

**IN THE THIRD 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 2020 FINANCIAL YEAR**

DECEMBER 2019

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL,
LEGAL AND PARLIAMENTARY AFFAIRS ON THE ANNUAL
BUDGET ESTIMATES OF THE OFFICE OF THE SPECIAL
PROSECUTOR FOR THE 2020 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, 13th November, 2019 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

The Committee met with the Special Prosecutor, Mr. Martin Amidu, the Deputy Special Prosecutor, Ms. Cynthia Lamptey and Officials of the Office of the Special Prosecutor (OSP). Officials of the Ministry of Finance were in attendance to assist in the deliberations.

The Committee expresses its gratitude to the Special Prosecutor, the Deputy Special prosecutor and the Officials for assisting in its 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 of Ghana for the 2020 Financial Year.

4.0 VISION OF THE OSP

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

5.0 MISSION OF THE OSP

The mission is to investigate and prosecute alleged corruption or 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 towards the Constitution's preamble aspirations.

6.0 CORE FUNCTIONS OF THE OSP

The OSP is mandated by law to perform the following functions:

- i. To investigate and prosecute cases of alleged corruption or corruption-related offences under the Public Procurement Act, 2003 (Act 663);
- ii. To 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. To recover and manage proceeds of corruption;
- iv. To disseminate information gathered in the course of investigation to competent authorities;

- v. To co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of its mandate;
- vi. To receive and investigate complaints on matters involving corruption and corruption-related offences;
- vii. To receive and act on referrals on investigations of alleged corruption and corruption-related offences from Parliament, the Auditor-General, Commission on Human Rights and Administrative Justice, Economic and Organised Crime Office (EOCO) and other public bodies; and
- viii. To perform other functions connected with the objects of the Office.

7.0 2019 EXPENDITURE TRENDS

- 7.1 **The sum of One Hundred and Eighty Million, One Hundred and Sixty Thousand, Two Hundred and Thirty-One Ghana Cedis (GH¢180,160,231.00) was allocated for the activities of the OSP for the year 2019. This amount comprised Compensation Vote of GH¢33,470,466.00, Goods and Services Vote of GH¢88,013,859.00 and Capital Expenditure vote of GH¢58,675,906.00.**
- 7.2 **As at the end of September 2019 only an amount of GH¢5,761,893.00 of the approved budget had been released to the OSP. Details of the releases are as shown in Table 1.**

Table 1: Details of Releases of the 2019 Approved Budget of the OSP as at the end of September 2019

Expenditure Item	2019 Approved Budget (GH¢)	Releases as at Sept. 2019 (GH¢)	Actual Exp. as at Sept. 2019 (GH¢)	Balance of the Released Funds as Sept. (GH¢)	Balance of Allocation against Actual Exp. (GH¢)
Compensation of Employees	33,470,466.00	0	0	0	33,470,466.00
Goods & Services	88,013,859.00	5,761,893.00	633,198.00	5,088,695.00	87,380,661.00
Capital Expenditure	58,675,906.00	0	0	0	58,675,906.00
Total	180,160,231.00	5,761,893.00	633,198.00	5,088,695.00	179,527,033.00

8.0 KEY ACHIEVEMENTS OF THE OSP IN 2019

Some of the achievements of the OSP in 2019 include:

- i. The conclusion of two (2) investigations and commencement of prosecution against eight (8) accused persons;
- ii. Received forty-six (46) complaints and petitions as at the end of October 2019 and referred them for investigations;
- iii. Collaborated effectively with relevant agencies to prevent corruption; and
- iv. Worked closely with the Audit Service through information and intelligence sharing and conduct of joint investigations.

