20

REPORT

OF THE INVESTIGATIVE HEARING

ON THE NEED TO INVESTIGATE THE CONTRACT FOR THE MODIFICATION OF THE EGP 3B PRODUCTION PLATFORM FOLLOWING THE JOINT VENTURES AGREEMENT BETWEEN THE NIGERIAN NATIONAL PETROLEUM CORPORATION AND CHEVRON NIGERIA LIMITED

(HR. 173/05/2018)

Contents **Page**

1.0 PREAMBLE

About this Report

In accordance with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) Sections 88 and 89 confers the power on the National Assembly to cause investigation into any matter on which it has power to make law. The House at its plenary session on Wednesday 9th May, 2018 considered a motion on the need to investigate the contract for improvement of Escravos Gas EG3 Project and resolved that the Committee investigate the matter, make recommendations and report to the House within a reasonable time.

This report presents the findings of the House of Representatives Committee on Gas Resources with respect to the investigative hearing on the EGB 3P project between the Nigerian National Petroleum Corporation (NNPC) represented by National Petroleum Investment Management Services (NAPIMS) and Chevron Nigeria Limited (CNL). These projects draw its powers from the Joint Venture Agreement (JoA) and Modified Carry Agreement (MCA).

This report sets out the interactions with and responses from invited stakeholders and their actions and inactions with respect to the mandates given by the JoA & MCA, compliance with standing orders and regulations of the Federal Republic of Nigeria, conformance with common business ethics and practices and international value for money standards.

The report also aims to provide the leadership of the House of Representatives of the Federal Republic of Nigeria, a summary of the Committee's modus operandi, findings and recommendations for consideration and adoption and the Nigerian populace on the status of the use of national resources by agencies of government saddled with such fiduciary responsibilities.

1.1 PROJECT INVESTIGATION OVERVIEW

i. Following the JoA signed on 25th July 1991, between the Nigerian National Petroleum Corporation (NNPC) and Chevron Nigeria Limited (CNL), the venture agreed through document HR.173/05/2018 to modify the Escravos Gas B. Production Platform (EGP 3B).

ii. The EGP 3B Project will gather associated gas (AG) from nine production platforms of which seven are in the North Offshore and two in the South Offshore Area field. The gathered gas will be routed through Meren GGCP and compressed to a pressure sufficient to deliver gas to the onshore facilities via the EGP 3B pipeline to the shore. The Meren GGCP will be bridged to the Meren 1 PPP facility.

iii. The aims of the project were to sustain production of at least 120mmscf / d of gas, reduce gas flaring, enable CNL meet its medium-term domestic gas supply, sustain operations and optimize facilities utilization.

iv. In the course of project execution, there were various variation claims and change orders (COs) which attracted costs over and above the approved project ceiling. This brought a lot of suspicions and complaints from major stakeholders and necessitated the investigation of affairs before, during and after the award, execution and monitoring of the project.

v. Following the JoA signed on 25th July 1991, between the Nigerian National Petroleum Corporation (NNPC) and Chevron Nigeria Limited (CNL), the venture agreed through document HR.173/05/2018 to modify the Escravos Gas B. Production Platform (EGP 3B).

vi. The EGP 3B Project will gather associated gas (AG) from nine production platforms of which seven are in the North Offshore and two in the South Offshore Area field. The gathered gas will be routed through Meren GGCP and compressed to a pressure sufficient to deliver gas to the onshore facilities via the EGP 3B pipeline to the shore. The Meren GGCP will be bridged to the Meren 1 PPP facility.

vii. The aims of the project were to sustain production of at least 120mmscf / d of gas, reduce gas flaring, enable CNL meet its medium-term domestic gas supply, sustain operations and optimize facilities utilization.

viii. In the course of project execution, there were various variation claims and change orders (COs) which attracted costs over and above the approved project ceiling. This brought a lot of suspicions and complaints from major stakeholders and necessitated the investigation of affairs before, during and after the award, execution and monitoring of the project.

ix. In view of the foregoing, the House of Representative ("The House") under the leadership of its Speaker mandated its Committee on Gas Resources ("the Committee") chaired by Honorable Frederick Agbedi to conduct an investigative hearing into the aforementioned projects and present its findings to the House.

x. The Committee commenced the investigative hearing on 27th- 29th August 2018, adjourned to 17th October 2018, to 24th October 2018 and concluded on the 10th / 11th December 2018.

1.2 Powers and Functions

The power of the Committee to carry out the investigation on the contract of EGB 3P projects was derived from the provisions of section 88 and 89 of the 1999 Constitution of the Federal Republic of Nigeria, order 17, rule 93) (i-iii) of the House Standing Order and House Resolution.

1.3 Approach & Methodology

The Committee adopted a combination of documentations review, investigative researches, professional consultations, interviewing and dialogue including taking of oath in eliciting responses and information from the stakeholders.

