit them to the President to cause its presentation to the Assembly before the 15th day of May of each and every financial year, in accordance with the provisions of the Constitution.

(2) In the event that the Assembly fails to pass the Budget within forty-five (45) days of submission to the Assembly, the President shall issue a Presidential Decree on the Budget for that year, and such Budget shall be deemed to have been passed by the Assembly in accordance with the provisions of the Constitution.

(3) The regulations to this Act shall specify the actual dates for preparation and submission of budget plans, and preparation, submission and presentation of detailed budget estimates, which may be earlier than the legal limits specified in this section.

27. Budget Ceilings.

(1) All Government Spending Agencies shall adhere to the budget ceilings established by the Council of Ministers during the preparation of their three year budget plans and detailed annual budget estimates. The budget ceiling for each spending agency is established to ensure that overall public spending shall be determined in accordance with resource availability.

(2) In the event that, during the preparation of the detailed annual budget estimates, a new situations occurs which proves not to have been satisfactorily addressed during the approval of the final budget ceilings by the Council of Ministers, the Minister shall request the Council of Ministers to approve an adjustment to the proposed budget ceilings, consistent with the estimates for resources and revenues.

(3) After expenditure appropriation, aggregate expenditure by each Spending Agency during the Financial Year shall be governed by the budget ceiling appropriated for that Spending Agency by the Assembly.

28. Cash Limits.

(1) Expenditure by Spending Agencies shall be in accordance with Cash Limits established by the Ministry, which shall be set on the basis of revenue availability and expenditure priority, within the limits of the budget ceilings appropriated for each Spending Agency in the Approved Budget.

(2) In the event that the estimates of resources and revenues approved during the budget discussion are not expected to be realised in full during the Financial Year, the Minister shall inform the Council of Ministers and the President accordingly. The Minister shall either recommend that the President submits a financial Bill to raise additional revenues or a request for an allocation from the Reserve Funds to the Assembly, or that the appropriated Budget ceilings be adjusted downward in line with the shortfall. In this case, the Cash Limits shall sum to less than the annual estimates or resources and revenues.

(3) The Government shall not finance a Budget shortfall by reducing Government reserve funds or increasing Government borrowing, whether domestic or external, without the approval of the Assembly.

Chapter V

Requisition and Expenditure

29. Expenditure.

(1) Public money shall only be spent in accordance with the provisions of this Act and regulations, directives or instructions issued in accordance with the provisions of this Act, any other applicable law or regulations.

(2) A contract which provides for the payment of any money by the Government shall not be valid without the prior approval of the Ministry in accordance with the provisions of subsections (3) below.

(3) The Minister shall signify approval on the basis of each ceilings or cash releases or instructions issued in accordance with the provisions of section 30 of this Act.

(4) Copies of contracts made under this section shall be submitted immediately to the Director General of Accounts and the Director General of Procurement.

(5) An expenditure or payment shall not be made against an appropriation except on the request of the respective Accounting Officer of the spending agency or his authorized deputy in accordance with the regulations issued under this Act.

30. Payments.

(1) A requisition for payment out of the Consolidated Fund shall be done in a form, with supporting document and certified in such manner as, the Director General of Accounts may direct.

(2) The Director General of Accounts and or the Director General of Budget or their representatives may reject a request for payment or to commit funds if he or she is of the opinion that it—

(a) Shall not be lawful charge against the appropriation
(b) Was not procured in accordance with any applicable law on procurement or within the expenditure chapter, item of expenditure or the purpose of the expenditure as per the budget approved;
(c) Shall result in expenditure in excess of the appropriation or cash limits; or,
(d) Shall reduce the balance available in the appropriation in such a manner that it shall not be sufficient to meet the commitment to be charge against it.

(3) The Director General of Accounts and or the Director General of Budget may submit to the Undersecretary of Finance any requisition for direction and the Undersecretary for Finance may, subject to the provisions of this Act, give such directions necessary to the execution of the decision.

(4) The Accounting Officer of the spending agency whose request is rejected by the Director General of Accounts and or Director General of Budget may transmit to the Undersecretary of Finance any requisition for direction and the Undersecretary of Finance may, subject to the provisions of this Act, gives such directives necessary for the execution of a decision

(5) Except for petty cash expenditure, payment shall not be made out of the Consolidated Fund for work done, goods supplied or service rendered whether under a contract or not, in connection with any part of the Government, unless in addition to any other voucher or certificate required, the Accounting Officer of the Spending Agency or any other officer authorized by the Accounting Officer certifies:

(a) That the work has been performed, the goods supplied or the service Rendered and or price charged in according with the provisions of the contract, or, if not specified by the contract, is reasonable; or,
(b) Where payment is to be made before the completion of the work, delivery of the goods or rendering of the service 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.

