



REPUBLIC OF SOUTH SUDAN

**COUNCIL OF STATES**

JUBA



OFFICE OF THE CLERK

Date: Wednesday 21.04.2021

CBC Extra-Ordinary Meeting No.03

Venue: CS Meeting Hall

Time: 10:30 am

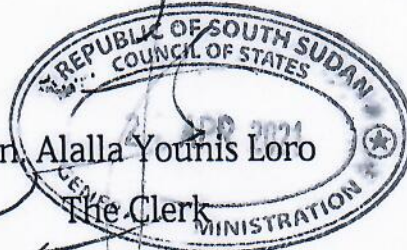
Agenda

1. Prayers
2. Communication from the Chair
3. Ad-hoc Committee Submission on the Report of the Auditor General; RSS on the Accounts of 2% & 3% share of the Net Oil Revenue of the Oil Producing States/Administrative Areas & Communities to be presented by Hon. James Magok Ater (Acting Chairperson of Finance & Economic Development Committee).
4. AOB
5. Announcement(s) by the Clerk, CS.

Hon. Alalla Younis Loro

The Clerk

Council of States



COUNCIL OF STATES

19<sup>th</sup> April, 2021

Rt Hon. Mary Ayen Majok

Acting /Speaker of Council of States

Subject: Council of States Ad hoc Committee's Submission on the Report of the Auditor General, RSS on the Audit of the Accounts of 2% & 3% Share of Net Oil Revenue of the Oil Producing States/Administrative Areas and Communities

Madam Speaker,

The Ad hoc Committee is privileged to have been assigned this crucial task that would help improve the lives of our people in the Oil Producing Areas, and cause delivery of quality service in the concerned States and Administrative Areas should it address the challenges facing implementation of the allocation, transfers and management of the 2% & 3% Share of Net Oil Revenue for the Oil Producing States/Administrative Areas and Communities. To this, I hereby present to your esteemed office Submission of the Committee regarding the aforesaid subject. The Submission is comprised of an Introduction, Objectives of the task, Main body of the Submission, and Conclusion.

On behalf of the Committee's Members, I now put this submission before your esteemed office for perusal, consideration and appropriate guidance. Please, accept the assurances of my highest regards and consideration.  
Yours Sincerely

  
Hon. James Magok Ater

Chairperson, Ad hoc Committee to Study and analyze Report of the Auditor General,  
RSS on the 2% & 3% Share of Net Oil Revenue of Oil Producing  
States/Administrative Areas and Communities

Council of State  
RSS/Juba

I. Han. clerk,  
Kindly facilitate  
arrangements  
for submission  
before the CBC.  
19.4.21  
A. K. K. K.  
Acting Clerk

## 1. Introduction

To begin with, the Council of States (CS) Ad hoc Committee charged with studying and analyzing Report of the Auditor General, RSS on the Audit of the Accounts of 2% & 3% Share of the Net Oil Revenue of the Oil Producing States/ Administrative Areas and Communities was constituted vide Council of States Business Committee's (CBC) Resolution No. 05/2021 dated 25<sup>th</sup> March, 2021. The Committee is comprised of eight (8) Members headed by Hon. James Magok Ater, with the addition of the Rt. Hon. Mary Ayen Majok the Acting Speaker of Council of States in her capacity as the **Chair of Decentralized Governance and States Affairs Committee, and three national experts** . Full list of the Members is provided in Annex 1 for your perusal.

### 1.1 Terms of Reference (ToR)

The Committee's Terms of Reference include but are not limited to:

- a. Studying, analyzing and scrutinizing the Report for the purpose of coming up with additional findings and recommendations that would enable the relevant institutions overcome the challenges facing allocation, transfer and management of the 2% & 3% Share of the Net Oil Revenue for the Oil Producing States/Administrative Areas and Communities.
- b. How best can the money paid against the 2% & 3% Accounts held at the Bank of South Sudan to entities not stipulated in the Petroleum Revenue Management (PRM) Act, 2013 be recovered and subsequently paid to its rightful beneficiaries?
- c. Whether mechanisms are put in place that can hold the States/Administrative Areas and Communities accountable on the management of the 2% & 3% revenues?
- d. That, the Committee can co-opt other Members and expertise if deemed necessary.

### 1.2 Legal Mandate

Being cognizance of the broader competence of the South Sudan National Legislature, as provided for in **Article 55 (1)** of the Transitional Constitution, of the Republic of South Sudan (TCRSS) 2011 (as amended) summed up in: **Legislation, Oversight and Representation**, the Council of States (CS) is mandated vide the provision of **Article 59 (C)** of TCRSS, 2011 (as amended), to” **oversee national reconstruction,**

development, and equitable service delivery in the states”. Equally, the Petroleum Revenue Management (PRM) Act, 2013 mandates the (CS) to supervise implementation of the 2% & 3% Share of the Net Oil Revenue of the Oil Producing States/Administrative Areas and Communities. In particular, Section 29(2) of the PRM Act, 2013 requires that the National Ministry of Finance and Planning should transfer the 3% share of the Oil Producing Communities to their respective accounts of Community Development Committees (CDCs) with notification made to the Council of States of such transfer. Schedule B of the PRM Act, 2013 also requires that the Community Development Committee Coordination Forum (CDCCF) should submit to the Council of States quarterly reports on its work as well as the works of the (CDC). These provisions provide the Council of States with adequate ground to act to fulfill its mandate.

