

Head- 286- Department of Commissioner General of Land

1. Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the **Department of Commissioner General of Land** for the year ended 31 December 2019 comprising the statement of financial position at 31 December 2019 and the statement of financial performance and cash flow statement for the year then ended, 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 provisions of the National Audit Act No. 19 of 2018. The summary report containing my comments and observations on the financial statements of the **Department of Commissioner General of Land** was issued to the Accounting Officers on 06 July 2020 in terms of Section 11 (1) of the National Audit Act No. 19 of 2018. The Annual Detailed Management Audit Report relevant to the **Department** was issued to the Accounting Officer on 29 September 2020 in terms of Section 11 (2) of the National Audit Act No. 19 of 2018. This report will be tabled in Parliament in pursuance of provisions in Article 154 (6) of the Constitution to be read in conjunction with Section 10 of the National Audit Act, No.19 of 2018.

In my opinion, except for the effects of the matters described in the Paragraph 1.6 of this report, the accompanying financial statements prepared in accordance with the provisions in the State Accounts Circular No.271/2019 dated 03 December 2019 give a true and fair view of the financial position of the **Department of Commissioner General of Land** as at 31 December 2019, and of its financial performance and its cash flows for the year then ended in accordance with Generally Accepted Accounting Principles.

1.2 Basis for Qualified Opinion

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

1.3 Responsibility of the Chief Accounting Officer and the Accounting Officer for the Financial Statements

The Chief Accounting Officer and the Accounting Officer are responsible for the preparation of financial statements that give a true and fair view in accordance with Generally Accepted Accounting Principles and provisions in Section 38 of the National Audit Act, No.19 of 2018 and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

As per Sub-section 16(1) of the National Audit Act No. 19 of 2018, the Department is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

In terms of Sub-section 38 (1) (c) of the National Audit Act, the Chief Accounting Officer shall ensure that an effective internal control system for the financial control exists in the Department and carry out periodic reviews to monitor the effectiveness of such systems and accordingly make any alterations as required for such systems to be effectively carried out.

1.4 Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accounting Officer regarding, among other matters, significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

1.5 Report on Other Legal and Regulatory Requirements

I express the following matters in accordance with Section 6 (1) (d) and Section 38 of National Audit Act, No. 19 of 2018.

- (a) The financial statements are consistent with the preceding year.

- (b) The recommendations made by my report on the financial statements pertaining to the preceding year regarding the observations included in Paragraph 1.6.1(b) of this report had been implemented.

Comments on Financial Statements

1.6.1 Non-compliance with laws, rules and regulations

Instances of non-compliance with laws, rules and regulations are as follows.

Reference to laws, rules and regulations	Non-compliance	Recommendation	Comment of the Accounting Officer
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(a) Financial Regulations of the Democratic Socialist Republic of Sri Lanka F.R.104 (4)	Although full reports should be submitted within three months from the date of the loss, the delay in submitting the full reports for 04 vehicles in the year under review was 05 months to 05 years and full reports of 03 vehicles involved in the accident in 2018 and 2019 had not submitted.	Reports should be submitted in accordance with Financial Regulations.	As information has to be obtained from other external institutions, delays occur in preparing the complete report as per FR104 (4) . Reports are being prepared relating to the accidents regarding which the full reports can be prepared.
(b) Section 3.1 of Public Administration Circular No. 30/2016 dated 29 December 2016	Following each fuel test, vehicles should be re-tested subsequent to a period of 12 months, after being driven for a distance of 25,000 km, or after a major engine-related repair, whichever occurs first. Nevertheless, no fuel test had been carried out on 21 vehicles	Action should be taken in accordance with the circular.	Due to insufficient funds and expedited deed programme, vehicles could not be deployed for fuel testing.

2. Financial Review

2.1 Revenue Administration

The following observations are made.

Audit Observation	Recommendation	Comment of the Accounting Officer
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(a) Due to poor follow up of land tax revenue collection under Revenue Code 20.02.01.03 in the inter-provincial Agrarian Settlement Areas, action had not	Prompt action should be taken to recover the arrears of revenue and control the increase in cumulative arrears of revenue as per	As the long term leasing process under the State Lands Ordinance is a complex process as per the Act, a tax arrears have been

been taken to recover revenue of Rs.28,746,016 that remained in arrears by end of the year under review.