(6) Where taxes are required to be paid in respect of payment for work done, goods supplied or service rendered, whether under a contract or not, the Accounting Officer of concerned Spending Agency shall be responsible to ensure that the tax is deducted or paid accordingly.

31. Method and Timing of Payments.

(1) All Spending Agencies shall submit documentation to the Ministry to enable the Ministry to make payment of goods and services such that payment shall be made within 30 days of the goods or services having been received or consumed.

(2) Public Officers, who take delivery of goods and services without the prior arrangement for payment, resulting in payments of arrears, commit an offence and upon conviction shall be punishable in accordance with the provisions of section 66 of this Act.

32. Expenditure Reporting.

(1) The Minister shall make interim quarterly reports to the Assembly within 30 days of the stated period, on the amounts spent by individual Spending Agencies and the aggregate expenditure as compared to the budgeted amount. The format for reporting shall be detailed in the regulations.

(2) All Ministries and other Spending Agencies shall make semi-annual and annual reports to the Assembly on the use of the public funds spent and outputs achieved. The format for reporting shall be detailed in the regulations.

(3) The Ministry shall be responsible for monitoring the flow of funds and treasury performance and its accounts and shall promote and develop the accounting performance.

(4) Without prejudice to the generality of subsection (3) above, the Ministry shall be responsible for-

(a) Keeping of accounts of the Government agencies and preparing final accounts;
(b) Monitoring financial, monetary, exchange and banking transactions and ensuring control of Government resources, revenues, obligations and assets;
(c) Providing the bases for the internal audit in all accounting units;
(d) Implementing the financial transactions from the revenues and expenditure in accordance with the general budget through the accounting units;
(e) Implementing financial transactions from the revenues and expenditures in accordance with the General Budget through the accounting units; and

(f) Preparing accounting information and data after being categorized and analyzed that enable expenditures or other socio-economic indices to be conducted.

33. Government Stores and Non-Current Assets (Fixed Assets).

A Spending Agency shall maintain adequate records of stores and Non-Current Assets or Fixed Assets in accordance with the provisions of this Act. The Minister may, in the regulations issued under this Act, provide for the effective and efficient management of Government stores and non-current assets and the acquisition, receipt, control, issue and disposal of the stores and non-current assets.

34. Procurement Using Public Funds.

Procurement of goods, works and services using public money provided for under an Appropriation Act shall be in accordance with the provisions of this Act and the procurement applicable law and regulations.

Chapter VI

Borrowing, Lending and On-Lending

35. Process of Borrowing.

Subject to the limits on borrowing and the powers vested in the Assembly, in accordance with the provisions of the Constitution, loans may be raised by borrowing externally or by the issue of domestic Government Treasury bills, bonds or stock or any other method the Ministry in consultation with the Bank deems appropriate, after the approval of the council of Ministers

36. Purpose of Borrowing.

Loans may be raised for the purposes of financing budget deficits, obtaining foreign currency; On-lending to an approved institution or financing a development project.

37. Approval by the Assembly.

(1) As provided for in Article 184 of the Constitution, the Ministry shall not borrow, guarantee, or raise a loan on behalf of the Government or any person, Agency or State except as authorized by this Act and or the resolution of the Assembly.

(2) Subject to the provisions of the Constitution, the act and or the resolution of the Assembly made there -under the provisions of subsection (1) above shall provide the financial terms and conditions of any loan to be laid before the Assembly, and shall not come into operation unless after the approval of the Assembly.

(3) Failure to comply with the provisions of this section shall constitute an offence punishable in accordance with the provisions of section 66 of this Act.

38. Authority to Borrow and to Accept Grants.

Pursuant to the provisions of the Constitution and the provisions of section 40 below, the authority to borrow, to issue guarantees and to receive grants for, and on behalf of, the Government shall vest exclusively in the Ministry, after the approval of the Council of Ministers and no other person, public agency or State Government shall raise any loan or issue any guarantee, or take any other action which may in any way either directly or indirectly result in a liability being incurred by the Government without the approval of the Ministry.

