

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



REPORT OF THE FINANCE COMMITTEE

ON THE

REQUEST FOR WAIVER OF CUSTOM DUTIES, VAT, ECOWAS LEVY, DESTINATION INSPECTION FEES, AND WITHHOLDING TAX LIABILITIES AMOUNTING TO SIXTY MILLION, SIX HUNDRED AND NINETY-SEVEN THOUSAND, NINE HUNDRED AND FOURTEEN GHANA CEDIS AND SIXTY-SIX PESEWAS (GH¢60,697,914.66) ON SUPPLIES, SERVICES AND EQUIPMENT NECESSARY FOR WORKS RELATED TO THE DESIGN, CONSTRUCTION, PROCUREMENT AND INSTALLATION OF EQUIPMENT FOR THE UPGRADING AND MAJOR REHABILITATION OF THE GREATER ACCRA REGIONAL HOSPITAL AT RIDGE, ACCRA.

December, 2014

REPORT OF THE FINANCE COMMITTEE ON THE REQUEST FOR WAIVER OF CUSTOMS DUTIES, VAT, EDAIF, ECOWAS LEVY, DESTINATION INSPECTION FEES AND WITHHOLDING TAX LIABILITIES AMOUNTING TO SIXTY MILLION, SIX HUNDRED AND NINETY-SEVEN THOUSAND, NINE HUNDRED AND FOURTEEN GHANA CEDIS AND SIXTY-SIX PESEWAS (GH¢60,697,914.66) ON SUPPLIES, SERVICES AND EQUIPMENT NECESSARY FOR WORKS RELATED TO THE DESIGN, CONSTRUCTION, PROCUREMENT AND INSTALLATION OF EQUIPMENT FOR THE UPGRADING AND MAJOR REHABILITATION OF GREATER ACCRA REGIONAL HOSPITAL AT RIDGE, ACCRA.

1.0 INTRODUCTION

The request for the waiver of Customs Duties, VAT, EDAIF, ECOWAS Levy, Destination Inspection Fees, and withholding tax liabilities amounting to Sixty Million, Six Hundred and Ninety-seven Thousand, Nine Hundred and fourteen Ghana Cedis and sixty-six pesewas (GH¢60,697,914.66) on supplies, services and equipment necessary for works related to the Design, Construction, procurement and installation of equipment for the Upgrading and Major Rehabilitation of Greater Accra Regional Hospital at Ridge, Accra was presented to Parliament on behalf of the Hon. Minister for Finance by the Hon. Deputy Minister of Finance Mr. Cassiel Ato Baah Forson on Thursday, 18th December, 2014. The Rt. Hon Speaker referred the request to the Finance Committee for consideration and report in accordance with Article 174(2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Committee met and considered the request with the assistance of the Hon. Deputy Minister for Finance, Mr. Cassiel Ato Baah Forson and officials from the Ministry of Finance and Ghana Revenue Authority (GRA).

The Committee is grateful to the Hon. Deputy Minister and officials for attending upon it.

2.0 REFERENCE

The Committee referred to the following additional documents at its deliberations:

- The 1992 Constitution of Ghana;
- The Standing Orders of the Parliament of Ghana;
- Contract Agreement between the Government of Ghana (represented by Ministry of Health) and Bouygues Batiment International the Design, Construction, Procurement and Installation of Equipment for the upgrading and Major Rehabilitation of the Greater Accra Regional Hospital at Ridge; and
- Credit Facility Agreement Between the Government of the Republic of Ghana and HSBC Bank of the United Kingdom for an amount of US\$92,500,000.00 to Finance the Design, Construction, Procurement and Installation of Equipment for the upgrading and Major Rehabilitation of the Greater Accra Regional Hospital at Ridge.

3.0 BACKGROUND

The Ridge Hospital which was established in 1928, was designated as the Greater Accra Regional Hospital in 1997. Though a considerable amount of renovation works and new constructions have been carried out over the years but the Hospital still consists of a large number of individual buildings in different shades of quality, size, architecture and appearance. As the Greater Accra Regional Hospital, its catchment area is the whole of the Region with an estimated population of 4,283,322. However, the immediate catchment area includes the Nima, Maamobi, Kanda, Accra New Town, Kotobabi, Osu, La, Adabraka, Airport Residential, Legon and Achimota. The Hospital has over the years served as referral center for hospitals and clinics within the region, including Korle-Bu Teaching Hospital (KBTH) and from nearby towns in the Central, Eastern and Volta

Regions. The increasing number of the population in Accra and its environs has put enormous pressure on the facilities at the Hospital and stretches them beyond their limit. Again following the recent elevation of the hospital to a Regional Hospital Status, there is the need to upgrade its facilities and equipment to the status of a regional hospital to help meet the health needs of the city's population.

