

IN THE SECOND SESSION OF THE
SEVENTH PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA

REPORT OF THE COMMITTEE ON
CONSTITUTIONAL, LEGAL &
PARLIAMENTARY AFFAIRS

ON THE

ANNUAL BUDGET ESTIMATES OF THE
OFFICE OF THE SPECIAL PROSECUTOR
FOR THE 2019 FINANCIAL YEAR

DECEMBER 2018

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL,
LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANNUAL
BUDGET ESTIMATES OF THE OFFICE OF THE SPECIAL
PROSECUTOR FOR THE 2019 FINANCIAL YEAR**

1.0 INTRODUCTION

- 1.1 The Budget Statement and Economic Policy of the Government for the 2019 Financial Year was presented to Parliament by the Hon. Minister for Finance, Mr. Ken Ofori-Atta, on Wednesday, 15th November, 2018 in accordance with Article 179 of the Constitution.
- 1.2 Pursuant to Orders 140(4) and 179 of the Standing Orders of the House, the Annual Budget Estimates of the Office of the Special Prosecutor (OSP) were committed to the Committee on Constitutional, Legal & Parliamentary Affairs for consideration and report.

2.0 DELIBERATIONS

- 2.1 The Committee met with the Special Prosecutor, Mr. Martin Amidu, the Deputy Special Prosecutor, Ms. Cynthia Lamptey and other Officials of OSP to consider the referral. A Deputy Attorney-General and Deputy Minister for Justice, Hon. Joseph Dindiok Kpemka and Schedule Officers of the Ministry of Finance were in attendance to assist the Committee in the deliberations.
- 2.2 The Majority Leader, Hon. Osei Kyei-Mensah-Bonsu and Minority Leader, Hon. Haruna Iddrisu also attended the meeting to assist with the examination of the Estimates.
- 2.3 The Committee expresses its profound gratitude to the Hon. Leaders and the Officials for their attendance and for assisting in the deliberations.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during deliberations:

- i. The 1992 Constitution;
- ii. The Standing Orders of the Parliament;
- iii. The Office of Special Prosecutor Act, 2017 (Act 959); and
- iv. The Budget Statement and Economic Policy of the Government for the 2019 Financial Year.

4.0 POLICY OBJECTIVE OF THE OFFICE OF THE SPECIAL PROSECUTOR

The policy objective of the Office of the Special Prosecutor is to promote the fight against corruption, corruption-related offences and other offences arising out of or consequent to corruption and public procurement offences.

5.0 VISION OF THE OFFICE OF THE SPECIAL PROSECUTOR

The vision of the Office of the Special Prosecutor is to become a world class exemplary anti-corruption institution.

6.0 MISSION OF THE OFFICE OF THE SPECIAL PROSECUTOR

The mission is to investigate and prosecute alleged corruption or suspected corruption-related offences; to recover the proceeds of corruption and corruption-related offences, and take steps to prevent corruption to the end that it promotes good governance, transparency, accountability and probity in Ghana's constitutional governance.

7.0 CORE FUNCTIONS OF THE OFFICE OF THE SPECIAL PROSECUTOR

The core functions of the Office of the Special Prosecutor are to:

- i. investigate and prosecute cases of alleged or suspected corruption and corruption-related offences under the Public Procurement Act, 2003 (Act 663);
- ii. investigate and prosecute cases of alleged corruption and corruption-related offences under the Criminal Offences Act, 1960 (Act 29) and other relevant laws involving public officers, politically exposed persons and persons in the private sector involved in the commission of the offence;
- iii. recover and manage proceeds of corruption;
- iv. disseminate information gathered in the course of investigation to competent authorities;
- v. co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of its mandate;
- vi. receive and investigate complaints on matters involving corruption and corruption-related offences;
- vii. receive and act on referrals from investigations of alleged corruption and corruption-related offences by Parliament, the Auditor-General's Office, the Commission on Human Rights and Administrative Justice, the Economic and Organised Crime Office and other public bodies; and
- viii. perform other functions connected with its objects.

8.0 2018 EXPENDITURE PERFORMANCE OF THE OFFICE

8.1 The amount of **One Million Ghana Cedis (GH¢1,000,000.00)** was released to the Office of the Special Prosecutor to fund its activities for the year 2018. As at July 2018, an amount of **One Hundred and Fifty-Four Thousand, Two Hundred and Sixty-One Ghana Cedis, Eighty-Four Pesewas (GH¢154,261.84)** had been expended by the Office.

8.2 Again, the Ministry of Finance made available to the Office of the Special Prosecutor an amount of **Two Million, Seven Hundred and Ninety-One Thousand, Two Hundred and Fourteen**

Ghana Cedis (GH¢2,791,214.00) upon a request by the Office to meet critical capital expenses. The amount however could not be assessed because the OSP had not yet been set up on the GIFMIS platform and its Entity Tender Committee had also not been put in place.

