

## **Land Reform Commission - 2015**

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The audit of financial statements of the Land Reform Commission for the year ended 31 December 2015 comprising the statement of financial position as at 31 December 2015 and the statement of financial performance and statement of changes in equity and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 13 (1) of the Finance Act, No. 38 of 1971 and Section 56 of the Land Reform Act, No. 01 of 1972. My comments and observations which I consider should be published with the Annual Report of the Commission in terms Section 14 (2) (c) of the Finance Act appear in this report.

### **1.2 Management's Responsibility for the Financial Statements**

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The management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements whether due to fraud or error.

### **1.3 Auditor's Responsibility**

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My responsibility is to express an opinion on these financial statements based on audit conducted in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000-1810).

### **1.4 Basis for Disclaimer of Opinion**

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As a result of the matters described in paragraph 2.2 of this report, I am unable to determine whether any adjustments might have been found necessary in respect of recorded or unrecorded items and elements of statement of financial position, statement of financial performance and statement of changes in equity, and cash flow statement.

## **2. Financial Statements**

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### **2.1 Disclaimer of Opinion**

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Because of the significance of the matters described in paragraph 2.2 of this report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on these financial statements.

### **2.2 Comments on Financial Statements.**

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#### **2.2.1 Sri Lanka Public Sector Accounting Standards**

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The following observations are made.

## (a.) Sri Lanka Public Sector Accounting Standard 01

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- (i) Even though the accrual basis should have been followed in reporting the transactions and events in the financial statements, the income received from the district offices had been accounted on cash basis.
  - (ii) The assets, liabilities, income, and expenses should be shown in the financial statements separately. However, instead of showing the total land sales income of Rs. 213,499,139 in the statement of financial performance, and the part to be appropriated under the reserves, a sum of Rs. 128,099,483 representing 60 per cent of that had been shown under the income, whereas the rest of Rs. 85,399,656 or 40 per cent, had been shown under reserves. As such, the true nature of the income received had not been disclosed in the financial statements.

## (b.) Sri Lanka Public Sector Accounting Standard 03

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The total income of Rs. 13,666,001 received through the reimbursement of income from the lease lands in respect of several preceding years, and other allowances including gratuity paid prior to the year 1995, had been adjusted to the profit of the year in the year under review as adjustments of the preceding years, without adjusting retrospectively.

## (c.) Sri Lanka Public Sector Accounting Standard 08

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The Court of Appeal had returned the verdict in the year 2009 that a sum of Rs. 148,715,363 be paid to the plaintiffs who had filed a case against the Commission to obtain the ownership of a land. The sum payable had exceeded Rs. 200,000,000 by 31 December 2015 including the interest. However, no provision had been made in that connection.

## (d.) Sri Lanka Public Sector Accounting Standard 09

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The following observations are made.

- (i) Lands and property being kept by an entity for resale should be shown as stocks. However, lands valued at Rs. 676,169,345 available for sale had been shown under non-current assets.
- (ii) The aforesaid lands available for sale had been assessed for the first time in the year 1978, and except for a small adjustment made in the years 2003 and 2006, the same value had been shown from the year 2006 to 2015. Accordingly, after the adjustments being made for the acquisitions, and sales taking place yearly, it was observed that an accurate value was not indicated by those balances as adjustments had not been made in respect of a further revaluation if necessary.

### 2.2.2 Accounting Deficiencies

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The following observations are made.

- (a.) Surcharges receivable on the delay of paying lease rents for the year under review had been understated in the accounts by a sum of Rs. 3,602,498.
- (b.) The arrears of income receivable from the resources of mineral (granite) leased out by the Commission had not been computed and shown in the financial statements, and the granite income in arrears receivable from the *Kalutara* district alone, amounted to Rs. 20,152,185.
- (c.) The provision for gratuity with respect to 07 employees with a service period of 1-5 years, had been understated by a sum of Rs. 228,745.

### 2.2.3 Unexplained Differences

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The following observations are made.

- (a.) According to the financial statements of the year under review, the overall liability amounted to Rs. 223,012,958 under compensation suspense stage 1, and 2. However, in accordance with the reports of the Assessment and Compensation Division, the compensation including the interest payable to the declearants amounted to Rs.586,300,000. As such, a difference of Rs. 363,287,042 had been observed, and action had not been taken to ensure the accuracy therein.
- (b.) In comparing the income of 11 Heads of revenue included in the financial statements with the reports of revenue connected thereto, a difference of Rs. 17,891,944 was observed.
- (c.) According to the reports of the Revenue Division, the lease rental income receivable by the end of the year under review amounted to Rs. 171,128,621. However, as the amount had been shown as Rs. 87,915,051 in the financial statements, a difference of Rs. 83,213,570 was observed in the lease rental income.