2.0 SUBMISSIONS

2.1 NNPC/NAPIMS Submission

i. NNNPC/NAPIMS informed the Committee that EGB 3P project progressed via open competitive tendering process of prequalification, technical and commercial stages; lowest bidder was awarded after securing NNPC board approval of the joint commercial evaluation outcome as contained in the RTA issued by the operators. This does not require the issuance of Bureau of Public Procurement (BPP) Certificate of No Objection.

ii. That the contract was awarded to Prime Sources Limited (PSL) at an evaluated price of USD$64,179,198.

iii. That several changes were encountered at the start and during the execution stages leading to delays and several variations and consequently evolving to a value of USD$192,730,866 (exclusive of VAT).

iv. That on eventual completion of the project, NNPC top management directed a Value for Money (VfM) Audit to be conducted by Diakrino Services Limited.

v. That the VfM report concluded that the project was lower in value than 75% of comparative benchmarks and could be termed to be economical and ineffective.

2.2 CHEVRON Nigeria Limited (CNL) Submission

i. CNL informed the Committee that the overall scope of work within the EGP 3B PPMods tender covers Engineering, Procurement, Supply Construction and Commissioning (EPSCC), handled through detailed design, fabrication and installation as governed by the JV requirements.

ii. That contract process went through all stages with six (6) contractors shortlisted namely; BHP-WAV (USD$173,002,812), Globestars-Acergy (USD$156,448,561), Grinaker Dynamics (USD$151,909,050), Idmon (USD$128,489,975), PSL (USD$64,179,198) and Sudelettra (USD$121,842,856).

iii. That its internal estimates of the project stood at USD$173,904,500.

iv. NNPC/NAPIMS original award approval came via a letter dated March 27, 2012 over a year after technical bid had been completed (see Annexure 1) at an evaluated price of USD$ 64, 179, 198.

v. That the total based contract cost of the project at completion was a VAT exclusive sum of USD$193,280,881.70 (USD$202,944,925.79 VAT inclusive).

vi. That the project experienced variation orders owing to contractors' inexperience in efficiently estimating work scope and breakdown structures. Furthermore, the work extended into the bad weather window.

vii. That the project, as at the hearing date, had met its objectives as routine gas flaring in the North offshore area had reduced, domestic gas is being supplied in accordance with Nigeria Gas Master Plan, and otherwise flared gas is being monetized for the JV.

vii. That CNL never got involved in direct interaction with subcontractors and it is the responsibilities of the contractor (PSL) to such.

2.3 PRIME SOURCES LIMITED (PSL) SUBMISSIONS

i. That the contract was awarded to it on 27th March 2012 (after 2 years of tendering process) at a value of US$64,179,180

ii. That as at the time of the award, market variables, economic assumptions and realities had changed significantly from when the initial quotation was given.

iii. That the project was revised to US$ 115.6m in June 2012.

iv. And that due to inadequate scoping and weather challenges, additional US$70m was added in December 2014 to complete outstanding scope and cater for associated delays.

v. That the entire project was completed and demobilised in July 2016

3.0 GENERAL FINDINGS

Following the investigative hearings, below are the general findings;

3.1 Projects Existence

i. From the submissions of all stakeholders, the project is in existence. This project was executed by Chevron Nigeria Limited (CNL) and contracted to PSL. From the submissions, it is unclear if all nine (9) PPMods were completed. The only substantive evidence available during the hearing (Diakrino VfM Audit Report) alluded only to seven (7) PPMods namely Ewan, Parabe, Malu, Opolo, Meren 1, Delta, Tapa PPs.

ii. While the final account and release certificate signed on the 20th July 2016 indicated that all PPMods were completed, the VfM audit report dated

December 2016 indicated that there was no certificate of completion for one (Meren 1 PP) of the seven PPMods under the scope of its audit review.

3.2 Project Governance

i. It was noticed that the EGP 3B PPMods project was first advertised on 17th October 2005, technical bid was opened in July 2009 and commercial bid in January 2010. The contract award came in March 2012; culminating in a 7-years tender process.

ii. According to the JoA section 5.4.3 on Excess Materials and Procurement which provides for listing and treatment of excess materials,. there is no evidence to support that both parties had considered the value and treatment of excess materials on the project.