Financial Regulation 175 (2) and Paragraph 4 (b) of the Fiscal Policy and Economic Affairs Circular No. 01/2015 dated 20 July 2015.

created for the period from the date of selection of the lessees up to the issuance of a lease and accordingly, the amount of tax payable by the lessees has become large. A program will be implemented in the future to collect tax arrears and strengthen tax revenue and tax revenue will be collected regularly.

- (b) Out of the arrears of tax revenue recoverable from the Government lands in the inter-provincial Agrarian Settlement Areas, 47% of the tax revenue remained in arrears for more than 2 years and as compared to the previous year, arrears of revenue of Rs. 7,910,261 in 15 Divisional Secretariats related to 07 Deputy Land Commissioner's Offices remained unmoved.

Tax revenue from state lands should be collected efficiently and systematically.

A programme will be implemented in the future to strengthen the tax revenue by collecting the arrears of tax and accordingly action will be taken to collect the tax revenue systematically.

- (c) The collection of tax revenue in all areas other than the inter-provincial Agrarian Settlement Areas is done by the Provincial Land Commissioner's Department and the full powers to administrate the government lands in those areas and supervise the officers involved in the administration of government lands in those areas had been assigned to the Commissioner General of Lands in terms of the Presidential Secretariat Circular No. SP / RD / 02/10 dated 03 February 2010. Nevertheless, due to poor supervision of tax collection, a revenue of Rs.2,913,074,419 million had not been recovered by the end of the year under review.

Action should be taken to recover the revenue and monitor the recoverable revenue in arrears in accordance with the Section 91 of the State Land Ordinance and the provisions of the Presidential Secretariat Circular on State Land Management No. SP/ RD / 02/10 dated 03 February 2010

Due to the complexity of the leasing process, a large amount of tax and fines have been accumulated. Action has been initiated to expeditiously collect the tax by giving tax relief.

2.2. Expenditure Management

Audit Observation

Recommendation

Comment of the Accounting Officer

Out of the estimated allocation of Rs.50,000,000 under Item of Expenditure No.286-02-01-1409 (Other Services), a sum of Rs.1,502,000 had been transferred under F.R.66 to another Object without an accurate estimate of the expenditure related to the Object and as such, liabilities exceeding savings of Rs.2,406,124 as at the end of the year had been Rs.1,172,554.

A proper budgetary management should be ensured.

As the release of imprest from the Treasury was limited, provisions have been transferred to cover essential expenses

2.3 Incurring Liabilities and Commitments

The following observations are made

Audit Observation

Recommendation

Comment of the Accounting Officer

(a) Although no expenditure or commitment should be incurred in excess of the provisions provided for as per the Financial Regulation 94 (1), liabilities amounting to Rs. 1,900,682 had been incurred in excess of provisions made for 06 Objects.

As per the Financial Regulation, no expenditure or commitment should be incurred in excess of the provisions made.

It has been noted that the payment had to be made due to the imperative needs for the maintenance of the activities of the Department and not to incur the liabilities in excess of the provisions in future.

(b) According to Section 3.4 of the State Accounts Circular No. 271/2019 dated 03 December 2019, commitments or liabilities not reported to the Treasury should not be settled in the year 2020 as expenses incurred in the previous year. Nevertheless, liabilities amounting to Rs. 684,103 stated in the financial statements had been settled in the year 2020.

Action should be taken in accordance with the Circular.

It has been noted that liabilities of Rs. 654,342 has not been included due to a mistake and a sum of Rs. 29,761 has been understated in the liability register when including them on the assumptions.

2.4 Deposit Balances

Audit Observation

Recommendation

Comment of the Accounting Officer

The balance of 03 General Deposit Accounts under the Department as at 31 December 2019 totalled Rs. 68,156,632. Action in terms of Financial Regulation 571 had not been taken regarding 48 deposits included therein that had continued to exist for more than 02 years

Action should be taken in terms of Financial Regulation 571.

As it is required to rectify the defects in the construction of the building from the funds withheld in connection with the construction of the *Mihikatha Medura* building, the retention money has not been released.

2.5 Reconciliation Statement on the Advances to Public Officers Account

The following observations are made.

Audit Observation

Recommendation

Comment of the Accounting Officer

(a) Distress loan and festival advance balances of Rs. 157,894 due from 03 officers who had left the service ranged from 03 to 04 years and no action had been taken to recover those loan balances.