Therefore, the (CBC) directed the National Audit Chamber, RSS vide its Resolution No. 10/2020 dated 31<sup>st</sup> December, 2020 to audit the accounts designated for the 2% & 3% Share of Net Oil Revenue of the Oil Producing States/Administrative Areas and Communities held at the Bank of South Sudan as from 2011 to 2020, and that the Audit Team was directed to go down to Upper Nile and Unity States and Ruweng Administrative Area where the said revenues were expected to have been regularly transferred to. The Audit work in question is aimed at providing answers on how the funds in question have been managed.

### 1.3 Objectives

**Objectives of the Committee’s Task focus on fulfilling inter-alia, the following:**

- a. Whether the Audit Report’s objectives, findings and recommendations fulfilled the provisions of the CBC Resolution No. 10/2020 dated 31<sup>st</sup> December, 2020 pertaining to the subject under reference.
- b. Whether the Committee can add more findings and recommendations to the ones stated in the Report.

### 2. Methodology Used

The Committee used a number of ways to achieve its mandate. First, it reviewed the Audit Report submitted by the Auditor General to get a sense of its content and identify any gaps and come up with practical steps to implement its recommendations. The Committee then conducted reviews of relevant documents to

identify the gaps and come up with additional observations and recommendations. Some of the documents the Committee reviewed include annual budgets, fact finding report from the Council of States and policy research reports from the Sudd Institute and other research institutions which did similar works.

### **3. Findings**

Prior to coming up with observations/findings and recommendations, the Committee wants to shed light on the Scope of the Audit Team and its limitations, findings and recommendations.

#### **3.1 Scope of the Audit Team and its limitations**

The Auditor General, RSS made it categorically clear that the Report did not cover the period 2011 to 2013 because there was no legal framework enacted at the mentioned period to govern the allocation and transfer of 2% & 3% share of net oil revenue for oil producing states/Administrative Areas and communities. In addition the 2% & 3% Accounts for the Oil Producing States/Administrative Areas and Communities were not open at the time. Furthermore, the BSS could not provide the statements for the 2% & 3% petroleum Revenue of the producing States/and Communities for that period.

#### **3.2 Findings of the Audit Team**

The Audit Team found out that Ministry of Finance and Planning, RSS directed payments against the two Accounts to entities not stipulated in (PRM) Act, 2013 and without authorization of the relevant State Governors/Chief Administrator of Ruweng Administrative Area and Communities of the Oil Producing Areas.

The Audit Team also found out that, Ministry of Finance and Planning, opened the bank accounts for the 2% & 3% share of net oil revenue for producing states and communities on July, 25<sup>th</sup>, 2014 at the Bank of South Sudan. For 3% the Ministry of Finance and Planning deposited a total of \$60,140,773.50 to the producing communities' accounts at the Bank of South Sudan between 2014 and December, 2020. Of this \$ 59,569,501.19 has been withdrawn leaving a balance of \$ 571,238.93 as of December 16, 2020. Of the withdrawals made from 3% account, \$50, 763,047.22 has been made to non-beneficiaries (see table 2).

With regards to the 2% for producing states/Administrative Areas, a total of \$25,594,767.94 has been deposited to producing states/Administrative Areas' accounts

between 2014 and 2020 and \$ 24, 492,518.48 has been withdrawn as of December 16, 2014 to 2020. Of the withdrawals made from the 2% accounts, \$ 5,162,509.51 has been paid to non-beneficiaries (see table 1)

**Table (1) on 2% Account Deposits and withdrawals for the period 2014 to 2020**

Particulars	Financial Years	Total deposits/USD	Total withdrawals	Bank Balance	Payments to non-beneficiaries
Deposits	2014,2015,2017, 2019,2020	25,594,767.94	24,492,528.45	1,102,239.46	5,162,509.51

**Table (2) on 3% Account Deposits and withdrawals for the period 2014 to 2020**

Particulars	Financial Years	Total deposits/USD	Total withdrawals	Bank Balance	Payments to non-beneficiaries
Deposits	2014,2015,2017, 2019,2020	60,140,773.50	59,569,544.57	571,228.9	50,763,047.22

The Audit Team enumerated a number of Administrative Findings to include but not limited to:

- a. The liberty of the Ministry of Finance to disburse monies in the mentioned two accounts.
- b. The Audit Team could not access transfer supporting documents.
- c. Criterion or denominator for calculation of 2% & 3% is not clear.
- d. Accounts of Oil Producing States/Administrative Areas in BSS not availed.
- e. Transfers were not regularly done in accordance with the rule that stipulates transfers be effected not later than fifteen days of the ensuing month.