CNL denied that there were no excess materials

3.3 Specific Findings

a. Compliance with the Procurement Act

i. Section V, subsection 17, 18 19 and 20 of the Public Procurement Act 2007 provides that in the case of a government agency parastatal, or corporation, a Parastatal's Tenders, the procuring entity shall (a) remain the needs assessment and evaluation; (b) identifying the goods, works or services required; (c) carrying appropriate market and statistical surveys and on that basis prepare analysis of the cost implications of the proposed procurement to obtain economy of scale and reduce procurement cost. It shall also invite two credible persons as observers in every procurement process one person each representing a recognized private sector professional organization whose expertise is relevant to the particular goods or service being procured, and non-governmental organisation working in transparency, accountability and anticorruption areas, and the observers shall not intervene in the procurement process but shall have right to submit their observation report to any relevant agency or body including their own organizations or associations.

ii. In line with section V, subsection 17, 18 19 and 20 of the Public Procurement Act 2007, the procurement process adopted by the NNPC/NAPIMS and CNL was inadequate and non-compliant with various provisions of the Act including contracting, procurement planning and implementation, needs assessment, market survey nor presence of two credible observers.

iii. It was clear from the outset that PSL was inexperienced and its quotation of (USD64m) which was ridiculously low compared to CNL's in-house estimate (USD$173m), yet both NNPC/NAPIMS and CNL awarded the contract to PSL. In addition, during the tendering process, PSL tendered as a consortium of Prime Sources-Hensteel-SOMECO but signed and executed the contract as PSL alone.

b. Compliance with Initial Project Timeline

i. PSL was mobilised in September 2012 for EGB 3P PPMods for a completion date of December 2013. The PPMods was completed and released on 20th July 2016, about two and half years after the proposed date.

ii. In meeting this timeline, it is on record that CNL advanced USD$ 17m to PSL, however the contract sum was reviewed from USD$64M to USD$115M.

c. Compliance with Initial Project Cost

i. EGP 3B PPMods project experienced four variation orders graduating from initial sum of USD $ 64, 179,198 to USD$

122,530,866.33 then to USD$ 70, 200, 000 addition and finally to USD$ 202,944,925 (VAT inclusive).

ii. CNL confirmed that it has no outstanding payment with NNPC/NAPIMS as all payments had been received and project delivered.

4.0 CONCLUSION

i. From the findings, the following conclusions can be drawn:

ii. that the project was inefficient as modification works on all seven platforms in the North Offshore Area field. All seven platforms were meant to have been completed on April 30 2013, however only three (Ewan, Delta and Tapa) had been completed even at mid-project contract ceiling price of USD $ 114, 580,800;

iii. that there was lack of proper project scoping and assessment on the part of the PSL on the one hand, and efficient project monitoring, evaluation and reporting on the part of NNPC/NAPIMS and CNL on the other hand;

iv. that the basis of award of this contract for the lowest bidder seems unreasonable considering the in house estimates of CNL and current market realities;

v. that the contracting and procurement process of this project lasting a period of 7years is unfathomable; standard industry practice for contracting is 90days;

vi. that there was evidence of misinformation, collusion / sabotage and deceit by all parties. In its letter dated 11th April 2012, CNL had communicated to NNPC/NAPIMS that due to delays in giving award approval and change in market prices, there is a need for an upward review of contract ceiling from USD$64,179,198 to USD $ 114, 580,800. In the same vein and in another letter dated 24th February 2014, the reason for this upward review was stated as inexperience of the contractor and lack of competence in executing project of this complexities and magnitude. CNL's submission of Final Account & Release Certificate dated 20th July 2016 claimed satisfactory completion while Diakrino's VfM audit report dated December 2016 indicated that there was no certificate of completion for one (Meren 1 PP) of the seven PPMods under the scope of its audit review and inlet gas is less than originally designed is a case in point. Also, the fact that PSL had tendered as a consortium of Prime Sources-Hensteel-SOMECO but signed and executed the contract as PSL alone is a red flag and corroborating evidence of collusion; and

vii. that both parties (CNL and NNPC/NAPIMS) subjected Nigerians to unquantifiable hardship for an average of 2 years in delivering domestic gas as well as export gas that could have generated revenue for the nation.

5.0 RECOMMENDATIONS

In view of the findings and conclusion stated above, the House hereby resolve to urge the Executive Arm of Government to carry out the following recommendation:

i. a supposed entity called '***Diakrino Services Limited'*** which was engaged by NNPC/NAPIMS to conduct a value for Money (VFM) audit at the cost of USD$1m was not a legal entity as confirmed by the Committee from a search from Corporate Affairs Commission;

ii. that the total contract sum awarded to Diakrino Services Limited should be paid back to the Federation Account; and

iii. that the following staffers:

a. Mr. Oladipo Sowande - Project Manager (Retired)

b. Mr. Paul Duru Ajisafe - GM Gas (Retired)

c. Mr. Ibrahim Bagudu – (General Manager NNPC)

d. Mr. Ahmed Shehu - GM Gas (Retired)

e. Mrs. Victoria Akpomudje - General Manager (Gas &Power)

of NNPC/NAPIMS involved in managing this contract awarded to Diakrino should be apprehended and prosecuted for violating the Procurement Act 2007

iv NNPC/NAPIMS should ensure contracts awarded meet the timeline of completion to avoid unnecessary financial burden on the Corporation.

Hon. Frederick.Y. Agbedi

Chairman

Delupe Abiodun Suraj

Committee Clerk