### 2.3 Accounts Receivable and Payable

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The following observations are made.

- (a.) Action had not been taken even in the year under review either to recover or to settle from the accounts a sum of Rs. 2,132,372,712 that remained recoverable from 07 Public institutions over a period of 10 years, Rs. 748,589 of employee loans that remained recoverable from 46 employees throughout a period of 1-5 years, and lease rentals amounting to Rs. 87,915,051 that remained recoverable over a period of 02 years.
- (b.) On the basis of being reimbursed by the Ministry of Lands, a sum of Rs. 3,252,654 had been paid to a private institution in the year 2003 for planning the promotional

activities of the programme implemented by the Ministry for awarding *Rathnabhoomi* deeds under the approval of the Chairman. The Commission failed even in the year under review to take appropriate action on the said sum shown in the financial statements as being recoverable for a period of 12 years.

- (c.) The value of Rs. 2,921,575 that remained recoverable from 15 sundry debtors since the year 1999 had not been recovered even in the year under review, and the source documents required to ensure the said value had not been possessed by the Commission.
- (d.) Land sales advances of Rs. 6,424,700 shown in the financial statements over a period of 10 years, advances for selling lands to the employees amounting to Rs. 3,923,492 shown in the financial statements over a period of 08 years, lease rental advances of Rs. 11,215,850 that remained payable over a period of 10 years, and balances amounting to Rs. 2,500,000 that remained payable for a period of 04 years, had not been either settled or credited to the revenue.
- (e.) The refundable tender deposit value shown in the financial statements amounted to Rs. 201,500. It was observed that Rs. 66,000 of that had remained outstanding for a period of 2-10 years whilst the remaining balance of Rs. 135,500 had remained outstanding over a period of 10 years. Furthermore, action had not been taken to settle the deposits valued at Rs. 800,130 payable to various Public and private institutions that had remained outstanding over a period of 10 years.

#### 2.4 Lack of Evidence for Audit

As the evidence stated against each item mentioned below, was not made available to audit, the accuracy of those transactions could neither be vouched nor accepted.

Item of Account -----	Balance ----- Rs.	Evidence not made available -----
Lands	676,169,345	Schedules / Registers containing information on lands
Buildings	4,586,223	} Board of Survey Reports
Computers and Accessories	7,771,227	
Furniture and fittings	857,543	
Motor Vehicles	68,571,828	
Office Equipment	20,977,190	
Welfare equipment	1,031,996	
Stocks of Stationary	2,711,069	} Detailed Schedules
Compensation Suspense Account	223,012,958	

## 2.5 Non-compliances with Laws, Rules, Regulations, and Management Decisions

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The following non-compliances were observed.

<b>Reference to Laws, Rules, Regulations, and Management Decisions</b>	<b>Non-compliance</b>
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(a.) Cabinet Decision No. 12/1237/501/030, dated 18 December 2014	A Committee should be appointed comprising 04 officers named for submitting a detailed report including matters presented by the Cabinet of Ministers in respect of the lands given to the other parties by the Commission during the period from 01 January 2002 to 31 March 2004, to the Cabinet of Ministers within a period of 02 months. However, it had not been so done.
(b.) Public Enterprises Circulars, No. 25, dated 29 July 2004, and No. 25 (i), dated 10 August 2004.	(i) A sum of Rs. 1,228,664,542 had been invested in fixed deposits and Treasury Bills by the Commission since the year 2004 without the approval of the Minister of Finance. (ii) A sum of Rs. 7,000,000 had been invested in a private institution on 30 December 2010 without the approval of the Minister of Finance.
(c.) Section 7.4.2 of Public Enterprises Circular, No. PED/12, dated 02 June 2003.	In order to operate, and take decisions relating to the institutional operations and activities, all Public enterprises should establish senior management committees. Nevertheless, the Commission had not appointed those management committees.
(d.) Section 3 of the internal Circular, No. 2000/26, dated 08 December 2000 for the recovery of usage income	The district offices should prepare a list containing names of the encroachers, with a copy being sent to the Director (Administration). However, it had not been so done.
(e.) The Commission Circular, No. 2008/ ๑๒๓๔/1, dated 17 April 2008	
(i) Sections 01(i), and (ii)	The recovery of outstanding usage income of the relevant year should be completed within the same year. However, the usage income had been recovered at the time of selling the lands in many instances.
(ii) Section 02	Despite being informed that all outstanding encroachment fees should be promptly recovered from the encroachers prior to 10 October 2001, it had not been so done.

