

## **Head 299 - Report of the Auditor General on the National Intellectual Property Office of Sri Lanka – Year 2017**

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The Appropriation Account and the Reconciliation Statement under Head and Item Number stated in the First Schedule and Third Schedule of the Appropriation Act, No. 24 of 2016 as amended by the Appropriation (Amendment) Act, No.32 of 2017 were presented to Audit by the National Intellectual Property Office of Sri Lanka. The financial and physical performance reflected by those accounts and the reconciliation statements were audited in terms of Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

### **1.2 Responsibility of the Chief Accounting Officer and the Accounting Officer for the Financial Management and Accountability**

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The Minister of Finance is charged with the raising of Revenue and the collection of other Government monies as well as with the general oversight of all the financial operations of Government in terms of Financial Regulation 124 of the Democratic Socialist Republic of Sri Lanka. The Chief Accounting Officers have been appointed by the Minister of Finance to discharge the above responsibility in terms of Financial Regulation 124(2). The Head of the Department will be the Accounting Officer in respect of all the financial transactions of his Department in terms of Financial Regulation 125(1)(a) and the Revenue Accounting Officer has been appointed by the Treasury. This responsibility includes designing, implementing and maintaining internal controls relevant to the maintenance, preparation and fair presentation of Accounts and Reconciliation Statements presented within the limitations imposed by Parliament in accordance with the provisions in Articles 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other Statutory Provisions, Government Financial Regulations and Administrative Regulations.

### **1.3 Scope of Audit**

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The audit of National Intellectual Property Office of Sri Lanka – Head 299 for the year ended 31 December 2017 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka in respect of designing of financial and physical performance, Government expenditure, Government revenue, management of human and physical resources, apply of internal control systems, compliance with laws, rules and regulations and maintenance of books, registers, records and reconciliation statements in an updated manner, preparation and presentation of accounts in timely manner, issuance of performance reports to respective parties based on the performance indicators. The Management Audit Report for the year under review was issued to the Director General of the Office on 19 October 2018. The audit observations, comments and findings on the accounts and the reconciliation statements were based on a review of the plans, accounts, reconciliation statements and performance reports presented to Audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

## 1.4 Audit Observation

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The audit observations of the National Intellectual Property Office of Sri Lanka for the year ended 31 December 2017 revealed in audit appear in Management Audit Report in detail, mentioned in paragraph 1.3 above. The material and significant audit observations out of the audit observations appear in paragraph 2.1 to 2.6 of this report. It was observed that the accountability as the Accounting Officer had been satisfactorily executed, to ensure the adequacy of the financial administration subjected to the following summarized audit observations revealed in the execution of the provisions of the Financial Regulation 128 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka.

<b>Accountability of the Accounting Officer in terms of Financial Regulation 128(1)</b>	<b>Non-compliance with that Provision by the Accounting Officer</b>	<b>Reference to the Paragraph of the report which included the Observation</b>
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Financial Regulations		
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128(1)(a) That the work of his department is planned and carried out with due despatch, having regard to the policy laid down by the Government and the intentions of Parliament in granting him financial provision for the activities authorized, and that an endeavour is made to complete the programme of work laid down for the year and/or to attain the targets specified,	1. Failure to prepare the Budget Estimates in a realistic manner. 2. Projects without progress despite the release of money 3. Deficiencies in the implementation of procurement process. 4. Uneconomic Transactions	2.4  2.2(a)i  2.2(a) iii,iv,v 2.2(b)ii  2.2(a)ii
128(1)(f) That such information statements, and returns as are called for by the Chief Accounting officer or the Treasury, are rendered correctly and promptly.	Failure to present the Annual Performance Report/delay in the presentation	2.1.1
128(1)(i) That the activities of his department are undertaken with due regard to economy, efficiency, propriety and integrity expected in the transaction of public business	Management weaknesses	2.3

## **2. Material and Significant Audit Observations**

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### **2.1 Performance**

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#### **2.1.1 Annual Performance Report**

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Even though the Performance Report of the year under review should be tabled by the Office in Parliament within 150 days after the close of the year of accounts in terms of the Public Finance Circular No.402 of 12 September 2002, reports of the Office for the year under review and 02 preceding years had not been tabled in Parliament even by 08 October 2018.

### **2.2 Obtaining Supplies and Services through Procurement Process**

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#### **Implementation of Procurement Process**

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##### **(a) Accession to the Madrid Protocol**

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The project had been commenced in the year 2016 and out of the provisions of Rs.64 million made therefor in the years 2016 and 2017, a sum of Rs.62.25 million had been spent. The following matters were observed in this connection.