### 3.3.1 Recommendations from the Audit Team

The Auditor General, RSS came out with a number of recommendations, critical among them:

- a. Ministry of Finance must not direct Payments against the 2% & 3% Accounts once deposits have been made therein.
- b. The Ministry of Finance and Planning, RSS and BSS must not deny the Audit Team of the National Audit Chamber, RSS access to information, data, and documents. The two institutions should therefore avail the said missing documents and data for further audit verification. It's worth reminding here that, the office of the Auditor General, RSS has already provided our end with list of those missing vital information, data, and documents.
- c. Clarity is needed as to what criterion is used for calculating the 2% & 3% allocation. Section 29 of the PRM Act, 2013 stipulates that 2% & 3% should be out of the consolidated fund yet the same law states these funds should be out of Petroleum Revenue Account. Therefore,, clarity is needed on how the transfers have been made.
- d. CS and Ministry of Finance should ensure that the States/Administrative Areas and Communities Development Programs are approved by the respective State/Administrative Areas Assemblies and the County Legislative Councils of the Oil Producing Communities as stipulated in the law.
- e. Ministry of Finance and Planning, RSS should show how it proportionately distributes the 3% transfers to States and Ruweng Administrative Area and the Communities.
- f. CS to should request Ministry of Finance and Planning, RSS and BSS to disclose identities of persons, including real owners of Private Corporation who received payments against 2% & 3% accounts.
- g. Advice CS to use to legal and/or other measures to effect recovery of the **illegal payments and expropriations**.
- h. CS should share content of the Report with H.E the President of the Republic.

### **3.4 Opinion of the Auditor General, RSS**

The Auditor General, RSS made the following comments:

- a. There is no satisfactory evidence that Ministry of Finance and Planning, RSS fully complied with the (PRM)Act, 2013 in regards to allocation and transfers of 2% & 3% Share of the Net Oil Revenue to the Oil Producing States/Administrative Areas and Communities.

- b. The Auditor General, RSS was unable to express opinion on how money transferred to the States was utilized because records related to same were not examined by the Audit Team of the National Audit Chamber, RSS
- c. The Auditor General, RSS is of the opinion that the information, data, and explanations provided by the Ministry of Finance and Planning, and the BSS do not represent complete, reliable, true and fair record of the amounts and usage of the 2% & 3% share of the net oil revenue due to the oil producing states and Ruweng Administrative Area and the Oil Producing Communities for the period 2011 to 2020.

#### **4. Committee's Observations/findings, Recommendations and Conclusion**

The observations and findings and Recommendations of the Committee are based on the study, analysis and scrutiny of the Report. Care needs to be taken not to take such observations as an investigation on the Report. The observations should rather be taken as part of the process to put into uses the findings and recommendations of the Report.

##### **4.1 Accountability and funds recovery mechanisms**

In this Subsection, the Committee answers questions as outlined in the ToR about C. How best the money paid against the 2% 7 3% Accounts held at the Bank of South to entities not stipulated in the PRM, Act, 2013 be recovered and subsequently be paid to its rightful beneficiaries?

f. Whether mechanisms are put in place that can hold the States/Administrative Areas and Communities accountable on the management of 2% & 3% revenues?

##### **4.1.1 How the 2% & 3% funds lost can best be recovered**

The Committee looked at the under mentioned approach through which the 2% & 3% funds lost can be recovered as indicated hereunder:

1. To complete the auditing of the deposits made by the Auditor General, RSS by auditing the 2% & 3% accounts enabling us to know so far the deposits into these accounts since 2014. Other important aspects of this audit are to focus on the reasons behind disbursing the money to non-entities should be further investigated to close the chapter on the deposits and disbursing auditing.



Second, after the results of the comprehensive audits and with full knowledge of how much has been lost, the government should repay the lost money to the beneficiaries. This can happen through a number of means. It can be through a Presidential Decree outlining how the money should be repaid back to the beneficiaries or a Ministerial Order by the Minister of Finance and Planning doing the same or an agreement to or signed by the Communities, States/Administrative Areas and the government particularly involving the Finance and Planning , and Petroleum. Whichever route is taken, in paying back the money, the stakeholders, particularly the beneficiaries- the Communities and the States/Administrative Areas -must sit down with the government to negotiate the payment arrangements. For example, , should the money be paid at once, or should it be paid in installments and should this be how many installments and what duration? The terms of payment and mechanisms of management reached with the beneficiaries should then be reflected in an agreement to be signed with the beneficiaries.

