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For Immediate Release

PRESIDENT AKUFO-ADDO ACTS ON KPMG'S FINDINGS AND RECOMMENDATIONS ON THE TRANSACTIONS BETWEEN GRA AND SML

The President of the Republic, Nana Addo Dankwa Akufo-Addo, on Wednesday, 27th March 2024, received the final report of the audit conducted by KPMG regarding the transactions between the Ghana Revenue Authority (GRA) and Strategic Mobilization Ghana Ltd (SML).

The President has acted on the findings and recommendations of KPMG, and has, by letter dated Thursday, 18th April 2024, given directives to the Ministry of Finance and the Ghana Revenue Authority.

FINDINGS

KPMG made the following findings:

- 1. No technical needs assessment was done prior to the engagement of SML. However, such an assessment was not legally required for engaging SML. After SML was engaged, a Chamber of Bulk Oil Distributors' industry report, a 2021 Ernst & Young audit report commissioned by GRA and a report by the Revenue Assurance and Compliance Enforcement of the Ministry of Finance all found that there might be underreporting, under-declaration and potential revenue leakages.
- 2. On three occasions (between June 2017 and September 2017), GRA sought approval from the Public Procurement Authority ("PPA") to use the single source procurement method to engage SML to provide transaction audit services. PPA did not grant approval. Subsequently, GRA engaged SML as a subcontractor to West Blue which was already providing services to GRA at the port. SML eventually took over the services provided by West Blue when the latter's contract came to an end on 31st December, 2018. GRA then added external price verification to the services offered by SML and signed a downstream petroleum audit agreement with SML. All these were done without PPA approval. Following a change of leadership at GRA, the new leadership sought to regularise the contracts with SML and on 27th August, 2020, PPA ratified the procurement processes used to engage SML. In 2023, the Ministry of Finance (MoF), GRA, and SML entered into a Revenue Assurance Services Contract ("2023 Contract"). The 2023 Contract extended the scope of SML's services to include upstream petroleum and minerals audit. PPA



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approval was obtained for this contract, which is now the governing agreement for the services offered by SML to GRA. Another issue raised by KPMG is the absence of parliamentary approval for the contracts, given that they are multi-year contracts. Under section 33 of the Public Financial Management Act, 2016 (Act 921) ("PFMA"), such contracts must have ministerial and parliamentary approval. KPMG also found that there was no evidence that the 2018 and 2019 contracts (transaction audit services, external price verification, and downstream petroleum audits) were submitted to the GRA Board for discussion and approval contrary to the GRA Act, Corporate Governance Manual for Governing Boards/Councils of the Public Services, and sound and accepted corporate governance practices. The GRA Board approved the extension of SML's services to cover the auditing of the upstream petroleum and minerals sectors, as specified in the 2023 Contract.

- 3. Regarding the transaction audit services, KPMG concluded that SML partially delivered on the service requirements. However, given the observations made during the investigations, GRA may not have obtained all the expected benefits from the service. This is also partly due to GRA's lack of instituting monitoring and evaluation processes to assess the performance of the service and hold its personnel and SML accountable for non-performance.
- 4. Regarding the external price verification services, KPMG concluded that SML delivered partially on the service requirements and that, given the observations made during the investigations, GRA may not have obtained all the expected benefits from the service. It was noted that ICUMS has inbuilt capabilities of external price verification among other functions.
- 5. Regarding the downstream petroleum audit services, KPMG determined that there was an incremental volume of 1.7 billion litres and an incremental tax revenue of GHS 2.45 billion for the period under review. There were also qualitative benefits, including a 24/7 electronic real-time monitoring of the outflow and partial monitoring of inflows of petroleum products at depots where SML had installed flowmeters. This serves as a deterrent for under-declarations. Other qualitative benefits include six levels of reconciliation done by SML to prevent revenue losses to GRA and the sharing of discrepancy reports with GRA to follow up.
- 6. SML had yet to implement the upstream petroleum audit and minerals audit services, and therefore, there could be no assessment as to whether GRA would derive value or benefit from that service. KPMG noted, however, that those are areas that could have significant revenue leakages and, thus, suggested, among other things, that a comprehensive needs assessment be conducted to establish a need for those services.