39. Terms of Foreign Borrowing.

Subject to the provisions of the Constitution, the Government shall only borrow and/or guarantee foreign loans that are on strictly concessional terms, as may be defined by the regulation issued under the provisions of this Act.

40. Loan Proceeds to be Part of the Consolidated Fund.

Any monies received in respect of a loan shall be paid into the Consolidated Fund and shall be reflected as a resource in the budget of the financial year in which it is received. Any expenditure financed by a loan that has been paid into the Consolidated Fund shall be reflected as expenditure in the budget of the Financial Year in which it is spent.

41. Loan Proceeds to Follow Procurement Procedures and Rules.

Where applicable, loan proceeds shall be utilized in accordance with the Government procurement applicable law to public procurement.

42. Debt Service.

(1) All debt service shall be a charge on the Consolidated Fund and shall be incorporated in the budget resource estimate of the financial year in which it falls due, as a draw down on Government resources.

(2) Debt servicing shall be prioritized over new budgetary commitments within the annual budget resource and expenditure estimates.

43. Borrowing Limits.

Subject to the powers of the Assembly set forth in the Constitution, limits shall apply to the total indebtedness of the Government. The total gross debt stock of the Government shall not exceed,

(1) Twenty percent (20%) of the Gross Domestic Product of South Sudan; and
(2) The ratio of total annual debt service including both interest and principal repayments to domestic revenue of the Government shall not exceed 5%.

44. Authority to Guarantee Loans and Contracts.

Where the Ministry is satisfied that it is in the public interest, it may, with the approval of the Council of Ministers and the Assembly, and on behalf of the Government, guarantee the repayment of a loan or contract raised either within or outside South Sudan, subject to the eligibility criteria stipulated under the provisions of section 45 of this Act.

45. Eligibility for Guarantees.

Only Public Enterprises or Public Corporations that receive more than fifty (50%) percent of their entire budget from Public Funds shall be eligible for guarantee by the Government. Such guarantees shall be treated as a contingent liability on the Budget of the Government. No other entity, public or otherwise, shall be eligible for a loan or contract guarantee from the Government under the Provisions of this Act.

46. Lending and On-lending.

(1) On-lending of foreign loans and grants to Public Enterprises or Public Corporations shall be on commercial terms, and shall be authorized by the act and or the resolution of the Assembly.

(2) In the event that the Government lends or grants its own resources to Public Enterprises or Public Corporations, all such allocations shall be included in the Budget. All On-lending of Government's own resources to Public Enterprises or Public Corporations shall be on commercial terms and shall be authorized by the act and or the resolution of the Assembly.

(3) Any Public Enterprise or Public Corporation which lends out funds to the public or to private companies which have been granted, lent or on-lent from Government shall be on commercial terms.

(4) Lending of Government's own resources to private enterprises and On-lending of foreign loans shall be on commercial terms, only after sufficient security has been obtained by the Government and shall be authorized by the act and or the resolution of the Assembly.

47. Debt Management.

(1) The responsibility for management of the debts of the Government shall lie with the Ministry.

(2) The Undersecretary of the Ministry shall cause a centralized system of debt recording to be established and maintained within the Ministry, which details all outstanding debt stock and debt service obligations of the Government.

48. Reports on Loans and Grants.

(1) The Minister shall at the time of submitting the Budget present to the Assembly information relating to the total indebtedness of the Government indicating:-

(a) utilization and performance of each loan including the progress of achievement of the intended targets and objectives;
(b) total principal disbursed and outstanding by creditor;
(c) provision made for servicing or repayment of each loan by principal and interest; and
(d) arrears, if any, by creditor, principal and interest, and any other matters deemed appropriate

(2) The Minister shall at any time before the 15th day of June in each financial year present to the Assembly information relating to the total sum of grants given to the Government indicating the utilization and performance of each grant including the progress of achievement of the intended targets and objectives

(3) The Minister shall at any time before the 15th day of June in each financial year present to the Assembly information relating to the guarantee of loans, lent or on-lent funds to Agencies, States, public or private enterprises.

Chapter VII

Accountability, Preparation, Audit and Examination of Accounts

49. Public Availability of Information.

(1) The budget proposal shall be made available to the public immediately after the submission to the Assembly. The Approved Budget shall also be made available to the public within thirty (30) days after approval by the Assembly.