Third, after the audit has been carried out, the Anti-corruption Commission should also create file and investigate the misuse of these public funds. While the investigation is going on, the government should proceed with paying back the Communities and the states/Administrative Areas. The individuals and business entities that have taken the money should not only be made to pay back the amount given to them, they should be investigated for possible corruption crime, including a possibility of bribery, as well as possibility of business and individual connections to the officials in charge of Ministry of Finance and Planning who paid them the money. It is also important to note that at the point, the committee does not make any assumption about any criminal act by any groups or individuals involved until full investigation is completed and the facts are fully known.

In conclusion, the Council of States should launch a comprehensive audit examining all aspects of the funds, pay back the beneficiaries and launch full investigation and prosecute those behind the malpractices should the investigation point out possible crimes. The Council of States should continue supervising completion of the comprehensive audit in question.

#### 4.1.2 Mechanisms to hold manage the funds and hold states/Administrative Areas and communities accountable

The committee examined whether mechanisms are put in place that can hold the States/Administrative Areas and Communities accountable on the management of the 2% & 3% revenues. In the (PRM), Act, 2013 there are several mechanisms that have been stipulated to manage the funds and to provide transparency and accountability. First, the communities are supposed to use three main institutions namely:

1. Community Development Committee (CDC) at each County to manage the use of 3%.
2. Community Development Committee Coordination Forum (CDCCF) at the level of the state/Administrative Area to supervise the performance of the CDC and report to the Council of States.
3. County Legislative Council (CLC) to establish the CDC and to approve development activities on which the 3% money should be spent.

The same also mandates four national institutions to provide mechanisms for managing the 2% & 3% funds as follows:

1. The Ministry of Finance and Planning -(1) includes the 2% and 3% of net oil revenue for communities and states/Administrative Areas in the annual budget-(2) disburses the money to the accounts of states/Administrative Areas and communities -(3) notifies the Council of States of such disbursements.
2. The Bank of South Sudan (BSS): hosts the accounts of 3% & 2% and make transfers to such accounts on instruction from the Ministry of Finance and Planning and also provides public updates on the inflow and outflow into these accounts. For example, it is required by the Public Financial Management and Accountability Act, 2011 to issue quarterly reports on the inflows and outflows into Petroleum Accounts and overall performance of the Petroleum Accounts.
3. The National Legislative Assembly allocates the 2% & 3% in the annual budget and provides oversight.
4. The Council of States receives notification on the transfers of 2% & 3% into the Communities and States/Administrative Areas' accounts as well as receiving quarterly reports from the (CDCCF) and provides oversight.

These mechanisms were designed for transparent and accountable management of 2% & 3% share of net oil revenues for producing States and Administrative Areas and Communities. However, they are not functioning effectively. For example, based on this audit report, the transfers to the states and communities have not been done properly by the Ministry of Finance and Planning. Some money has been transferred to individuals, institutions and companies not stated in the PRM, Act, 2013. The Council of States has not been notified. CDCs, CDCCFs and CLCs have not been properly formed according to the previous assessment carried out by the Sudd Institute, a South Sudan Think Tank. In fact, there are no CLCs in most petroleum producing and receiving Counties. Some CDCs formed so far were formed by the Governors instead of by the CLCs and the County Commissioners with participation of County stakeholders as stipulated in the PRM, Act, 2013. In addition, PRM, Act, 2013 has some gaps with regards to accountability mechanisms. For example, it is silent on the signatories for the Community Accounts and who to take action if the money has not been transferred, among others.

#### 4.1.3 Observations and additional findings of the Committee

After a thorough review and analysis of the Report, the Committee came out with the following observations/findings that:

- a. The Report of the Auditor General, RSS on the subject under discussion was objectively, professionally and technically tackled.
- b. The Audit Team of the National Audit Chamber, RSS has not gone down yet to the respective Oil Producing States/Administrative Areas and Communities to establish whether monies of the 2% & 3% Accounts reached the said Areas and were properly utilized as required by the (PRM) Act, 2013 in the concerned States/Ruweng Administrative development activities as required by CBC Resolution No. 10/2020 of 31<sup>st</sup> December, 2020.
- c. The Audit Team has not conclusively established the criterion used for allocating 2% & 3% monies to the Oil Producing States/Administrative Areas and Communities; the same applies to the proportionality used for fixing the revenues to the Oil Producing Communities in the said States and Ruweng Administrative Area, and Communities.

