

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



**REPORT OF THE
COMMITTEE ON
DEFENCE AND INTERIOR**

**ACTING TOGETHER WITH
THE LEADERSHIP OF THE**

FINANCE COMMITTEE

on the

**COMMERCIAL AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
GHANA (REPRESENTED BY THE MINISTRY OF DEFENCE) AND POLY CHANGDA
OVERSEAS ENGINEERING COMPANY LIMITED AND POLY TECHNOLOGIES, INC OF
THE PEOPLE'S REPUBLIC OF CHINA FOR AN AGGREGATE AMOUNT OF ONE
HUNDRED MILLION UNITED STATES DOLLARS (US\$100,000,000.00) IN
RESPECT OF THE EXECUTION AND COMPLETION OF THE MILITARY HOUSING
PROJECT FOR THE MINISTRY OF DEFENCE**

APRIL 2019

1.0 INTRODUCTION

On Thursday, 21st March, 2019, by the Honourable Minister responsible for Defence, Mr. Dominic Bingab Aduna Nitiwul *presented* to the House the Commercial Agreement between the Government of the Republic of Ghana (Represented by the Ministry of Defence) and Poly Changda Overseas Engineering Company Limited and Poly Technologies, Inc of the People's Republic of China for an aggregate amount of ***One Hundred Million United States Dollars (US\$100,000,000.00)*** in respect of the execution and completion of the Military Housing Project for the Ministry of Defence.

Pursuant to Article 103 of the 1992 Constitution and Orders 158 and 169 of the Standing Orders of the House, the Agreement was *referred* to the Committee on Defence and Interior and the Leadership of the Finance Committee for consideration and report.

2.0 DELIBERATION

The Committee on Defence and Interior and the Leadership of the Finance Committee (hereinafter referred to as "the Committee") subsequently met and deliberated on the Agreement with the Minister for Defence, Hon. Dominic Bingab Aduna Nitiwul, Deputy Minister for Defence, Hon. Major (Rtd) Derek Oduro as well as officials from the Ministry of Defence and the Ghana Armed Forces.

The Committee is grateful to the Honourable Minister for Defence and his Deputy and the officials for attending upon the Committee.

The Committee hereby submits this report to the House pursuant to Order 161(1) of the Standing Orders of the House.

3.0 REFERENCES

The Committee referred to and was guided by the following documents *inter alia* during its deliberations on the Agreement:

- i. The 1992 Constitution

- ii. The Standing Orders
- iii. The Public Financial Management Act, 2016 (Act 921)

4.0 BACKGROUND

Presently, the Ghana Armed Forces (GAF) are facing acute accommodation problems for its men, women and Service Officers. Government as part of its programme, planned to ensure that the Armed Forces are adequately provided with newly constructed accommodation and to rehabilitate the existing dilapidated ones.

In June 2017, the President cut the sod for the construction of a four (4) Housing Units for the GAF, whilst work on twenty (20) blocks of flats commenced in Tamale from the Internally Generated Funds (IGF) of the GAF.

Since new Officers and Officers of other ranks are being enlisted and Other Ranks recruited every year, there is a situation where Senior Officers including Majors and Lieutenant Colonels are living in single rooms originally designed for young and unmarried officers until they are reassigned bigger accommodation units.

In view of these accommodation challenges facing the Forces, the Government formulated this Project to address the challenges.

Furthermore, the Consortium of Poly Technologies Inc. and Poly Changda Overseas Engineering Company Limited Group has been working with the GAF for the past fifteen (15) years to successfully undertake various projects such as the following:

- i. The construction of Aircraft Hangers at the Tamale and Takoradi Air Force Bases;
- ii. The construction of the Ghana Armed Forces Integrity Savings and Loans Company Office;
- iii. The construction of accommodation for troops; and

- iv. The construction of the new Military Cemetery at Burma Camp among others.

5.0 OBJECT OF THE PROJECT

The objective of the Project is to help provide the GAF with decent and modern accommodation to enable them perform their core function of defending the territorial integrity of Ghana.

6.0 APPROVAL OF THE FINANCING AGREEMENT

On 27th March, 2019, Parliament approved the Seller's Credit/Financing Agreement between the Government of the Republic of Ghana and Poly Changda Overseas Engineering Company Limited of the People's Republic of China for an aggregate amount of *One Hundred Million United States Dollars (US\$100,000,000.00)* to finance the execution and completion of the Military Housing Project for the Ministry of Defence in accordance with Article 181 of the 1992 Constitution.

This present Commercial Agreement is thus consequent upon that approval.

7.0 OBSERVATIONS AND RECOMMENDATIONS

7.1 Poor Conditions at the Barracks

The Committee observed that over the years, Officers of the Ghana Armed Forces (GAF) persistently face housing deficiency, owing to the unavailability of enough housing options to meet the growing demand of servicemen and women. Senior officers, including Majors and Lieutenant Colonels are currently residing in single rooms that were initially designed to serve as temporary housing options for young and unmarried Officers. The barracks suffer from congestion and the drainage system have not been upgraded in decades. Government recognises that the accommodation facilities of the Security Services in the country is repugnant and therefore the urgency to institute measures to improve and expand the accommodation facilities hence, this significant Project.