(2) The Minister shall, under the provisions of section 32 above, make interim quarterly expenditure reports to the Assembly within thirty (30) days of the stated period. Such reports shall be made publicly available immediately after their submission to the Assembly.

(3) The Ministry shall make publicly available an annual report, including details of past, current, and projected fiscal activity, major fiscal risks, Government's debt, significant financial and natural resource assets and non-debt liabilities, and contingent liabilities. It shall also include clear explanation of the main proposals and economic background to the budget. Revenue, expenditure, and financing shall be reported on a gross basis, and expenditure classified by economic, functional, and administrative category. The format for reporting shall be detailed in the regulations.

50. Preparation of Accounts.

(1) Any Public Officer administering the accounts of any Ministry, Agency, or Public Enterprise or Corporation shall by the end September of the subsequence Financial Year prepare, sign and shall submit to the Director General of Accounts with a copy to the Auditor General the annual accounts report in accordance with the content and classification of the Budget. The Director General shall prepare the final annual account of the budget and submit it to the Auditor-General no later than four months after the end of the Financial Year.

(2) Any Public Officer administering the accounts of any State shall, by the end of third month of the subsequence fiscal year prepare, sign and submit to the Auditor-General, with a copy transmitted to the Ministry, all final annual accounts reports, in the manner the Ministry may from time to time direct.

(3) All final annual accounts submitted under the provisions of this section shall comply with the regulations, which shall be in accordance with international public sector accounting standards and best practices.

(4) The final annual accounts prepared shall identify any significant departures from the accepted accounting practice and instructed in the regulations and shall state the reasons for such departures.

(5) The final annual accounts prepared shall state the basis of accounting used in their preparation.

(6) The final annual accounts prepared shall include an assets registry in each Ministry, Agency, State, Public Enterprise or Public Corporation. The asset registry shall indicate the status and location of title for each Government asset.

51. Role of Accounting Officer.

(1) The accounting officer in each Ministry, Agency or State shall control and be personally accountable to the Ministry for the regularity and propriety of the expenditure of money.

(2) The Accounting Officer in each Ministry, Agency or State shall be responsible for all funds or any other property under his or her authority or and for all resources received, held or disposed of, by or on account of that Ministry, Agency or State.

(3) In the exercise of such duties, the Accounting Officer shall ensure that adequate control is exercised over the incurring of commitments; that effective systems of internal control and internal audit are applied in respect of all transactions and resources under the control thereof.

(4) The Accounting Officer shall, if required by any regulations, instructions or directives issued under the provisions of this Act, state in writing the extent to which the powers conferred and duties imposed thereupon, may be exercised or performed on his or her behalf by any public officer under his or her control, and shall give such directives as may be necessary to ensure the proper exercise or performance of such powers and duties. Any delegation of powers and duties by the Accounting Officer shall not affect the personal accountability of the Accounting Officer.

(5) The Accounting Officer shall establish and maintain a record and produce accounts of all financial transactions under his or her jurisdiction and follow all accounting instructions as may be issued by the Ministry.

52. Role of Auditor General.

Without prejudice to the provisions of the *Southern Sudan Audit Chamber Act 2011* the Auditor General shall perform and exercise the following responsibility and duties

(1) On receiving the accounts of National government, a State Government or a Local Government, the Auditor-General shall cause them to be examined and audited and shall, not later than six months or such period as the Assembly or State Assembly may by resolution set, after the end of the financial year to which the accounts relate, render an opinion on whether those accounts show a true and fair view of the financial position of National government or State government or Local government as the case may be.

(2) The Auditor-General shall within the period specified in subsection (1) above, submit his/her report to the President and the Assembly or the Governor and the State Assembly and the Council of States or the County Commissioner and the County Council as the case may be.

(3) The Auditor-General may, at any time, if it appears to him or her desirable, submit to the Assembly, the President and to the Minister a special report on any matter incidental to his or her powers and duties. The President, or the Assembly or the Minister may also, at any time request the Auditor-General to make a special report on any matter incidental to his or her powers and duties.

(4) The Auditor-General may, at any time, if it appears to him or her desirable submit to the Governor, the State Assembly and to the State Minister a special report on any matter incidental to his or her powers and duties. The Governor, the State Assembly, or Council of States or the State Minister may also, at any time request the Auditor-General to make a special report on any matter incident to his or her powers and duties.