9.0 KEY ACHIEVEMENTS BY THE OFFICE OF THE SPECIAL PROSECUTOR IN 2018

In 2018, the Office of the Special Prosecutor achieved the following key achievements:

- i. Set up its temporary office at Labone, Accra;
- ii. Carried out some joint investigatory operations with other law enforcement agencies including the Economic and Organised Crime Office (EOCO); and
- iii. Assisted with the drafting of legislative instruments, i.e. the Operational and Administrative Regulations of the Office of the Special Prosecutor.

10.0 OUTLOOK FOR 2019

For the Year 2019, the Office of the Special Prosecutor intends to undertake a number of activities under the following programmes:

10.1 Management and Administration

Under this programme, the Office intends to:

- i. co-ordinate the formulation of policies;
- ii. facilitate the implementation of the programmes of the Office by providing the appropriate administrative support services to all other budget programmes;
- iii. effectively and efficiently manage financial resources and timely annual reporting as contained in the new Public Financial Management Act, 2016 (Act 921);

- iv. facilitate training and development, recruitment and promotions, leave policy, welfare, discipline and job description;
- v. provide logistical support such as transport, estates, cleaning services, security, maintenance, stores management, and internal human resource management;
- vi. carry out regular maintenance of assets of the Office;
- vii. manage the administrative machinery and financial activities of the Office;
- viii. develop policies for the establishment and operation of Planning and Budgetary Units in all implementing agencies in the sector; and
- ix. Procure vehicles, office furniture, security and communication equipment, computers and other office equipment.

10.2 Anti-Corruption Management

Under this programme, the Office intends to pursue the following:

- i. investigate cases of alleged corruption and corruption related offences under the Criminal Offences Act, 1960 (Act 29) and other relevant law involving public officers, politically exposed persons and persons in the private sector involved in the commission of the offence;
- ii. receive and investigate complaints from persons on matters involving corruption and corruption-related offences;
- iii. recover proceeds of corruption;
- iv. take steps to prevent corruption; and
- v. receive and act on referrals of investigations of alleged corruption and corruption related offences by Parliament, the Auditor-General's Office, the Commission on Human Rights and Administrative Justice, the Economic and

Organised Crime Office and other public institutions (EOCO).

11.0 BUDGETARY REQUEST AND 2019 ANNUAL BUDGET ESTIMATES OF THE OFFICE OF THE SPECIAL PROSECUTOR

11.1 Budgetary Request submitted by the Office of the Special Prosecutor

The Office of the Special Prosecutor submitted a Budgetary requirement of **Two Hundred and Thirty-Nine Million Ghana Cedis (GH¢239,000,000.00)** to the Ministry of Finance for the implementation of its planned programmes for the 2019 Financial Year.

11.2 2019 Annual Budget Estimates of the Office of the Special Prosecutor

A sum of **One Hundred and Eighty Million, One Hundred and Sixty Thousand, Two Hundred and Thirty-One Ghana Cedis (GH¢180,160,231.00)** has been allocated the OSP for the execution of its planned programmes under the Year 2019. Details of the allocation are shown in the Table below:

Table: Details of the 2019 Annual Budget Estimates of the Office of the Special Prosecutor

| ECONOMIC CLASSIFICATION | 2019 ALLOCATION (GH¢) |
|--------------------------------|------------------------------|
| Compensation of Employees | 33,470,466.00 |
| Goods & Services | 88,013,859.00 |
| Capital Expenditure | 58,675,906.00 |
| Total | 180,160,231.00 |

12.0 OBSERVATIONS

The Committee made the following observations during its deliberations:

12.1 Expenditure Performance for 2018

The Committee observed that an amount of **GH¢2,791,214.00** was made available to the Ministry of Justice, for use by the Office of the Special Prosecutor in June 2018 to procure vehicles, furniture, computers, photocopier and other office equipment. The OSP could not however access the funds. In his response, the Deputy Attorney-General and Deputy Minister for Justice, stated that though the Ministry received a letter from the Ministry of Finance in that regard, the release could not be facilitated because the OSP had not then put in place the necessary procurement systems required for the release of the money by the Ministry of Finance. He further said that the amount had still not been released by the Ministry of Finance to the Ministry of Justice.

The Committee also noted zero performance under the Compensation Vote of the OSP, and as a result asked how the Staff of the Office were remunerated. The Committee was informed that, the Special Prosecutor and the Deputy Special Prosecutor were paid from the Office of the President while the seconded Staff continued to draw their salaries from their mother institutions. The Officials also informed the Committee that, part of the Goods and Service Vote for 2018 was used to pay allowances of the seconded Staff.

12.2 Operationalization of the OSP

The Committee observed that some notable activities were carried out pursuant to the operationalization of the Office in 2018. Among these activities were the appointment of the Special Prosecutor and the Deputy Special Prosecutor, the inauguration of the Governing Board and the securing of temporary office accommodation to provide a workspace for the OSP. The others included the secondment and training of thirteen (13) Staff to the Office, the drafting of the two (2) legislative instruments and laying of same in Parliament for enactment.