(f.) Internal Circular, No. 2007/15, dated 12 September 2007 Even though it was informed that the lands owned by the Commission that had been encroached over a long period of time, should be granted by indentures of lease with the approval of the Commission after being surveyed, and assessed, there had been a large number of lands being encroached even by the year 2015.

### **3. Financial Review**

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#### **3.1 Financial Results**

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According to the financial statements presented, the operating result of the Commission for the year under review had been a surplus of Rs. 55,708,450 as compared with the corresponding surplus of Rs. 87,130,484 for the preceding year, thus indicating a deterioration of Rs. 31,422,034 in the financial result for the year under review. As compared with the preceding year, the deterioration had mainly been caused by the decrease in the fixed deposits, Treasury Bills, and the interest income of the general savings, by a sum of Rs. 36,664,274.

In analyzing the financial results of the preceding years, there had been continuous financial surplus from the year 2001 to 2015, whereas a gradual decline in the surplus was observed after the year 2012. By considering the employee remuneration, Government taxes, and depreciation on non-current assets, the contribution of the Commission during the period 2011-2015 amounted to Rs. 199,448,723, Rs. 282,011,837, Rs. 269,283,725, Rs. 284,277,810, and Rs. 269,448,792 respectively. As such, the increase in the contribution for the year 2012 was 41 per cent as compared with the year 2011. However, it had failed to maintain the contribution at the same level in the ensuing years.

#### **3.2 Legal Cases Instituted by or against the Commission**

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A number of 503 cases filed by or against the Commission, had been proceeding as at 31 December 2015.

### **4. Operating Review**

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#### **4.1 Performance**

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In terms of Section 02 of the Land Reform Act, No. 1 of 1972, the main objectives of the Commission includes : to fix a ceiling on the extent of agricultural land that may be owned by persons, to provide for the vesting of lands owned in excess of such ceiling in the Land Reform Commission, and for such land to be held by the former owners on a statutory lease from the Commission, to prescribe the purposes and the manner of disposition by the Commission of agricultural lands vested in the Commission so as to increase the productivity and employment. The following observations are made on the accomplishment of the objectives of the Commission.

- (i) Due to non-availability of a Register on the lands owned by the Commission for development, accurate information had not been updated.

According to the information made available to the COPE meeting held on 23 March 2016, land sales, and extents of lands that had been leased, had gradually decreased, and it was observed that the decrease was 73 per cent as compared with the preceding year.

- (ii) Even though there had been 106 files of unconfirmed ownerships at the beginning of the year for which gazette notifications had been published on the payment of compensation under Section 29 of the Land Reform Act, No. 01 of 1972, compensation could be able to pay only for 2 of those files within the year under review. It was observed that information was yet to be obtained for about 550 files.

#### **4.2 Management Inefficiencies**

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The following observations are made.

- (a.) (i) Even though the lessee of the plot No. 04 of the *Kalawilawatta* land, had agreed to purchase the said land at its commercial value of the year 2002, the said person had occupied the land for over a period of 20 years without paying rentals due to failure in taking substantial measures.
  - (ii) In terms of Section 24 (2) of the Act, action should be taken to reacquire the lands that had not been developed. Nevertheless, action had not been taken to acquire the plot numbers 05 and 07 of the *Kalawilawatta* land that had not been occupied by the lessee at present nor been used for any development activity whatsoever.
  - (iii) This land is occupied by the encroachers with bogus deeds. The Commission had not taken action either to take legal action against them or to evacuate the encroachers in terms of Sections 1, 2, 3, 4 of 42(d) of the Amendment Act, No. 39 of 1975.
- (b.) In terms of Section 33 of the Act, where any compensation payable to any person under this Law is not accepted by him when it is tendered to him, or where such person is dead or is not in existence or is not known, it shall be paid to any appropriate court of civil jurisdiction to be drawn by the person or persons entitled thereto. Nevertheless, action had not been taken up to the date of audit, on 30 April 2016, to deposit the compensation in the court in respect of 127 files.
- (c.) As the persons whom the compensation is payable to, from the Compensation Suspense Account (II) had not been specifically identified, compensations had remained unsettled over a long period of time, and the balance amounting to Rs. 109,959,493 had remained unchanged throughout many years.