9.0 OUTLOOK FOR 2020

In 2020 financial year, the Office of the Special Prosecutor intends to undertake a number of activities including:

9.1 Management and Administration

Under this programme, the Office intends to co-ordinate the formulation of policies and implement the programmes of the Office. In this regard, the OSP will undertake the following programmes;

- i. Effectively and efficiently manage OSP's financial resources and ensure timely reporting in accordance with the Financial Management Act, 2016 (Act 921);
- ii. Recruit 249 Senior and relevant staff for the effective and efficient operation of the OSP;
- iii. Set up a Procurement Entity to develop its Procurement Plans and Tender Documents;
- iv. Provide logistical support with the procurement of vehicles, computers and accessories, office equipment and furniture, security and communication equipment;
- v. Provide Human resource management, to facilitate training and development, promotions, leave policy, welfare, discipline and job description;
- vi. Manage the administrative machinery and financial activities of the Office; and
- vii. Develop policies for the establishment and operation of Planning and Budgeting Units in all implementing agencies in the sector

9.2 Anti-Corruption Management

Under this programme, the Office intends to pursue the following in the year 2020:

- i. investigate 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 an offence;

- ii. receive and prosecute complaints from persons on matters involving corruption and corruption-related offences involving public officers, politically exposed persons and persons in the private sector involved in the commission of the offence under any other relevant law;
- iii. receive and act on referrals on investigations of alleged corruption and corruption related offences from Parliament, Auditor-General, Commission on Human Rights and Administrative Justice, EOCO and other public institutions;
- iv. Set-up a special unit to investigate alleged corruption and corruption-related offences against officers of the OSP;
- v. Put in place mechanisms to deal with political party and election-related corruption, which has been established as the main enablers of corruption;
- vi. take steps to prevent corruption by making corruption a high-risk enterprise and sensitize the public on what constitutes bribery; and
- vii. recover proceeds of corruption.

10.0 ANNUAL BUDGET ESTIMATES OF THE OSP FOR THE 2020 FINANCIAL YEAR

The sum of **One Hundred and Eighty-Eight Million and Eighty-Four Thousand, Seven Hundred and Thirty-Two Ghana Cedis (GH¢188,084,732.00)** has been allocated to the OSP for its planned programmes for the 2020 Financial Year. The details of the allocation are shown in the Table 2:

Table 2: Details of the Annual Budget Estimates of the OSP for the 2020 Financial Year

Number	Item of Expenditure	2019 Allocation (GH¢)
1.	Compensation of Employees	36,232,522.00
2.	Goods & Services	92,976,304.00
3.	Capital Expenditure	58,875,906.00
Total		188,084,732.00

11.0 OBSERVATIONS

The Committee made the following observations during its deliberations:

11.1 New Office Building for the OSP

The Special Prosecutor informed the Committee that, the Plan to move the offices to an appropriate Office accommodation in 2019 could not materialise due to the fact that the building which was finally secured with the help of His Excellency the President had certain structural defects which need to be remedied by the original contractor before it could be repurposed as offices for the OSP. Given that the 2019 Budget of the OSP was prepared on the assumption that a new office facility would be made available to among others, accommodate the 249 Staff which were to be recruited in the year and the establishment of a Tender Entity Committee to make the necessary procurements, the accommodation situation significantly hampered the implementation of planned programmes and activities of the OSP in the year under review.

In view of the situation, the OSP continued operations from its three-bedroom temporary office with the attendant understaffing and other issues. As a result, as at the end of September 2019, only 0.4% of its total allocation of 2019 has been expended.

11.2 2019 Compensation Vote

The Committee was informed by the Officials of the OSP that the Office recorded zero performance in the implementation of its 2019 Compensation budget due to the fact that its current staff of seventeen (17) are seconded Staff who continue to draw salaries from their parent institutions. However, the Special Prosecutor and the Deputy Special Prosecutor were remunerated under Article 71 office holders from the Office of the President.

Subject to the completion of the new Office building in February 2020, the OSP has planned the recruitment of two hundred and forty-nine new Staff towards the full operationalization of the Office. In that regard, Officials of the OSP informed the Committee that the OSP had started blind recruitment exercises and would complete the process in the 2020. In anticipation of this exercise, for the 2020 Financial Year, the Committee noted an amount of **GH¢36,232,522.00** has been allocated as Compensation Votes for the OSP.

