

**IN THE THIRD MEETING OF THE SECOND SESSION OF THE EIGHTH
PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA**

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL AND
PARLIAMENTARY AFFAIRS ON THE 2023 ANNUAL BUDGET
ESTIMATES OF THE OFFICE OF THE SPECIAL PROSECUTOR**

1.0 INTRODUCTION

1.1 The Budget Statement and Economic Policy of the Government of Ghana for the year ending 31st December, 2022 was presented to Parliament, by the Hon. Minister for Finance, Mr Ken Ofori-Atta, on 24th November, 2022 in accordance with Article 179 of the 1992 Constitution.

1.2 Pursuant to Orders 140(4) and 179 of the Standing Orders of Parliament, the Rt Hon Speaker referred the Budget Estimates of the Office of the Special Prosecutor (OSP) to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report to the House.

2.0 DELIBERATIONS

2.1 The Committee met on 12th December 2022 and considered the 2023 Budget Estimates of the Office of the Special Prosecutor. Present at the meeting were the Special Prosecutor, Mr Kissi Agyabeng, the Chief Finance Director of OSP, Kenneth Agbezuhlor and representatives of the Ministry of Finance.

The Committee is grateful to them for their useful clarifications.

3.0 REFERENCE DOCUMENTS

In considering the Estimates, the Committee made reference to the underlisted documents:

- i. The 1992 Constitution;
- ii. The Standing Orders of Parliament;
- iii. The Office of the Special Prosecutor Act, 2017 (Act 959);
- iv. The Budget Statement and Economic Policy of the Government of the Republic of Ghana for the 2022 Financial Year;
- v. The Office of the Special Prosecutor Medium Term Expenditure Framework for 2023 -2025; and
- vi. The Report of the Committee on Constitutional, Legal and Parliamentary Affairs on the 2022 Budget Estimates of the Office of the Special Prosecutor.

4.0 VISION

The OSP hopes to work towards achieving the vision of rendering corruption costly and unattractive in all its forms in the public and private sectors through sustained repression and suppression.

5.0 MISSION

The mission of the Office is to investigate and prosecute specific cases of alleged or suspected corruption and corruption-related offences; to recover the proceeds of corruption and corruption related offences, and take steps to prevent corruption.

6.0 CORE FUNCTIONS

The core functions of the Office include the following:

- i. The investigation and prosecution of cases of alleged or suspected corruption and corruption related offences under the Public Procurement Act, 2003 (Act 663);
- ii. Investigation and prosecution of cases of alleged corruption and corruption related offences under the Criminal Offences Act, 1960 (Act 29) involving public officers, politically exposed persons in the private sector involved in the commission of the offence;
- iii. Investigation and prosecution of cases of alleged or suspected 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;
- iv. Recovery and management of the proceeds of corruption and corruption-related offences;
- v. Taking steps to prevent corruption;
- vi. Dissemination of information gathered in the course of investigation to competent authorities and other persons the Office considers appropriate;
- vii. Cooperation and coordination with competent authorities and other relevant local and international agencies in furtherance of Act 959;
- viii. Receipt and investigation of complaints from a person on a matter that involves or may involve corruption and corruption related offences;
- ix. Receipt and action on referrals of investigations of alleged corruption and corruption related offences by Parliament, the Auditor-General, the Economic and Organised Crime Office and any other public body; and
- x. The performance of any other functions connected with the objects of the office.

7.0 POLICY/STRATEGIC OBJECTIVES OF THE MINISTRY

- 8.1 The OSP work towards contributing to the achievement of the understated Strategic Objective which is contained in the National Medium Term Development Plan Framework (NMTDPF):
- 8.2 Promote the fight against corruption and corruption-related offences, and such existing offences under enactments arising out of or consequent to corruption and related procurement offences.

8.0 2022 PERFORMANCE OVERVIEW

The following were the achievements made by the OSP during the year under-review:

9.1 Operational Performance

- i. Launched the Ghana Corruption Leagues Table (GCLT) in furtherance of Section 2(c) of Act 959 and Regulation 31 of the Office of the Special Prosecutor (OSP) Regulations, 2018 (L.I. 2374);
- ii. Placed two cases before the High Court, in Accra and Kumasi for criminal prosecutions;
- iii. Recovered proceeds in excess of GH¢1million;
- iv. Received and commenced investigation into 150 other cases;
- v. Collaborated with key stakeholders to launch campaigns aimed at educating Ghanaians to shun the culture of corruption and to further show the harmful effect of corruption on their lives;
- vi. Continued the retrofitting of its Office; and
- vii. Collaborated with other anticorruption Agencies including EOCO to adopt a standard operating procedure for asset recovery and management in order to safeguard the country against possibly liabilities.