12.3 Compensation of Employees Vote for 2019

The Committee observed that provision has been made in the 2019 Budget of the OSP to recruit 249 new crop of Staff as part of the measures to fully operationalise the Office. However, the Committee discovered in the Budget Statement that, the Ministry of Finance has provided for a Staff ceiling of 12 designated for the OSP. When the Schedule Officers of the Ministry of Finance were queried, they indicated that, the ceiling was an obvious error because the number was inconsistent with the Compensation Vote of GH¢33,470,466.00 allocated to the OSP. The OSP disclosed to the Committee that the Office had written to the Ministry of Finance to get the error rectified.

12.4 Building a New work Culture for the Office of the Special Prosecutor

According to Officials of the OSP, the overriding policy of the Office is to build a new culture by recruiting a crop of new Staff with high moral standards to assist in the fight against corruption. They stated that they will recruit a set of Staff who have not been tainted by corrupt practices and proverbial public service attitude. They added that such new Staff would be equipped with robust and effective training, integrity, ethics, and high moral standards.

As part of the strategies for the recruitment, the Officials of the OSP revealed that, it would as a matter of urgency, engage the services of five divisional heads as specified under Act 959; comprising Finance and Administration, Investigations, Prosecutions, Asset Recovery and Management, and a new Special Operations Division which has been created by the Board. A recruitment drive would be earnestly pursued to attain an appreciable crop of specialist personnel to execute the programmes of the OSP.

12.5 Goods and Services Vote for 2019

For 2019, an amount of **Eighty Eight Million and Thirteen Thousand, Eight Hundred and Fifty-Nine Ghana Cedis (GH¢88,013,859.00)** has been allocated to the OSP to meet its Goods and Services expenses. As part of the planned activities

under this classification, the Office plans to educate the public about, corruption perception, provide training for Staff to instill integrity, ethics and high moral standards in the Staff of the OSP and to continue with specialized investigative training in the course of the Year 2019.

12.6 Capital Expenditure Vote for 2019

The Committee noted a provision for the amount of **Fifty Eight Million, Six Hundred and Seventy-Five Thousand, Nine Hundred and Six Ghana Cedis (GH¢58,675,906.00)** has been made under the Capital Expenditure Vote of the OSP for the acquisition of a purpose-built office facility, outfitting, procurement of special and general purpose vehicles, office furniture, computers and other office equipment, and modern security and communication equipment, among others.

12.7 Anti-Corruption Activities of the Office

Despite the numerous challenges faced by the OSP as a new institution, the Office of the Special Prosecutor commenced operational activities within the first year of its existence in 2018 by receiving thirty-five (35) complaints and is investigating same on matters alleging corruption and corruption related offences. The OSP also conducted one (1) joint investigation with the Economic and Organised Crime office (EOCO).

It was also gratifying to note that, the OSP plans to increase its operational activities in the Year 2019 towards achieving its objects. In 2019, the OSP projects to file forty (40) cases, investigate fifteen (15) of the cases and secure at least five (5) convictions. The Office has again estimated to achieve 60% recovery rate out of the received cases on recovery and further secure two (2) confiscations of assets procured with proceeds from corruption and corruption related offences.

13.0 CONCLUSION AND RECOMMENDATION

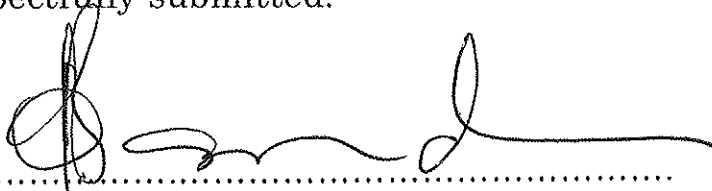
In considering the Annual Budget Estimates, the Committee was mindful of the special needs of the new Office of the Special Prosecutor and the urgent need to support the Office to become fully operational in the Year 2019.

The Committee also endorses the decision of the OSP to build a world class anti-corruption institution with a new culture and new Staff with high moral standards as the surest way to winning the fight against the menace of corruption.

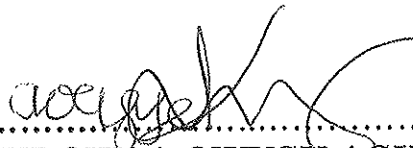
To achieve the above, the Committee believes that the OSP will require enhanced funding in 2019 and beyond if we are to win the fight against the canker of corruption and to improve Ghana's Corruption Perception Index ranking, and to promote good governance and sustainable development.

In this regard, the Committee recommends to the House to adopt its Report and approve the sum of sum of **One Hundred and Eighty Million, One Hundred and Sixty Thousand, Two Hundred and Thirty-One Ghana Cedis (GH¢180,160,231.00)** for the activities of the Office of the Special Prosecutor for the 2019 Financial Year.

Respectfully submitted.



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HON. BEN ABDALLAH BANDA
(CHAIRMAN, COMMITTEE ON CONSTITUTIONAL,
LEGAL AND PARLIAMENTARY AFFAIRS)



.....
AKUA DUROWAA OWUSU AGYEKUM (MRS.)
(CLERK TO THE COMMITTEE)

DECEMBER 2018