- (i) A Memorandum of Understanding had been entered into with the Information Communication Technology Agency on 30 December 2016 in respect of purchasing and operating the Server required for the implementation of the Project. A sum of Rs.32.50 million had been paid for the said purpose on the same date. Even though procurement process should be completed within 06 months in terms of Clause 4.3 of the Agreement, procurement process had been carried out in September 2017. However, it had been rejected due to the non-compliance with specifications and the procurement process had not been carried out again even by October 2018.
- (ii) Even though the ground floor of the Chamber of Commerce had been obtained for the project on a monthly rental of Rs. 0.17 million for a period of two years from 15 May 2016, it had been used to store files and goods without using for the relevant purpose.
- (iii) An agreement had been entered into with a Consultancy Firm for updating the registration of trademarks under the Project and for amendments to the laws in the Intellectual Property Act and a sum of Rs.7.8 million had been spent therefor. Action had not been taken in terms of the provisions in guidelines 2.3.1, 2.4.1, 2.6.3, 2.8, 6.2 and 7.1 in the Procurement Guidelines for consultancy services.
- (iv) The Contract Agreement had not been registered in terms of Public Contracts Act, No.3 of 1987.
- (v) The Chief Consultant of this project had not reported for duty from 08 May 2017 to 07 June 2017 and from 23 June 2017 to 26 September 2017 continuously.

(b) In obtaining a building for the Office on lease basis, the procurement process had not been completed within the due period as per the procurement plan and action had not been taken in terms of guidelines 2.8.3, 2.7.4, 2.11.1, 2.12, 5.3.13, 7.12.2(a) and 7.12.4 in the Procurement Guidelines and in terms of Circular No.PFB/GMB/CIR/2016/02 of 17 June 2016 as well. As this building was not suitable for office requirements, it had been decided to call for quotations again.

### 2.3 Management Weaknesses

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External parties had filed 163 cases against the Intellectual Property Office on various reasons pertaining to trade marks.

### 2.4 Utilization of Provisions authorized by Parliament for the Performance of Functions

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Information on the utilization and savings of provision made for the Department during the 05 years ended as at 31 December 2017 and the audit observations thereon are given below.

Year	Category of Expenditure	Net Provision	Actual Expenditure	Savings	Savings as a percentage of net provision
		Rs.million	Rs.million	Rs.million	
2013	Recurrent	20.93	12.90	8.03	38.37
	Capital	-	-	-	-
	<b>Total</b>	<b>20.93</b>	<b>12.90</b>	<b>8.03</b>	<b>38.47</b>
2014	Recurrent	17.24	15.70	1.54	8.93
	Capital	-	-	-	-
	<b>Total</b>	<b>17.24</b>	<b>15.70</b>	<b>1.54</b>	<b>8.93</b>
2015	Recurrent	25.87	25.28	0.59	2.28
	Capital	-	-	-	-
	<b>Total</b>	<b>25.87</b>	<b>25.28</b>	<b>0.59</b>	<b>2.28</b>
2016	Recurrent	28.75	28.15	0.60	2.09
	Capital	-	-	-	-
	<b>Total</b>	<b>28.75</b>	<b>28.15</b>	<b>0.60</b>	<b>2.09</b>
2017	Recurrent	30.88	30.73	0.15	0.49
	Capital	-	-	-	-
	<b>Total</b>	<b>30.88</b>	<b>30.73</b>	<b>0.15</b>	<b>0.49</b>

The provisions for the year under review had not been estimated in a realistic manner, thus it was observed that supplementary provisions totalling Rs.1.58 million had been obtained for 03 Objects.

## 2.5 Advances to Public Officers Account

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### Limits Authorized by Parliament

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The limits authorized by Parliament for the Advances to Public Officers Account Item No.29901 of the Office and the actual amounts are given below.

<b>Expenditure</b>		<b>Receipts</b>		<b>Debit Balance</b>	
<b>Maximum Limit</b>	<b>Actual</b>	<b>Minimum Limit</b>	<b>Actual</b>	<b>Maximum Limit</b>	<b>Actual</b>
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Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
4.00	3.99	1.50	2.50	12.00	8.82

## 2.6 Human Resources Management

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### 2.6.1 Approved Cadre, Actual Cadre and Expenditure on Personal Emoluments

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The particulars relating to the approved cadre, actual cadre and vacancies to perform the function of the Office as at 31 December 2017 are given below. The Office had spent a sum of Rs.30.44 million on the category of Personal Emoluments in the year under review.

	<b>Category of Employees</b>	<b>of Approved Cadre</b>	<b>Actual Cadre</b>	<b>Number of Vacancies</b>
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(i)	Senior Level	12	06	06
(ii)	Tertiary Level	05	05	-
(iii)	Secondary Level	66	43	23
(iv)	Primary Level	15	14	01
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	<b>Total</b>	<b>98</b>	<b>68</b>	<b>30</b>
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- (a) Even though vacancies existed in 06 posts of the Senior Level and 23 posts of the Secondary Level, those vacancies had not been filled even by the end of the year under review.
  
- (b) In considering the provisions made for training purposes during the 05 preceding years, it was observed that even though the utilization of provisions in the year 2013 stood at 94 per cent, it had gradually decreased to 56 per cent by the year 2016 and increased to 68 per cent in the year under review.