Action should be taken to settle the balance as per Section 4.6 of Chapter XXIV of the Establishments Code.

Although letters have been sent to the officers informing them to settle the money immediately, no reply has been given. It is informed you that information has been sought from the Divisional Secretary regarding these officers

(b) Due to the delay in taking legal action against five interdicted officers, an outstanding loan balance of Rs. 406,509 was being brought forward over a period of 05 to 13 years.

Disciplinary action should be taken in accordance with Sections 8.1 and 8.2 of Chapter XLVII of the Establishments Code and action should be taken to recover the loan balances.

The Inter-Provincial Land Commissioners' Offices have been directed to inform the relevant officials to take action to repay the loan balances due to the Government in installments. Further action is to be taken accordingly

3 Operating Review

3.1 Vision and Mission

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>The vision of the Department was to “Creating a freehold land owning society whilst being the leading stakeholder in State Land management” and the mission was to “Management of State Land at a well-coordinated level adhering to the National Policy and ensuring optimum Utilization of State Land to gain Sustainable development while confirming the freehold Ownership of land”. As action had not been taken to accurately identify the extent of land under the management of the Department and the extent of land excluded from it and to prepare and update a document in order to achieve this mission, it had not been possible to identify the unauthorized occupants and take legal action against them.</p>	<p>In order to maintain a management based on the vision and mission of the department, it is necessary to maintain accurate information on the extent of land under the administration of the Department, the extent excluded from it and the lands that are in unauthorized use.</p>	<p>All lands which cannot be confirmed through documents by the Barren Lands Act of 1897 are treated as government lands. Subsequently, despite being carried out the duties as per the Land Development Ordinance No. 19 of 1935, the Government Land Ordinance No. 08 of 1947 and the Land Reforms Act No. 1 of 1972, the entire state land survey has not been carried out and the relevant database has not been developed. As the custody of the lands has been delegated to the Divisional Secretaries, the Department has summary of information on the excluded government lands.</p>

3.2 Failure to Achieve Expected Outcome

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>Although a sum of Rs.129,984,715 has been spent for the preparation of the database on government lands from 2013 to 2019, only details of 1180632 land documents have been included in the database till the end of the year under review. Although it was planned to</p>	<p>A Government land management system should be maintained so as to obtain the information required for Government land management.</p>	<p>Maintaining a database on lands is a very complicated process. As the officers of the Divisional Secretariats are entering the land related data while performing other duties, there has been a</p>

include 200000 land documents in the year 2019, only 144936 details of land documents had been included in the database. Therefore, it was not possible to obtain the required information on the collection of tax from this system

delay. Through the recruitment of graduate trainees, a programme has been formulated to expedite the entry of secondary data and complete it within two years.

3.3 Assets Management

The following observations are made.

Audit Observation	Recommendation	Comment of the Accounting Officer
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(a) Since the official residence of the Commissioner General of Lands constructed on land belonging to the Ministry of Agriculture in the year 2017 at a cost of Rs. 36.4 million had been constructed without the prior approval of the Land Reclamation and Development Authority and it had remained unused for more than two years due to water accumulation around the building. Further, the official residence has been stated as a non-financial asset in the financial statements, but the land on which the building is located has not been acquired as yet.	Action should be taken to acquire the land and use the building.	Arrangements are being made to prepare the land for use through the Building Department and so far the Department has not been received recommendation reports regarding the acquisition of the land.
(b) In terms of the Asset Management Circular No. 01/2017 dated 28 June 2017 and 01/2018 dated 19 March 2018, vehicles which are not operational should be disposed of before 30 June 2018, whereas 04 vehicles decided for disposal remained idle for a period of 03 to 04 years.	Action should be taken in accordance with the Circular.	Action will be taken to repair and put into operation the 03 vehicles numbered 54 - 4013, 54 - 4012 and KH-5694. Further, arrangements will be made to hand over the 02 vehicles numbered 32 - 3295 ,32 - 1187 to another government institution or dispose of them.