- d. The Council of States was not notified of the transfer made to the accounts of 2% & 3% opened at the BSS as required by the PRM, Act, 2013.
- e. The Audit Team has not mentioned as to why the 2% & 3% deposits of the years 2016 and 2018 were not reflected in the Report.
- f. Even though the Audit Team has reported lack of legal framework for the period of 2011 to 2013 as the reason for lack of transfers top producing states and communities; the Transitional Constitution, 2011 (as amended) provides a legal mandate to allocate 2% to producing States/Administrative Areas & 3% to producing communities as stated in Article 178(1& 2).The report has not mentioned as to what happened to the oil revenues of the period 2011 to 2013.
- g. There were extreme cases of huge disbursements paid against the 2% & 3% Share Net Oil Revenue to Oil Producing States/Administrative Areas and Communities to entities not mentioned in PRM, Act, 2013 and the Transitional Constitution, 2011 (as amended). Instead of transferring the monies as required by the Constitution and the PRM, Act, 2013, the report shows that the Ministry made transfers back to the Ministry of Finance and Planning, South Supreme Air line, Equity Bank to mention but a few.
- h. Our review of the approved budgets and out turns shows a total net oil revenue of \$11,785 (eleven billion, seven hundred and fifty five million United States Dollars) for the period 2011 to 2020
- i. In 2011 /2012 budget, total net oil revenues were 3,222(three billion, two hundred and twenty two million United States Dollars). About 65 million was supposed to be allocated to the producing states/Administrative Areas based on the formula of 2% and 97 million UD Dollars was supposed to be allocated to communities based on the 3% formula. However, they allocated 117 million US Dollars equivalent for both 3% & 25 shares of net oil revenues. . This was about 3. 6% falling short of the 5% requirement. For 2012/2013 budget, there was no allocation even though there was oil money on the budget that year, which was 126 million US Dollars equivalent. . If they had followed the law they could have allocated 4 million to communities and 3 million to the states in 2012/2013. In 2013/2014 fiscal year, the total allocation on the budget was 72 million US Dollars

equivalent for both 2% & 3% shares. If they had followed the law, the states would have received 49 million US Dollars and the communities would have received 73 million US Dollars based on the revenue generated in the fiscal year.

- j. Based on the above, the producing communities were supposed to receive \$ 354 (three hundred fifty four Million US Dollars) for 2011 to 2020 and producing states were supposed to receive \$236 (two hundred thirty six Million US Dollars) for the period 2011 to 2020.
- k. This shows the amount of 2% & 3% money deposited to the accounts in the BSS do not correspond to the amounts in the annual budget and outturns.
- l. While this provides a glimpse about the extent of revenue during this period, a full and comprehensive audit of the total net oil revenues during this period can provide more reliable figures.
- m. The Audit Team has not audited the Community Development Committee's Accounts and has not yet verified whether such accounts have been opened as by the respective communities and states/Administrative Areas.
- n. Anomalies have been cited as to the 2% & 3% Share of Net Oil Revenues allocated by Ministry of Finance to Oil Producing States/Administrative Areas and Communities when compared to calculation of same in the corresponding amounts provided in Fiscal Years Budgets.
- o. That Ministry of Finance and Planning, RSS and the BSS have both violated Article 32 of the Transitional Constitution, RSS 2011 (as amended) by denying the Audit Team access to information, data and documents to enable the latter carryout its assignment as directed by the Council of States.; and this can be construed to be an obstruction to its work stipulated in Section 41 (a& b) of the PRM, Act, 2013 read together with Article 186 (2) of our TCRSS, 2011 (as amended) that states "*The National Audit Chamber shall set auditing standards for the whole country and supervise the financial performance of all levels of government, including revenue collection and expenditure, in accordance with the budgets approved by their respective legislatures*".

Table (3) Net Oil Revenue Shares of Producing States and Communities 2011/2012—  
2019/2020 on Million US Dollars

	2011/2012	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/2020
Total net petroleum revenues	3,222	126	2,445	1,611	2,558	195	367	660	601
PPC's 3% share per the PRMA	97	4	73	48	77	6	11	20	18
Total Allocation for 3% and 2%	162	7	142	80	128	10	18	33	30
Actual transfers for 3% and % based on outturns	117	0	72	35	2	0.357			

#### 4.1.4 Committee's Recommendations

Considering the findings and recommendations in the Auditor General's Report and for the purpose of enriching the same, the Committee therefore recommends the following:

- a. Adopting recommendations in the Report of the Auditor General, RSS with slight amendment in No. 11. 1 to read "No payments other that transferred to the petroleum Producing States/*Administrative Areas* and for the purposes of the State /*Administrative Areas* Development Programs be made from this account by the Ministry of Finance and Planning, RSS without a written authorization from the concerned State Governor/*Chief Administrative Area*

and the *concerned* State/*Administrative Area*'s Minister of Finance, and the concerned Council Development Committee (CDC) with Council of States notified.