11.3 2019 Goods and Services and Capital Expenditure Votes

The amounts of **GH¢88,013,859.00** and **GH¢58,675,906.00** were approved respectively for the Goods and Services and Capital Expenditure Votes for 2019. Officials of the OSP informed the Committee that the Office could not utilise the Votes due to the aforementioned problem and the non-existence of a Tender Entity Committee of the OSP to undertake the procurement of some essential office equipment.

As indicated in Table 1, the amount of **GH¢5,761,893.00** had been released to the OSP out of the approved 2019 Goods and Services Vote as at September 2019, of which **GH¢633,198.00**, representing 11% had actually been utilized by the Office. In view of the operational difficulties encountered by the Office in the implementation of the 2019 Budget, the Committee urges the Ministry of Finance not to apply its general clearing policy to the

remainder of the unutilized Goods and Service vote and reserve it to enable the OSP undertake some of its outstanding activities in the First Quarter of 2020. The Committee further urges the OSP to follow up on the ongoing processes to establish the Office as a procurement entity to ensure smooth implementation of the 2020 Budget.

11.4 Criminalisation of Unexplained Wealth

The Special Prosecutor revealed that as part of its Corruption Prevention Programme, in 2020, it plans to push the agenda for the criminalisation of unexplained wealth. This will place the burden of proof on public servants and private citizens to explain their excess earnings. In the same pursuit, the possibility would be explored to empower the OSP to investigate bank accounts of persons suspected to have committed infringements against Act 959. The Committee considers these planned initiatives laudable and implore the relevant bodies to accord the OSP the maximum support.

11.5 Failure or Refusal of MDAs to Provide Information

The Special Prosecutor again indicated with grave concern, the challenges his Office encountered in accessing critical information to aid investigations into alleged corruption or corruption related offences. He complained that, most of the requests made under the statutory authority of the OSP for information or production of documents from the Ministries, Departments and Agencies (MDAs) to assist in investigation, were not complied with. He disclosed that the situation remained the same despite frantic efforts to impress upon heads of the public institutions to respond positively to such important requests.

The Committee charged the OSP to utilise all the powers at his disposal in Act 959 to subpoena information which could assist in the fulfilment of its mandate.

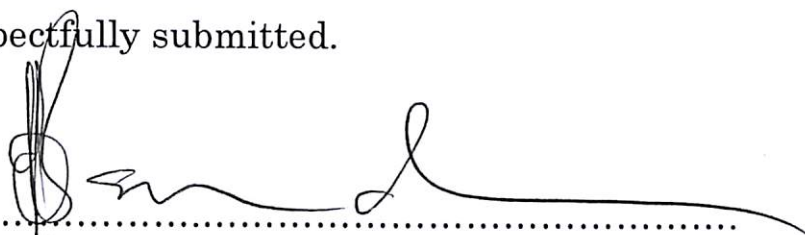
12.0 CONCLUSION AND RECOMMENDATION

The Committee acknowledges the teething challenges encountered by the OSP in the implementation of its 2019 Budget particularly the delayed completion of the new office building, which accounted for the OSP's inability to be fully operational in 2019.

The Committee also notes the frantic efforts being made by his Excellency the President and the OSP to address the infrastructural and structural challenges facing the Office and it is hoped that the efforts would yield positive results to pave the way for the smooth implementation of the 2020 budget of the OSP, if approved by the House.

Based on the above, the Committee recommends to the House to adopt this Report and approve the sum of **One Hundred and Eighty-Eight Million and Eighty-Four Thousand, Seven Hundred and Thirty-Two Ghana Cedis (GH¢188,084,732.00)** for the activities of the Office of the Special Prosecutor for the 2020 Financial Year.

Respectfully submitted.



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



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

DECEMBER 2019