7.2 Facilities to be constructed under the project

The Committee was informed that the Facilities to be constructed under the Specific project provided in the Agreement include:

- i. 160 Soldiers' two-bedroom half compound house
- ii. 176 two-bed flats
- iii. 1 two-storey building Military Academy Classroom Block,
- iv. 1 Military Academy Administration Office Block with 48 offices and conference rooms,
- v. 1 Military Academy Hostel with 240 Self-Contained Rooms,
- vi. 1 Military Academy Auditorium seating 640 people
- vii. 1 Platoon Commanders Block containing 4 two-bed flats per floor, and
- viii. A Fence Wall around the entire perimeter of the Ghana military Academy at Teshie in Accra.

A detailed breakdown and the summary price for the project is attached as an APPENDIX.

7.3 Dispute Resolution

The Committee observed that in line with section 15.5 of the Agreement, in the event of a dispute, another country not the home country of any of the parties shall be the jurisdiction for arbitration. Consequently, London, United Kingdom, had been selected to be the seat of arbitration, with the language of arbitration set in English.

7.4 Sole Sourced Facility

By a communication dated 24th January, 2019, issued by the Public Procurement Authority (PPA), and the Committee observed that the facility is approved as sole-sourced.

The Minister for Defence explained to the Committee that the facility is essentially a Seller's Credit hence its sole sourced nature. In compliance with the procurement laws therefore, approval had to be sought from the Public Procurement Authority.

7.4 Local Experience of the Poly Group

The Committee was informed that the Poly Group has indeed executed projects successfully for the Government of Ghana over a period of about fifteen (15) years and therefore has the experience in executing the project herein.

7.5 Source of the Project Funds

The Committee noted that the project will be implemented with funds from the Contractor without a Government of Ghana counterpart funding.

It was indicated to the Committee that the funds for the project would be sourced by the Contractor from the Guangzhou Branch of the China Construction Bank and the Government of Ghana would pay later according to the terms of the approved Seller's Credit Agreement.

7.6 Local Content

The Committee observed that per clause 4.1 of the Agreement, at least 20% of the project is required to be subcontracted to local contractors. The said clause stipulates that *"the Contractor shall subcontract up to 20 Million US Dollars of contract works to qualified subcontractors to be nominated by the Employer and certified by the Contractor"*.

The Minister for Defence assured the Committee that Cabinet has directed that the provision with respect to the 20% should be strictly complied with as the minimum local content level and that where there are opportunities for further local participation, the contractor would be encouraged to explore same. He further explained that apart from the 20% which will be directly given to local subcontractors, most of the construction materials such as sand, stones, timber, labour etc. would also be sourced domestically.

7.7 Waiver of Taxes and Duties

The Committee noted that Clause 14.1 of the Agreement provides that **"the Contract Price is One Hundred Million United States Dollars Only**

(US\$100,000,000.00) excluding taxes and duties. The Contract Price shall remain fixed for the Construction Period.”

The Committee reiterated an advice to the Ministry of Finance to endeavour to bring a formal request for the waiver of the necessary taxes and duties to Parliament for consideration and approval in time to enable the Project to be executed without delay.

7.8 Wrong classification of Dormitories

The Committee noted that in the Ministerial Memorandum to Parliament, the facilities to be constructed in Tamale and Sunyani have been inadvertently described as “dormitories”. The Committee’s perusal of the technical details and drawings showed that they are not “dormitories” but two-bed flats with each having its own sitting room, kitchen, toilet and bathroom.

Officials from the Ministry of Defence explained that apparently, the term dormitory had been used due to the design of the flats which makes it possible for the partitioning to be knocked down to convert them to dormitories when the need arise.

The Committee therefore directed the Ministry to reclassify the facility as Soldiers’ two-Bedroom Half Compound House

7.9 Anticipated Variations


The Committee enquired whether or not the Ministry of Defence was contemplating making variations to the Contract and the project designs. The Committee was informed that the sub-structure designs could be varied based on the type of soil and other unforeseen conditions at each site of the project. Given however that the project designs had been based on the worst-case scenario of the sites, the Ministry does not anticipate any significant variations to the sub-structure designs. They were emphatic that there would be no variation of the superstructure designs.

8.0 CONCLUSION

The Committee has thoroughly examined the Commercial Agreement and is of the considered view that the Agreement and the accompanying technical specifications and designs of the Project are suitable to the needs of the Ghana Armed Forces.

Accordingly, the Committee recommends to the House to adopt its report and approve by resolution, the Commercial Agreement between the Government of the Republic of Ghana (Represented by the Ministry of Defence) and Poly Changda Overseas Engineering Company Limited and Poly Technologies, Inc of the People's Republic of China for an aggregate amount of **One Hundred Million United States Dollars (US\$100,000,000.00)** in respect of the execution and completion of the Military Housing Project for the Ministry of Defence in accordance with Article 181(5) of the 1992 Constitution.

Respectfully submitted.



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HON. SETH KWAME ACHEAMPONG
(CHAIRMAN OF THE COMMITTEE)



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MS. EDITH EDILYNADJEI
(CLERK TO THE COMMITTEE)

APRIL 2019.