- b. Council of States should direct the relevant Ministry of Finance and Planning and Ministry of Petroleum to clearly establish the criterion (**denominator**) for allocating the 2% & 3% share of the Net oil revenue to oil producing States/Administrative Areas and Communities.
- c. That Oil Producing States/Administrative Areas, and Communities should have representatives at the oil production points to establish exact quantities of oil produced so as to help in turn fix exact the 2% & 3% share of net oil revenue.
- d. Council of States should direct the Ministry of Finance and Planning and Ministry of Petroleum to clarify the **proportionality** formula used for allocating 3% share to oil producing Communities.
- e. Council of States should take part in overseeing formation of the **Community Development Committee** Coordination Forum (CDCCF), and **Community Development Committee** (CDC), and County Legislative Councils (CLCs)
- f. Council of States should direct the Ministry of Justice and Constitutional Affairs and Anti-corruption Commission, RSS to investigate the 2% & 3% share of oil revenue of the oil producing State/Administrative Areas and Communities paid to entities not stipulated in the (PRM) Act, 2013.
- g. Council of States should direct Ministry of Finance and Planning, RSS to recover the 2% & 3% share of oil revenue of the Oil Producing States/Administrative Areas and Communities paid to entities not stipulated in the (PRM) Act, 2013 and pay same to its rightful beneficiaries.
- h. Council of States should direct Ministry of Finance and Planning, RSS not to overstep its powers by disbursing monies against 2% & 3% Accounts to entities not entitled to by the (PRM) Act, 2013.
- i. Council of States should direct the authorities of Ministry of Finance and Planning, RSS and the BSS to provide the missing information, data, and documents still under demand by the Audit Team to enable the latter accomplish its assignment.
- j. Council of States should direct Ministry of Finance and Planning, RSS to transfer the 2% & 3% share of the Net Oil Revenue to the Oil Producing

States/Administrative Areas and Communities not later than fifteen days of the ensuing month as provided for in PRM, Act, 2013 and Petroleum Act, 2012.

- k. Council of States should champion awareness raising campaigns to the Oil Producing States/Administrative Areas and Communities on the allocation, transfer and management of the 2% & 3% share of the Net Oil Revenue and related laws.
- l. Council of States should review gaps in the PRM, Act, 2013 and Petroleum Act, 2012 and other relevant laws.
- m. Council of States should request for a comprehensive audit of the accounts of 2% & 3% covering annual budget and outturns, Petroleum Revenue Account, Consolidated Account, monthly sales, oil production volumes, oil prices, and benchmarked process, among others.
- n. Council of States should request for the repayment of the 2% & 3% money owed to producing communities and states/Administrative Areas.
- o. Council of States should provide enough timeframe for such an audit and should give the Audit Chamber the flexibility to hire an external auditing firm and should provide resources to conduct such crucial exercise.

## 5. Conclusion

The Ministry of Finance and Planning has not fully complied with the TCRSS, 2011 (as amended), the Public Financial Management and Accountability (PFM-A) Act, 2011 and the Petroleum Revenue Management Act, 2013. The Bank of South Sudan has also not complied with the law by providing the public and institutions with outflow and inflow of the petroleum revenue as stipulated in the (PFM-A) Act, 2011. The Ministry of Finance and Planning has contravened some of these legal instruments by transferring the funds to non-beneficiaries, failing to transfer the money in some years as shown by lack of transfer in 2011, 2012, 2013, 2016, and 2018, and by failing to make full transfers in 2014, 2015, 2017 2029 and 2020.

In light of all the above, the Committee would want to sincerely acknowledge and appreciate the tremendous efforts exerted by the Auditor General of the National Audit Chamber, RSS Hon. Amb. Steven Kiona Wonda and his Audit Team headed



by Dr. Justin Valfrido Droko for objectively, professionally and technically tackling the matter before us. The Council of States further extends its profound appreciation to our two national experts Mr. Nhial Titmamer and Dr. Santino Ayuel Longar who made some invaluable inputs that enriched the submission

The Committee would also like to extend its word of thanks and appreciation to the Ministry of Finance and Planning, RSS and the Bank of South Sudan for the cooperation shown in tackling this subject, being represented in the persons of Hon. Minister Athian Diing Athian and Hon. Dier Tong Ngor the Governor of the BSS. However, Council of States would want to urge the two institutions to cooperate fully with the Audit Team of the National Audit Chamber, RSS by availing the latter the missing information, data, and documents still needed to enable the Team fully fulfill its assignment as planned.




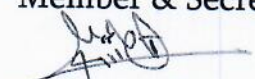
**Annexes:**

**Annex 1** List of the Committee's Members & National Experts

**Annex 2** List of Documents, Information, and data not yet availed to the Audit Team.

## COUNCIL OF STATES

### List of Ad hoc Committee Members to Study and Analyze Report of the Auditor General, RSS On the Accounts of 2% & 3% Share of Net Oil Revenue of the Oil Producing States/Administrative Areas & Communities