#### **4.3 Operating Inefficiencies**

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The following observations are made.

- (a.) In accordance with the Commission Paper, No. 6873, dated 02 April 2009, action should have been taken to assess the land in extent of 04 acres, 02 roods, and 05 perches given to the *Skandha Kumara Kovil* on lease basis, and recover lease rents therefrom with effect from the year 1978. Nevertheless, no lease rent whatsoever had been recovered from this land owned by the Commission for a period of more than 35 years.
- (b.) Certain lands of which the leases had been cancelled by the Commission, were being encroached, and no income whatsoever had been received from those lands by the Commission.

#### 4.4 Transactions of Contentious Nature

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The following observations are made.

- (a.) Even though an allotment in extent of 04 acres, 02 roods, and 16.96 perches from the *Nugedolawatta* land, had been given on 30 year lease basis for cultivation of mixed crops and fruits, it had been confirmed by a field inspection that a driving school for heavy vehicles had been maintained on the said land. Accordingly, following the deviation from the objective of obtaining the land as per Section 13 of the Internal Circular, No. 2/1/145 (iii), dated 23 May 2002, it was observed that action had not been taken in accordance with Section 24 (2) of the Act thereby revising the tax rates to be in line with the change in the basis.
- (b.) Plot numbers 1, and 2 of the Plan No. 53 in extent of 16 acres, 0 rood, and 22 perches from the *Pinnalanda* Estate, had been leased out to the Department of National Zoological Gardens so as to maintain an orphanage for elephants.  
The following observations are made in that connection.

- (i) Even though it had been recommended in accordance with the Commission Paper 6751 of the 587<sup>th</sup> session of the Commission dated, 18 December 2008 that this land, given to the Government Agent of *Rambukkana* since the year 1974 for a temporarily- decided lease rent without the approval of the Minister in charge of the subject, be leased out on the approval of the Minister in charge of the subject, for a period of 30 years from the year 2009 , neither deeds of transfer, nor lease agreements had been prepared in that connection.
- (ii) According to the new assessment for the period from the year 1974 up to 31 December 2014, a sum of Rs. 6,178,731 had been shown as the balance of tax in arrears. Due to non-availability of a deed of transfer or a deed of lease agreement, it was observed that taking legal action for recovering those outstanding balances would be impossible .

Owing to reasons such as granting on lease basis is not legal as the Zoological Garden is a Government institution , and failure to make payments despite being granted on lease basis so far, the audit had been informed by the Chairman that, following a decision taken at the discussion, action had been taken to



acquire and hand over on the basis of compensating the Commission by obtaining provisions from the budget in the year 2017.

- (c.) A land in extent of 02 roods had been vested in the Department of Textiles at *Pinnawala Watta* in *Kegalle*, but no legal document whatsoever had been prepared in that connection.

#### 4.5 Idle or Underutilized Assets

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An area of 23 acres, 03 roods, and 15 perches at the *Wewalthalawa Watta* in *Nuwaraeliya* district had remained idle from 18 March 2004 up to the date of audit, on 31 December 2015.

#### 4.6 Identified Losses

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The following observations are made.

- (a.) The following matters were observed during the physical audit inspection carried out on the Plot No. 09 of the *Kalawilawatta* being occupied by a hotel company.
- (i) A Cabinet Memorandum had been presented by the Minister of Investment Promotions, in collaboration with the Minister of Fisheries and Aquatic Resources for the implementation of *Beruwala* Town Development Plan in the year 2014. As a hotel project had also been included therein, the Sri Lanka Board of Investment and a private leasing company had entered into an agreement without approval of the Commission for implementing the said project.
  - (ii) At the time of the land being vested in the private leasing company, a hotel had been illegally operated for a period of more than 30 years by a private hotel company, but the Commission had not taken any action whatsoever in that connection.
- (b.) The following matters were observed during the inspection carried out on the vesting of a 06 acre land from the *Layland* Estate industrial park in a private company on a 50 year lease with effect from 09 September 2005.
- (i) In accordance with the Commission Paper, No. 7931, dated 28 March 2012, the tax income should be collected by revising taxes once in 05 years, but the tax for the ensuing 05 years had been computed by adding 50 per cent to the amount determined previously. Nevertheless, the company had not agreed to pay that amount.
  - (ii) In accordance with the Administrative Circular, 2005/07 of the Commission, a fine of 10 per cent should be charged on the delay of making payments. However, it had not been so done, and the sum deprived, amounted to Rs. 960,000.