4.0 APPROVAL OF THE LOAN AGREEMENT

The previous Parliament at its Fifty-Seventh Sitting held on Thursday 16th August 2012, approved by resolution the said Credit Facility Agreement between the Government of Ghana and the Export –Import Bank of the United States and HSBC Bank for the respective amounts of One Hundred and Fifty- Seven Million US Dollars (US\$ 157,000,000.00) and Ninety- Two Million , Five Hundred Thousand US Dollars (US\$92,500,000.00) to Finance the Design, Construction, Procurement and Installation of Equipment for the upgrading and Major Rehabilitation of the Greater Accra Regional Hospital at Ridge.

5.0 REQUIRED WAIVER

To ensure that government does not incur additional cost on the project, and in compliance with Supply Contract Agreement, Under Clause 1.1.4.1 of the Commercial Contract between the Ministry of Health and Bouygues Batiment International, the Ministry of Finance is seeking for tax exemption from local taxes (VAT, NHIL and Withholding Tax Liabilities) amounting to **GHC60,697,914.66** on materials and equipment including other related taxes for the Design, Construction, Procurement and Installation of Equipment for the upgrading and major rehabilitation of Greater Accra Regional Hospital at Ridge .

6.0 OBSERVATION

The Committee having carefully scrutinized the request made the following observations:

Legal Basis for the Waiver

The Committee observed that. Clause 1.1.4.1 of the Commercial Contract/Particular conditions of the Contract dated 28th November 2012 which was entered into between the

Ministry of Health and Bouygues Batiment International enjoins the Employer to pay or exempt the Contractor from the payment of Custom Duties, VAT, income taxes, withholding taxes, payroll taxes and all other taxes levied on the Contractor operations or properties which may be imposed by the Republic of Ghana with respect to the supply of products, services and equipment necessary for the work. If such payments are to be made the contract price shall so be adjusted upwards to include the invoice at the prevailing rate.

Assessment of Tax Liabilities and the Waiver required

The Committee observed that the Ghana Revenue Authority upon thorough assessment recommended a tax liability totaling ***GH¢71,409,311.40*** on materials and equipment including other related taxes for the design, construction, procurement and installation of equipment for the upgrading and major rehabilitation of the Ridge Hospital. The Tax Policy Unit of the Ministry of Finance however, recommended a total amount of ***GH¢60,697,914.66*** being 86% of the gross assessment as the tax amount to be waived. It was explained that as has been the practice, determination of tax liabilities are normally based on the assessment of the values presented by the service providers and that GRA's figure of ***GH¢71,409,311.40*** was based on the values of the items presented by the Contractor and is inclusive of non-core and temporary importation of items. The Deputy Minister added that due to the increased public interest in the Contract, the Ministry took particular interest in the contract and directed the Tax policy Unit to evaluate the items and values presented by the Contractor and after the evaluation and consultations, the new figure was arrived at. The new figure of ***GH¢60,697,914.66*** is thus on the account of core capital goods and excludes non-core project related items and temporary importation items.

Though the Committee see this as savings to the state, it holds the view that to prevent abuse of the system, re-evaluated figures and items should be sent back to GRA for re-assessment to determine the true tax liabilities.

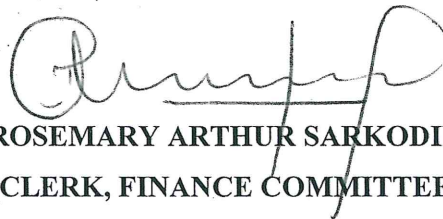
7.0 CONCLUSIONS

The Committee having carefully examined the referral recommends to the House to adopt its report and approve by Resolution the request for the waiver of Customs Duties, VAT, EDAIF, ECOWAS Levy, Destination Inspection Fees, and withholding tax liabilities amounting to *Sixty Million, Six Hundred and Ninety-seven Thousand, Nine Hundred and fourteen Ghana Cedis and sixty-six pesewas (GH¢60,697,914.66)* on supplies, services and equipment necessary for works related to the design, construction, procurement and installation of equipment upgrading and major rehabilitation of Greater Accra Regional Hospital at Ridge, Accra in accordance with Article 174(2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

Respectfully Submitted.



HON. JAMES KLUTSE AVEDZI
(CHAIRMAN, FINANCE COMMITTEE)



ROSEMARY ARTHUR SARKODIE (MRS)
(CLERK, FINANCE COMMITTEE)

DECEMBER, 2014