9.2 Financial Performance

During the year under review, the OSP was initially allocated an amount of One Hundred and Seventy Million, Five Hundred and Four thousand Ghana Cedis (**GH¢170,504,000.00**) for the implementation of its programme of activities. The allocation was later revised to One Hundred and Thirty-eight Million, Eight Hundred and Fifty-two Thousand Eight Hundred Ghana Cedis (**GH¢138,852,800**). The breakdown of the expenditure returns of the OSP for 2022 financial year is presented in Table 1 below.

Table 1: Financial Performance for the OSP for 2022

Item	Revised Budget (GH¢) (A)	Amount Released (GH¢) (B)	Actual Expenditure (GH¢) (C)	Variance GH¢ (A-B)	% Released
Compensation	65,000,000	265,239	265,239	64,734,761	0.4
Goods & Services	28,352,000	7,663,675	7,663,675	20,688,325	27
Capex	45,500,000	17,548,712	17,548,712	27,451,288	38.6
Total	138,852,800	25,477,626	25,477,626	113,375,174	18.3

Source: Programme Based Budget Estimates of the Ministry for 2023

10 OUTLOOK FOR 2023

The outlook and financial projections of OSP for 2023 financial year are as indicated below:

10.1 Programme Targets

- i. Recruit 239 staff;
- ii. Train 150 staff;
- iii. Complete partitioning, alterations and retrofitting of the new Office Block;
- iv. Procure security, intelligence, and communication equipment;
- v. Procure office furniture;

- vi. Procure office equipment and machinery;
- vii. Investigate 350 cases;
- viii. File 10 corruption cases at courts;
- ix. Secure 7 convicted cases;
- x. Recovered 7 Assets;
- xi. Issue the Ghana Corruption Leagues Table (GCLT); and
- xii. Organise 40 sensitisation and education programmes;

10.2 Budgetary Allocation for the 2023 Fiscal Year

For the implementation of the programmes and activities of the Office of the Special Prosecutor for 2023 financial year, a total sum of One Hundred and Twenty-Nine Million, Five Hundred and Forty-Nine Thousand, Three Hundred and Eighty Ghana Cedis (**GH¢129,549,380**) has been allocated. The table 2 and 3 below provide the details in terms of economic classification and allocations by programmes.

Table 2: Budgetary Allocation for OSP by Economic Classifications for 2023

ECONOMIC CLASSIFICATION	SOURCES OF FUNDING					
	GOG(GH¢)	ABFA (GH¢)	IGF (GH¢)	Donor (GH¢)	Total (GH¢)	%
Compensation	68,900,000	-	-	-	68,900,000	53.1
Goods and services	34,279,380	-	-	-	34,279,380	26.5
Capex	26,370,000	-	-	-	26,370,000	20.4
Total	129,549,380				129,549,380	100

Source: Budget Statement and Economic Policy of the Government for 2023 financial year

Table 3: Budgetary Allocation for OSP by Programmes for 2023

Programme	Allocation GH¢	% of Allocation
Management and Administration	105,249,380	81.2
Anti-Corruption Management	24,300,000	18.8
Total	129,549,380	100

Source: Programme Based Budget Estimates of the Ministry for 2023

11 OBSERVATIONS

The Committee made the following observations after a careful examination of the performance of the OSP during the year under review:

11.1 Inadequate Budgetary Allocations

The Special Prosecutor bemoaned the continuous inadequate budgetary releases to undertake work towards the full operationalization of the Office. He indicated that unless certain level of investment is made, the office in its present state is incapacitated to operate effectively. Among critical investments required, include the procurement of security, surveillance, counter-surveillance, and intelligence equipment; retrofitting of the OSP building to enable them recruit the needed personnel, procurement of relevant information and communication facilities; installation of a forensic laboratory; cyber detection devices; and procurement of office equipment.

The Committee noted that, consistently, annual budgetary allocation has not met the required amount to fully operationalise the Office. For instance, out of the estimated GH¢1.2 billion that was required to fully operationalise the Office in 2022, only GH¢170,504,000.00 was

allocated. The allocated amount was further revised downwards to GH¢138,852,800 during the year, out of which GH¢25,477,626, representing 18.3 per cent had been released as at September, 2022. For 2023 fiscal year, GH¢258,900,000 was requested by the OSP, out of which GH¢129,549,380, representing about 50 per cent had been allocated.