- |  |   |
|--|---|
| 1. Hon. James Magok Ater   | Chairperson    |
| 2. Hon. Dr. Constantine Jarvis Yak   | D/Chairperson  |
| 3. Hon. Mary Ayen Majok<br>As Chair of Decentralized Governance, and States' Affairs Committee | Co-opted Member   |
| 4. Hon. Anisia Achieng Karlo   | "   |
| 5. Hon. Kennedy Gain Gare  | "              |
| 6. Hon. Joseph Aban  | "   |
| 7. Hon. Nelson Lomata Lo-Nyika   | "   |
| 8. Hon. Alalla Younis Loro   | Member & Secretary  |
| 9. Hon. Kuot Maurel Adage  |               |
| 10. Dr. Santino Ayuel Longar   | National Expert   |
| 11. Mr. Nhial Titmamer   | National Expert   |



REPUBLIC OF SOUTH SUDAN  
NATIONAL AUDIT CHAMBER  
OFFICE OF THE AUDITOR GENERAL



RSS/NAC/CoS/J/1/16/2021

Head Office Juba

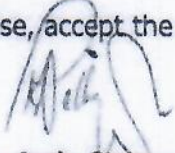
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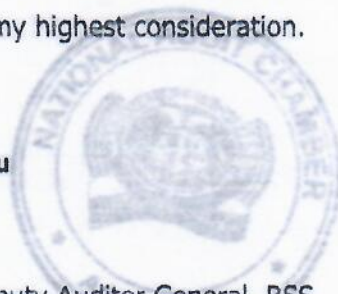
**Hon. Mary Ayen Majok**  
**Acting/Speaker of Council of States**  
**RSS-Juba**

**Subject: List of Documents, Information and Data not availed to the Audit Team.**

1. I refer to your letter Ref: RSS/CS/OS/29/2021 dated 29<sup>th</sup> March, 2021; regarding the above captioned subject matter.
2. Details of Documents related to Accounts No. 002-69210001096 and 002-69210001097 not availed to the Audit Team are:
  1. Payment requisition documents from the payee
  2. Letters of authorization to Transfers and pay from the Accounts from the Ministry of Finance and Planning
  3. Payment Orders from the Ministry of Finance and Planning
  4. List of Bank signatories from June 2014 to December 2020 from Ministry of Finance and Planning
  5. Debit and Credit Advices from the Bank of South Sudan
  6. Oil Producing States and Communities, Ruweng Administrative Area accounts numbers
3. Find enclosed list of documents for the 2% and 3% accounts not availed by the Ministry of Finance and Planning and the Bank of South Sudan to the audit team for review.
4. Regarding my request to respond to the August House in writing as to why the audit report did not include deposits into the 2% and 3% accounts in 2016 and 2018? The answer is that; the audit did not found any **deposits** from the Ministry of Finance and Planning into this accounts during 2016 and 2018.

Please, accept the assurance of my highest consideration.

  
**Hon. Amb. Steven Kilonia Wonda**  
**The Auditor General**  
**Republic of South Sudan**



Cc: Dr. Justin Valfrido Droko, Deputy Auditor General, RSS  
Cc: Hon. Allala Younis Loro, the Clerk Council of State, RSS  
Cc: Director, State Audit, NAC  
Cc: Lead Auditor, NAC