(5) The Auditor-General may, at any time, if it appears to him or her desirable, submit to the President, the Assembly and to the Head of Commission or Public Institution or Public Enterprise a special report on any matter incidental to his or her powers and duties. The President or the Assembly or the Head of Commission or Public Corporation or Public Institution or Public Enterprise may

also at any time request the Auditor-General to make a special report on any matter incidental to his or her powers and duties.

53. Role of the Director General of Accounts.

(1) The Director General for Accounts shall be responsible for the compilation and management of the accounts of the Government, the custody and safety of public money and all the resources of the Government.

(2) The Director General of Accounts shall issue general instructions to officers under him or her consistent with the provisions of this Act, or any regulations or instructions issued thereof.

(3) The Director General of Accounts shall specify the basis of the accounting system to be adopted and the classification system to be used and ensure that an appropriate system of accounts is established in each Government Ministry, Agency, State or reporting unit.

(4) The Director General of Accounts shall ensure that all money received and paid by the Government is brought promptly and properly to account.

(5) The Director General of Accounts shall ensure that there is a sound system of internal control in every Government Ministry, Agency, State or reporting unit required to produce accounts.

54. Additional Duties of the Director General of Accounts.

(1) The Director General of Accounts or an officer under him or her may refuse payment on any request which is wrong or deficient in content, or which contravenes the provisions of this Act, any regulations made there-under, directives or instructions lawfully issued under this Act or any other applicable law for the management of public money or that is in any other way unacceptable in support of a charge on public funds.

(2) The Director General of Accounts shall report to the Undersecretary of the Ministry in writing any apparent defect in departmental control of revenue, expenditure, cash, assets and other property of the Government and any breach or nonobservance of any regulations directives or instructions which may come or be brought to his or her attention.

(3) The Director General of Accounts shall ensure, as far as practicable, that adequate custody exist for the safe custody of public money, property, securities and accountable document.

(4) The Director General of Accounts may inspect all offices of Government with respect to the public Finance Management and Accountability and shall given access at all times to those offices.

(5) Without prejudice to the role and duties of the Director General of Accounts referred there-under the provisions of subsections above, the roles and duties

of the Director General of Internal Audit and Supervisions and the Director General of Budget and Revenue with respect to the accountability, audit and examination of accounts may be determined in the regulations to be issued in accordance with the provisions of this Act.

55. Role of the Assembly in the Examination of Accounts.

(1) The Assembly shall examine the reports prepared by the Auditor-General as a result of his or her examinations, enquiries and investigations of public finances.

(2) The Assembly shall recommend corrective and legal actions to be taken by the Government and or the Ministry as the case may be to ensure proper use of public resources including;
(a) seizing of assets of Public Officers who have caused loss;
(b) Institution of legal proceedings against the public officer involved; and
(c) Termination of employment.

(3) In accordance with the *Constituency Development Fund Act, 2007,* The Chief Executive Officer (CEO) of Southern Sudan Committee of the CDF shall give full accountability for all the Constituency Development Funds indicating the targets and results arising from the use of the Funds, which shall be subject to audit by the Auditor General.

Chapter VIII

Procedures Governing Transfers to State Governments

56. Allocations to State Governments.

(1) The Government shall allocate resources from its budget to State and Local Governments each Financial Year in form of conditional, unconditional, matching or equalization grants.

(2) The allocation to each State and Local Government shall be formula-driven, taking into account the population and financial resources of the State, and any other indicators determined by the South Sudan Fiscal and Financial Allocation and Monitoring Commission in collaboration with the Ministry.

57. Grants to the State Government.

(1) The unconditional grant shall be the minimum allocation that shall be allocated to each State to run basic administrative and social services. The unconditional grant shall be transferred automatically to the State Ministry of Finance by the Ministry. The State Ministry of Finance shall be responsible for accounting all expenditures of the Grant to the Ministry.

(2) The conditional grant shall consist of funds given to States to finance programs agreed upon between the Government and the States and shall be

utilized only for the purposes for which it was made and in accordance with conditions agreed upon.

(3) The conditional grant shall be transferred directly to the State Ministry of Finance by the Ministry, in accordance with the Appropriation of the Government Spending Agency under whose budget it falls. The State Ministry of Finance shall transfer the funds to the recipient State Ministry to spend in accordance with conditions of the grant as stipulated in the regulations. The State Ministry of Finance shall be responsible for accounting of all expenditure of the grant to the Ministry. The recipient State Ministry shall report on the utilization of the grant to the Government Spending Agency under whose budget it falls.