(iii) Even though it is the usual procedure of the Commission to levy a tax percentage of 4 per cent from the assessed value and 6 per cent from the industrial sector when the Commission leases out agricultural lands, only 4 per cent had been levied from this institution which related to the industrial sector. As such, a sum of Rs. 8,000,000 had been undercharged up to the year 2015.

(c.) Even though an income of Rs. 306,850 had been received in the year under review from the coconut cultivation being maintained at the *Dawulkurunduwatta* land in the *Madampe* district land area of authority, a loss of Rs. 138,547 had been sustained as allowances of the watchmen, and other expenses totalling Rs. 445,397 had been incurred. Hence, attention had not been drawn to improve the income received by further developing such lands being administered by the Commission.

#### **4.7 Personnel Administration**

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The post of Director (Finance) of the Commission had remained vacant for a period of more than 07 years, whilst the posts of Director (Legal), and Director (Lands) had also remained vacant for a period of 02 years. Appointments for those posts had been made on acting basis, and accordingly, it was observed that there had been a possibility of affecting the decision making process of the Commission.

### **5. Accountability and Good Governance**

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#### **5.1 Corporate Plan**

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In terms of Section 5.2 of the Public Enterprises Circular, No. PED/ 12, dated 2003 June 02, the operating results of the 03 preceding years had not been reviewed in the Corporate Plan prepared for the period 2015 – 2019.

#### **5.2 Annual Action Plan**

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(a.) None of the activities such as, identification of lands that had exceeded the maximum limit shown in the Action Plan, identification of lands to be released as per Buddhist Temporalities Ordinance, registration of lands vested in the Commission and registration of rights and registers, preparation of the main warehouse properly, computerization of the main warehouse, and conducting 02 day programmes on the subject of lands, had been executed.

(b.) Out of the 14 targets mentioned in the Action Plan, a progress less than 50 per cent had been acquired.

#### **5.3 Internal Audit**

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An internal audit had not been conducted in the year under review relating to the matters stated in the Internal Audit Plan, such as the maintenance of ledgers and recovery of tax in arrears at the Revenue Division, identification of cases based on the type of court at the Legal Division, and examination of expenditure. Half yearly internal audit reports had not been presented to the Auditor General.

#### 5.4 Procurement and Contract Process

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A main Procurement Plan had not been prepared in accordance with the Public Finance Circular, No. 01/2014, dated 17 February 2014.

#### 5.5 Budgetary Control

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As significant variances from 34 per cent up to 84 per cent in income and 30 per cent to 6141 per cent in expenditure were revealed while comparing the budgeted income and expenditure and the actual income and expenditure in the year under review, it was observed in audit that the budget had not been made use of as an effective instrument of management control.

#### 5.6 Tabling of Annual Reports

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Action had not been taken to table annual reports for the years 2013, and 2014 in Parliament even by 31 March 2016.

#### 5.7 Unresolved Audit Paragraphs

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A sum of Rs. 17,000,000 paid in the year 2002 in a transaction identified as being fraudulent, for purchasing a computer software package, had been shown as advances for computers in the financial statements. Accordingly, it was decided at the audit committee meeting on 17 June 2015 that action should be taken to raise the issue with the Treasury after having discussions with the Commission on the settlement of monies erroneously shown in the accounts as advances. Action had not been taken to resolve this accounting entry even up the date of audit, on 29 April 2016.

### 6. Systems and Controls

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Deficiencies in system and controls observed during the course of audit were brought to the notice of the Chairman of the Commission from time to time and special attention of the Commission is needed in respect of the following areas of control .

#### Area of Systems and Controls

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#### Observations

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| (a.) Accounting         | Non-coordinating of all the Divisions including Revenue Division, Land Transfer Division, and Project Division, with the Accounts Division.  |
| (b.) Control of Debtors | <p>(i) Failure to update the statement of arrears of revenue . Failure to take action to recover arrears income.</p> <p>(ii) Failure to account the monies receivable by the Commission from Public Institutions as the relevant Divisions had not informed.</p> |

- (iii) Failure to prepare Age Analyses in respect of receivables.
  - (iv) Failure to obtain confirmation of debtor balances.
- (c.) Non maintenance of Registers of Non-availability of a Land Register, and registers on the leased lands, and the lands transferred by sale.
- (d.) Lease of Lands Non-preparation of a proper methodology for leasing the lands.