11.2 Staffing and Condition of Service of Staff

The Special Prosecutor informed the Committee that out of the 249 staff requirement for which financial clearance had already been secured, only 20 personnel were recruited during the year under-review. He attributed the inability of the Office to recruit the full complement of staff to the non-completion of the retrofitting works on the newly acquired 10-storey building as well as nonresolution of the conditions of service of the staff. He explained that in spite of the already inadequate Capex allocation of GH¢45,500,000 for the 2022 financial year, only GH¢17,548,712, representing 38 per cent, was released. As a result, the minimal works such as partitioning of the office space, wiring and installation of security and surveillance system, and provision of furniture and computers that were needed for the staff to effectively carry out their duties when recruited could not be undertaken.

Regarding the nonresolution of the conditions of service, the Special Prosecutor informed the Committee that upon the advice of the Fair Wages and Salary Commission, the Ministry of Finance had approved, and communicated same to the OSP, certain conditions of service for the staff of the Office of the Special Prosecutor, which are at variance with the conditions of service specified in the Office of the Special Prosecutor Regulations 2018 (L.I 2374). He added that attempts to get the Ministry of Finance to rectify the anomaly has been very slow.

As a result, the staff, including the Special Prosecutor, have not been paid for almost a year and half.

The Committee not satisfied with the claim by the Special Prosecutor on nonpayment of salaries for fifteen months, as well as the continuous starving of the OSP of the needed resources to effectively carry out its mandate, invoked the powers conferred on Parliament under Article 103 (6) of the 1992 Constitution by summoning the Minister of Finance to appear before the Committee to clarify the claims made by the Special Prosecutor. The Chief Director of the Ministry of Finance, who represented the Minister of Finance, confirmed the said unresolved conditions of service for staff of the OSP. He however informed the Committee that discussions are far in advance, and assured the Committee of final resolution within one week.

Regarding the inadequate budgetary allocation, the Chief Director promised to consider allocating additional funds under the contingency votes to complete the capital expenditure projects. With respect to the allocations for goods and services, the Chief Director promised to take personal interest and ensure that additional funds are allocated to the OSP during the Midyear budget review to fully operationalise the Office.

The Committee recommends to the Ministry of Finance to, as a matter of necessity, and priority, fulfil the promise and pay all the arrears to avert potential temptations of corruption and high attrition which may defeat the purpose for which the Office was established. The Committee further recommends for allocation of additional resources to the Office of the Special Prosecutor during the Midyear budget review to complete the retrofitting works on the office building and install all the necessary equipment and gadgets.

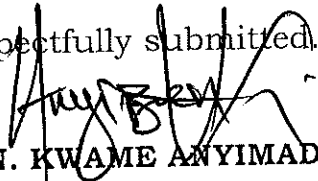
12.0 CONCLUSION AND RECOMMENDATION

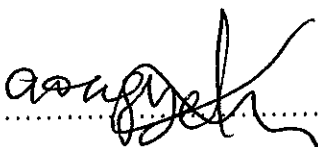
The Committee having scrutinised the Budget Estimates of the Office of the Special Prosecutor for the 2023 fiscal year is of considered view that full operationalisation of the Office of the Special Prosecutor will go a long way to strengthen the fight against corruption which is essential for accelerating the sustainable development efforts of the country.

Additionally, having regards to the high perception of corruption in the country, coupled with the euphoria that greeted the establishment of the OSP, and the expectations of the public, the Committee, strongly recommends to the Ministry of Finance, to as matter of priority, allocate additional resources to the OSP during the Midyear to fund the necessary works required for the full operationalisation of the OSP.

The Committee recommends to the House to adopt its Report and approve the total sum of One Hundred and Twenty-Nine Million, Five Hundred and Forty-Nine Thousand, Three Hundred and Eighty Ghana Cedis (GH¢129,549,380) for the services of the Office of the Special Prosecutor for the year ending 31st December 2023.

Respectfully submitted,


HON. KWAME ANYIMADU ANTWI
(CHAIRMAN, COMMITTEE ON CONSTITUTIONAL,
LEGAL AND PARLIAMENTARY AFFAIRS)


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AKUA DUROWAA O. AGYEKUM (MRS)
(HEAD, LEGAL CLUSTER)

14th December, 2023