**LIST OF UNSUPPORTED PAYMENTS FROM 3% ACCOUNT NO. 00269210001097**

Transfer/EPF Date	Transaction	Cheque No.	Withdrawal in USD	Name of A/C No.	Payment Reason	Remarks
Jan-12-2016	PTOR-AMT TRANSFER BID MINISTRY OF FINANCE	201600719805	1,000.00	To MOFEP	Not specified	Supporting Document not availed
Jan-18-2016	PTOR-BEING AMT TRANSFER BID MINISTRY OF FINANCE	201600719821	882,437.00	To MOFEP RSB	Not specified	Supporting Document not availed
Mar-14-2016	PTOR TRANSFER AS PER MINISTRY OF FINANCE	201600720150	6,224,000.00	To MOFEP A/C NO. 005	Not specified	Supporting Document not availed
Jan-21-2016	PTOR TRANSFER BID MINISTRY OF FINANCE AS PER US GOV	201600719184	16,000.00	To A/C 024	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>6,093,737.00</b>			
Dec-20-2015	PTOR-FT SETTLEMENT DEBIT	201600720025	945,085.00	To Unity State in SSP	Not specified	Supporting Document not availed
Dec-20-2015	PTOR-FT SETTLEMENT DEBIT	201600720015	749,291.00	To Unity State in SSP	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>1,394,056.00</b>			
Jan-15-2015	PTOR-BEING AMT TRANSFER UNDER	201500606869	12,000.00	Unspecified receipt	Not specified	Supporting Document not availed
Mar-15-2015	PTOR-BEING AMT TRANSFER AS PER	201500607069	1,321.53	Unspecified receipt	Not specified	Supporting Document not availed
Apr-15-2015	PTOR-BEING AMT TRANSFER UNDER	201500607210	10,000.00	Unspecified receipt	Not specified	Supporting Document not availed
Apr-15-2015	PTOR-BEING AMT TRANSFER UNDER	201500607210	1,000,000.00	Unspecified receipt	Not specified	Supporting Document not availed
Apr-15-2015	PTOR-BEING AMT TRANSFER UNDER	201500607210	10,000.00	Unspecified receipt	Not specified	Supporting Document not availed
Jan-18-2016	PTOR-BEING AMT TRANSFER BID MINISTRY OF FINANCE	201600719821	852.44	Unspecified receipt	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>1,034,604.97</b>			
Dec-15-2015	PCLW FOREIGN CASH	2015	14,211.78	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Jan-15-2015	PCLW FOREIGN CASH (C)	2015	7,014,000.00	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Jan-15-2015	PCLW FOREIGN CASH	2015	45,067.60	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Jan-15-2015	PCLW FOREIGN CASH	2015	1,300.00	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Jan-15-2015	PCLW FOREIGN CASH	2015	1,580.00	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Dec-15-2015	PCLW FOREIGN CASH	2015	1,200.00	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
Jan-15-2016	PCLW FOREIGN CASH	2015	1,994.00	Paid by Foreign Cash to Unspecified receipt	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>7,580,115.38</b>			
Dec-15-2015	PCLW OHSIA MOSES BEDA	Not available	2,358,528.78	To Ohsia Moses Beda	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>2,358,528.78</b>			
Jan-15-2015	PCLW BONA ALITH ARIW 2015	Not available	30,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Jan-15-2015	PCLW BONA ALITH ARIW 2015	Not available	200,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Jan-15-2015	PCLW BONA ALITH ARIW 2015	Not available	200,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Aug-15-2015	PCLW BONA ALITH ARIW 2015	Not available	30,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Dec-15-2015	PCLW PAYMENT ORDER NO 46, 2015	Not available	300,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Dec-15-2015	PCLW PAYMENT ORDER NO 47, 2015	Not available	31,700.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Dec-15-2015	PCLW BONA ALITH ARIW 2015	Not available	100,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Jan-16-2015	PCLW BONA ALITH ARIW 2016	Not available	38,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
Jul-16-2016	PCLW PAID BONA ALITH ARIW 2016	Not available	304,000.00	To Bona Alith Ariw	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>1,269,650.00</b>			
Jul-28-2015	PCLW EMMANUEL IGIR MAYEN	0	36,000.00	To Emmanuel Igir Mayen	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>36,000.00</b>			
May-17-2015	PCLW THON ABRAHAM LUK MALUAL	0	50,000.00	To Thon Abraham Luk Malual		Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>50,000.00</b>			
Mar-15-2015	CAWD WILLIAM RUSI LUK	0	45,100.00	To William Rusi Luk	Not specified	Supporting Document not availed
Mar-15-2015	CAWD WILLIAM RUSI LUK	0	85,100.00	To William Rusi Luk	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>170,201.18</b>			
Jul-15-2015	CAWD JAMES DEING JOHN	0	170,201.18	To James Deing John	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>170,201.18</b>			
Dec-30-2015	PCLW MORIS YEL AKAI TIT		127,000.00	To Morris Yel Akai Tit	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>137,000.00</b>			
Jan-16-2016	PTOR BEING AMT TRANSFER BID MINISTRY OF FINANCE	201600719805	1,300,000.00	To Office of President	Not specified	Supporting Document not availed
	<b>SUB-TOTAL</b>		<b>1,300,000.00</b>			
	<b>GRAND - TOTAL</b>		<b>22,398,894.88</b>			



**LIST OF UNSUPPORTED PAYMENTS FROM 2% ACCOUNT NO. 00269210001096**

Transfer / EFF Date	Transaction	Cheque No.	Withdrawal	Name of A/C No.	Payment Reason	Remarks
Nov-23-2015	FCLW-PAID TO ANGELO BEDA	Not available	30,890.00	30,890.00 Paid to Angelo Beda	Not specified	Supporting Document not availed
	<b>SUB- TOTAL</b>		<b>30,890.00</b>			
Jan-20-2020	MPCD-BIOR TOR BIOR	Not available	150,000.00	Paid to Bior Tor Bior	Not specified	Supporting Document not availed
Jan-20-2020	PCWC-FORIRGN CASH WITHDERWAL	Not available	1,500.00	paid to Unspecified receiptent	Not specified	Supporting Document not availed
	<b>SUB- TOTAL</b>		<b>151,500.00</b>			
Dec-11-2020	FTDR-FT SETTLEMENT DEBIT	202000732021	1,102,276.16	To Unity State in SSP A/C	Not specified	Supporting Document not availed
	<b>SUB- TOTAL</b>		<b>1,102,276.16</b>			
Nov-27-2014	FTDR-BEING AMT TRANSFER UNDER	201400715555	4,309,493.82	To Upper Nil State	Not specified	Supporting Document not availed
	<b>SUB- TOTAL</b>		<b>4,309,493.82</b>			
	<b>GRAND- TOTAL</b>		<b>5,594,159.98</b>			