- 7. The pricing model used in the contracts was based on a variable fee structure. During its investigation, KPMG noted that such transaction monitoring services are usually priced using a fixed fee pricing model.
- 8. The total fees paid under the contracts from 2018 to the date of suspension amount to **GH¢1,061,054,778.00**. No fee has been paid for the upstream petroleum audit and minerals audit services.
- 9. The total fees estimated to be paid to SML under the 2023 Contract for five years is **GH¢5,173,091,857.00**, which averages to about GH¢1 billion per year.

RECOMMENDATIONS

KPMG made the following recommendations:

- A. The Government, acting through MoF and GRA, may terminate the contract with or without cause upon giving 120 days written notice before the effective date of termination stated in the Termination Notice. Upon termination, the Government may be liable to pay SML for services already completed but not yet paid, and the Government will not be entitled to a refund of any compensation already paid to SML, regardless of the termination cause.
- B. In the event of termination without cause, the Government becomes liable to pay SML a return-on-investment equivalent to the fair value of SML's investment in the respective contract. The total investment value in the contracts for the transaction audit and external price verification services and downstream petroleum audit services amounts to US\$ 44,044,180.00. The total investment value in the contract for the upstream petroleum audit and minerals audit services amounts to US\$ 133,486,722.51. The total investment value for all the services provided by SML to GRA amounts to US\$ 177,530,902.51. KPMG noted that SML did not provide supporting documents or relevant information to verify the investment it has made. GRA must verify the investment if any of the services provided under the contracts are terminated.
- C. The upstream petroleum and minerals audit could be a major source of revenue for the State, and if there are leakages, the impact could be significant. Therefore, KPMG recommended reviewing these services by conducting a comprehensive needs assessment and engaging stakeholders with diverse interests in the respective sectors. Furthermore, KPMG recommended the need for a value-for-money assessment in the



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contract performance process. Any contract for the provision of these services should comply with section 33 of the PFMA.

- D. For the transaction audit, external price verification, and downstream petroleum audit services, KPMG recommended that since SML has been providing that service for over four years, it has gained experience and become more proficient. KPMG thus recommended renegotiating the price levels, including shifting from a variable to a fixed fee structure.
- E. Monitoring and evaluation of the services offered by SML should be done periodically in the contract. Also, there should be the incorporation of needs assessment into public procurement practice.

The President has accepted the recommendations of KPMG and directs as follows:

- I. The upstream petroleum audit and minerals audit services have not yet been commenced, and no payments have been made in respect of those services; therefore, they may be terminated. However, given that the upstream petroleum audit and minerals audit services could prevent significant revenue leakages, the President has directed that the Ministry and GRA conduct a comprehensive technical needs assessment, value-formoney assessment, and stakeholder engagements before implementing such services.
- II. The transaction audit and external price verification services may also be terminated. According to KPMG's findings, GRA obtained partial value or benefit for those services. This was also due to a lack of monitoring on the part of GRA to ensure that SML performed the services as stipulated in the contracts. KPMG's investigation found that GRA has introduced external price verification tools as part of ICUMS, among its other functions. This renders the reliance on SML for external price verification redundant.
- III. There is a clear need for the downstream petroleum audit services provided by SML. GRA and the State have benefited from these services since SML commenced providing them. There has been an increase in volumes of 1.7 billion litres and an increase in tax revenue to the State of GHS 2.45 billion. KPMG also observed that there were qualitative benefits, including a 24/7 electronic real-time monitoring of outflow and partial monitoring of inflows of petroleum products at depots where SML had installed flowmeters and six levels of reconciliation done by SML. This minimises the occurrence of under-declarations. However, it is important to review the contract for downstream petroleum audit services, particularly the fee structure. Given the experience and proficiency of SML over the last four years of providing this service, the President has directed that the fee structure be



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changed from a variable to a fixed fee structure. Other provisions of the contract worth reviewing include clauses on intellectual property rights, termination, and service delivery expectations.

IV. SML's performance in any renegotiated contracts should be monitored and evaluated periodically to ensure that it meets expectations. Any renegotiated contract should be compliant with section 33 of the PFMA.

The Ministry of Finance and the Ghana Revenue Authority are to give effect to the above directives of the President immediately, and provide the Office of the President with an update on the steps taken.

The President has extended his sincere gratitude to KPMG for the thorough nature of the audit conducted.

Eugene Arhin Director of Communications Office of the President