3.4 Management Weaknesses

The following observations are made

Audit Observation -----	Recommendation -----	Comment of the Accounting Officer -----
(a) The Government land containing 0.238 hectare in Gangawata Korale Divisional Secretariat Division, Kandy, which was given to a private company on Cabinet decisions on a long term lease basis for 30 years in 2006 to maintain a resort had been unlawfully occupied by the same lessee for 11 years from 1995 to 2006. It was observed according to the Government Assessor's assessment that the Government had lost tax revenue of Rs. 6,932,500. It was observed controversial not to take legal action regarding this unauthorized possession citing that the ownership of the land had not been established.	Action should be taken to timely recover the relevant tax	Although the hotel company had been established in 1995, the handing over of the land to the company was delayed as it was not confirmed whether the above land belonged to the Udawatte forest. The date on which the Cabinet approval was granted was considered as the date of commencing the tax. Due to non-receipt of the assessment report, tax could not be collected as scheduled.
(b) Although a Government land containing 29.88 perches in Thimbirigasyaya Divisional Secretariat had been given to the Independent Television Network Limited on a long term lease in 1999, nearly 03 years had elapsed from the date of handing over the possession to notify the tax amount payable. Further, no tax was levied for 10 years from the date of handing over the possession. Accordingly, the amount of tax due as at the end of the year under review stood at Rs. 36,225,000. However, as a result of non-issuance of a lease to protect the legitimacy of the lease of land, it was not possible to institute legal action against the lessee for non-payment of tax.	Soon after the possession of lands is handed over, the lessee should be informed of the amount of tax payable and action should be taken to recover the arrears of lease by entering into a legal agreement with the relevant lessee without delay.	As several institutions are involved in the leasing process, it takes considerable time for that purpose. It has been decided to discuss with the Provincial Land Commissioner, Divisional Secretary, Thimbirigasyaya and the relevant lessee regarding the delay of the tax payment.
(c) A Government land containing 1.163 hectares (416perches) in Thimbirigasyaya Divisional Secretariat Division had been given to Otters Aquatic Club on a long term lease basis from 1956 for a period of 30 years. Thereafter the relevant land had been occupied for a period of 17 years without a lease agreement and	Formal record regarding the leased lands should be maintained and accordingly period should	It is the responsibility of the lessee to make request for extension of the period of lease. It is informed that the relevant tax recommendations for the extension of the lease

payment of taxes. Although there was an arrears of tax of Rs. 28,411,250 as at the end of the year under review, no legal action could be taken against the lessee for defaulting the payment of tax due to non-issuance of lease. Non-issuance of a lease is observed as a matter of controversy.

be extended as soon as the lease period is expired and action should be taken to collect the tax money by entering into a legal agreement.

agreement have been submitted late by the Divisional Secretary and after consultation with the leasing agency it has agreed to pay the tax in installments.

- (d) Government land containing Rood.01: Perches 17.5 and Acre 01: Rood 01: Perches 5.06 in Thimbrigasyaya Divisional Secretariat Division had been leased on a long term basis to the Sports Club called 80 Club for a period of 30 years from 30 November 1977 and 01 January 1987 respectively. At the end of that period, the lease period had been extended. Although there was a tax arrears of Rs. 23,686,320 as at the end of the year under review, legal action could not be taken against the default of the tax payments due to non-issuance of a lease. The non-issuance of a lease is observed as a matter of controversy.

Action should be taken to collect tax by entering into a legal agreement.

Although income is earned due to over-valuation of existing Government lands in Divisional Secretariats such as Thimbrigasyaya, lessees are reluctant to lease on a commercial basis, In the future, the relevant institutions will be informed of this situation and a policy that is favourable to the Government revenue will be discussed and action will be taken to further regularize the tax collection process and permission will be granted for the payment of taxes to be completed in installments.

4. Human Resource Management

The following Observations are made.

Audit Observation	Recommendation	Comment of the Accounting Officer
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(a) There were 315 vacancies in the Department and it included 05 posts of Land Commissioner, 113 posts of Settlement Officer and 105 posts of Development Assistant. It was further observed that failure to fill the said vacancies could impede the achievement of the objectives of the Department.	The human resources required to achieve the goals and objectives of the Department should be completed.	All the officers are recruited by the Ministry of Public Administration and the vacancies could not be filled despite being made requests from time to time.
(b) A plan had not been drawn with regard to the way of deploying the staff to meet the requirement of human resource development as required by Public Administrative Circular No. 2/2018 dated 24 January 2018.	A plan should be prepared as per the Circular.	The Human Resource Plan for the year under review has not been prepared.