(4) The equalization grant may be given to States for making provision for the least developed States and shall be based on the degree to which the State is below the average standard for a particular service.

(5) The Government shall not extend any form of loan or financial guarantee to State Governments, nor extend advances or make pre-payments from their allocated grants.

58. Accountability by the States.

(1) States shall submit regular reports to the Ministry in form of interim accountability reports for the transfers received as determined by the Assembly, the provisions of this Act and the regulations.

(2) The States shall produce accounts within three (3) months after the close of the fiscal year. The said accounts shall indicate all the sources of revenue available and a record of all the expenditures incurred to the State.

(3) The said accounts shall be submitted for audit by the Auditor-General by the end of the third month of the States' fiscal year.

(4) States which do not provide interim accountabilities within the stated time frame shall not be allocated and or granted any further disbursement of funds from the Government, until such time when satisfactory accountabilities are received.

59. State Treasuries.

(1) State Governments shall have authority over their financial management and shall report to their respective state legislatives Assemblies on regular basis and the Assembly may decide in conformity with the sound financial and accounting procedures and regulations issued under the provisions of this Act and or any state applicable law.

(2) The Accounting Officer of the State Ministry of Finance in each State shall control and be personally accountable to the State Assembly for the regularity and propriety of the expenditure.

(3) The Accounting Officer of the State Ministry of Finance in each State shall be responsible for all funds or any other property under his or her authority or and for all resources received, held or disposed off, by or on account of that State.

(4) The Accounting Officer of the State Ministry of Finance in each State shall ensure that adequate control is exercised over the incurring of commitments; that effective systems of internal control and internal audit are applied in respect of all transactions and resources under his or her control.

(5) The Accounting Officer of the State Ministry of Finance in each State, if required by any regulations, instructions or directives issued under the provisions of this Act, shall state in writing the extent to which the powers conferred and duties imposed upon him or her may be exercised or performed on his or her behalf by any Public Officer under his or her control and shall give such directives as may be necessary to ensure the proper exercise or performance of those powers, functions and duties. Any delegation of the powers, functions and duties of the Accounting Officer shall not affect the personal accountability of the Accounting Officer.

(6) The Accounting Officer of the State Ministry of Finance in each State shall, establish and maintain records and produce accounts of all financial transactions under his or her jurisdiction and apply all accounting instructions issued by the Ministry.

Chapter IX

Miscellaneous Provisions

60. Accounting Procedures, Standards, Fiscal Accountability and Public Availability of Information.

(1) All levels of government in South Sudan shall comply with international public sector accounting standards, best practices and fiscal accountability to ensure that Public Funds are allocated and expended in accordance with the budget of the respective level of government.

(2) All levels of government in South Sudan shall hold all income and revenue received in public accounts and subject to public scrutiny and accountability.

61. Management of the Donor Funding.

(1) All Spending Agencies shall fully disclose to the Ministry information related to donor funding. The details relating to the management of donor funding, including guidelines, for the manner, thresholds and regularity of reporting by Spending Agencies, Donors and NGOs, shall be provided for in the regulations.

(2) Two categories of donor funding covering both grants and loans, are established:

(a) Donor funding to the Government that forms part of the annual budget appropriation and is managed in accordance with the provisions of this Act and;
(b) Donor funding to the Government that does not form part of the annual budget appropriation.

62. Reserves.

(1) Reserves shall be accumulated to finance future expenditure obligations of the Government, as specified by the Minister on behalf of the President. Accumulation of reserve funds shall be approved by the Assembly as part of the annual budget appropriation.

(2) Government funds may only be invested in:
(a) an interest-bearing current account at the Bank;
(b) a time deposit at the Bank; and
(c) liquid freely convertable currency government debt securities

(3) Every Authorised Investment shall be held in a separately segregated trust account or held under a third party custodial agreement in the name of or for the benefit of the Government.

(4) Accountability for reserve investment and an audit report shall be given by the Minister to the Council of Ministers. This report shall be presented to the Assembly on an annual basis.

(5) Any drawdown on reserves to finance expenditure obligations of the Government shall be approved by the Assembly as part of the annual budget appropriation. During the Financial Year, reserves shall not be drawn down beyond the levels approved by the Assembly in the Appropriation Act**,** or any subsequent Supplementary Appropriation Act.

(6) The Bank shall prepare by 31st July each year the accounts for the preceding year on the total investment in the Bank and any other bank holding part of the investment. The Auditor General shall audit the accounts prepared by the Bank for reserve investment for the preceding year and the audit report shall be submitted not later than the 31st December to the Minister and the Assembly.

63. Bank Accounts.

(1) The banking arrangements of the Government shall reflect, to the extent possible, the principles of a treasury single account, in which all accounts of the Government are essentially managed as one from a cash point of view.

(2) No Government bank account, whether domestic or foreign, shall be opened without the prior written authorization of the Minister.

(3) The single treasury account of the Government shall be established in the Bank, into which all revenues shall be deposited and from which all payments may be made.

(4) The Minister may authorize the opening of additional bank accounts in the Bank and other accounts in domestic and foreign commercial banks, to act as transitory bank accounts to facilitate processing of payments. No Spending Agency shall have more than one operations account. The details relating to the management of these transitory accounts shall be provided in the regulations.

(5) The procedures for opening, closing, and operating government bank accounts shall be prescribed in the regulations. The Minister may also issue instructions and guidelines for operating bank accounts.

64. Currency.

(1) The Budget shall be made in the South Sudan Pounds (SSP), the official legal tender in use.

(2) Any payments made or received shall be made in the official legal tender in use, referred there-under the provisions of subsection (1) above.

65. Offences.

(1) A person commits an offence if he or she does not remit or fails to provide by the due date, any information the Ministry or the Auditor-General may reasonably require or fails to provide, or willfully obstructs access to the item required.

(2) A person commits an offence if he or she opens or causes to be opened any bank account for public or official use without the permission and or the authorization of the Ministry.

(3) A person commits an offence if he or she interferes with or exerts undue influence on any officer or employee of the Auditor-General, or on any person authorized by the Auditor-General to perform functions under the provisions of this Act.

(4) An Accounting Officer commits an offence if without reasonable excuse fails to comply with any financial regulations or instructions, or fails to execute functions and duties imposed upon him or her under the provisions of this Act or any other law.

66. Penalties and Surcharges

(1) Whoever commits an offence under the provisions of this Act, and in addition to any penalty provided under any applicable law, shall upon conviction be liable to a fine not exceeding Fifty Thousand South Sudan Pounds (50,000 SSP), or imprisonment for a period not exceeding ten years, or with both.

(2) Where a loss or damage to public property occurs while the property was in the care of a Public Officer, and the Minister is satisfied after due enquiry, that the negligence or misconduct of the Public Officer caused or contributed to the loss, the amount of the loss or deficiency; the value of the property lost or destroyed; or the cost of replacing or repairing the damage to that property, as the case may be, shall be a debt due to the Government, and shall be recovered from the Public Officer either administratively or through the court of competent jurisdiction.

(3) Where the negligence or misconduct of a Public Officer is not the sole cause of any loss, deficiency or destruction resulting in an action under subsection (2) above, the amount recoverable from the Public Officer may be restricted to only the actual cost of replacing or repairing the loss, deficiency, damage or destruction that the Minister considers, after due enquiry, just and equitable, having regard to the contribution made by the Public Officer to that loss, deficiency, damage or destruction.

67. Supremacy of the Act.

In the event of any conflict in the interpretation and or implementation of the provisions of this Act with any other applicable law, the provisions of this Act shall prevail thereof.

68. Regulation.

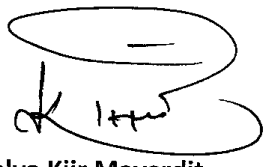
(1) The Minister shall make such rules, regulations and procedures as may be appropriate and necessary for the effective and efficient implementation of the provisions of this Act.

(2) Without prejudice to provisions of sub-section (1) above, the State Ministries of Finance and or Governments may make such other regulations consistent with the principles envisaged under the provisions of this Act for the management of public finance.

Assent of the President of the Republic of South Sudan

In accordance with the provision of Article 85 (1) of the Transitional Constitution of the Republic of South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Public Financial Management and Accountability Act, 2011 and sign it into law.

Signed under my hands in Juba, this 23rd day of the month of DEC. in the year, 2011.



Gen. Salva Kiir Mayardit
President
Republic of South Sudan
RSS/Juba