

Custom Officers' Reward Fund - 2021

1. Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the Custom Officers' Reward Fund for the year ended 31 December 2021 comprising the statement of financial position as at 31 December 2021 and the statement of financial performance, statement of changes in equity and cash flow statement for the year then ended, and notes to the financial statements, including a summary of significant accounting policies was carried out under my direction in pursuance of provisions in Article 154(3) 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. My comments and observations which I consider should be report to Parliament appear in this report.

In my opinion, except for the effects of the matters described in paragraph 1.5 of this report, the accompanying financial statements give a true and fair view of the financial position of the fund as at 31 December 2021, and of its financial performance and its cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.2 Basis for Qualified Opinion

My opinion is qualified on the matters described in paragraph 1.5 of this report.

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 qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards, 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.

In preparing the financial statements, management is responsible for assessing the fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intend to liquidate the fund or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the fund's financial reporting process.

As per Sub Section 16(1) of the National Audit Act No. 19 of 2018, the fund 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 of the fund.

1.4 Auditor's Responsibility 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 internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the fund's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the fund to cease to continue as a going concern.
- 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.

The scope of the audit also extended to examine as far as possible and as far as necessary the following;

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the fund, and whether such systems, procedures, books, records and other documents are in effective operation;

- Whether the fund has complied with applicable written law, or other general or special directions issued by the governing body of the fund ;
- Whether the fund has performed according to its powers, functions and duties, whether the resources of the fund had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Audit Observations on the preparation of Financial Statements

1.5.1 Internal Control over the preparation of financial statements

Entities are required to “devise and maintain” a system of internal accounting controls sufficient to provide reasonable assurance that , transactions are executed in accordance with management’s general or specific authorization, transactions are recorded as necessary to permit preparation of financial statements in conformity with the applicable reporting standards , and to maintain accountability for assets, access to assets is permitted only in accordance with management’s general or specific authorization, and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Observations with regard to maintenance of key accounting records such as General Ledger, Journal and Journal vouchers, payment vouchers etc. are given under following headings.

1.5.2 Unreconciled Control Accounts or Records

Audit Observation	Management Comment	Recommendation
The balance of the fund was Rs. 1,214,115,436 as per the treasury books as at the end of the year under review and it was observed a difference of Rs. 11,264,393 due to that balance was Rs. 1,202,851,043 according to the books of the fund.	No answerers.	Prepare a reconciliation statement with giving reasons for the difference.

1.5.3 Accounting Deficiencies

Audit Observation	Management Comment	Recommendation
Pool payment payable of Rs. 144,744,167 which was represented under current liabilities in the Statement of financial position and Rs. 37,418,587 reward refund payable was represented as equity in the statement of changes in equity. Accordingly, a relevant account item had been reported without proper identification.	The financial statement is prepared not on a cash basis, but on an enhanced cash basis. It is clearly stated in note No. 2.1. Accordingly, the payments submitted to the accounts division but that could not be paid in the relevant	Keeping accounts in accordance with generally accepted accounting methods.

financial year and allocated under the sub-funds (pool) but the remaining amount that saved as unpaid in that year and the amount of Rs. 37,418,587 (retired or deceased officers) returned and remained in the account from several years has been accounted as accrued expenses.

1.6 Non-compliance with Laws, Rules, Regulations and Management Decisions etc.

Reference to Laws, Rules Regulations etc.	Non-compliance	Management Comment	Recommendation
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Section 153(2) (b) of the Customs Ordinance No. 17 of 1968.	The approval of the Minister of Finance should be obtained and a suitable system should be prepared for the distribution of rewards money from the reward fund. However, without confirming that the approval of the Minister of Finance has been obtained for the Departmental order No. PL 118 dated 28 January 1988, Rs. 18,624,256,063 were distributed as reward funds for officers and Rs. 2,422,648,345 for spies in 23 years from the year 1999 to the year 2021.	It is assumed that the approval of the Minister of Finance was obtained before the issuance of this DOPL 118 as the minister is required as per the provisions of the Act while issuing departmental circulars. However, it has not yet been possible to find a copy of it. However, since an annual budget estimate for the receipts and payments of this fund for each financial year is submitted to the Minister of Finance and his personal approval is obtained, it can be considered as having been approved for incurring the expenses of this fund. However, a committee has been now appointed to submit proposals and recommendations	Develop a suitable system for disbursement of funds.

regarding the revising of Departmental Circular 118 and I kindly inform that it can be amend the departmental order and accordingly get the necessary agreement of the Secretary of the ministry and the Honorable Finance Minister according to the recommendations submitted by the committee.

2. Operational Review

2.1 Management Inefficiencies

Audit Observation -----	Management Comment -----	Recommendation -----
(a) There was Rs. 7,052,812,693 in arrears of the quarterly arrears penalties submitted to the treasury as at 31 December of the year under review and according to the reports contained in the financial statements, Rs. 5,921,928,174 were in arrears between 01 and 05 years and the arrears of penalty income exceeding 05 years were observed to be Rs. 1,098,976,593.	The arrears penalty indicated by the audit was to be collected from the Petroleum Corporation due to the delay in payment of payable production tax by the said entity. However, the reason for the non-payment is mentioned by the appeal as the non-settlement of loans to government institutions that provide essential services such as the three armed forces, the police and the railway department and the Ministry of Finance has also confirmed the same.	Focus on securing government revenue and recovering of arrears expeditiously.
(b) Payment of tax revenue receivable to the government as rewards The audit had pointed out the negative impact on government revenue from many years due to in the case of customs investigations related to customs offences, if the imports related to those offences	A custom offence is liable to a penalty because the officers are diligent in detecting the offence. If no mistake is detected, the entire amount of revenue related to that incident will sometimes become a loss to the government. But, due to the	Establishing a scheme for payment of rewards for customs investigations to secure government revenue.

were imports carried out in the normal way, the amount of the minimum tax revenue that should have been received by the government shall not be charged and credited to the government revenue and the lost tax revenue is considered as a penalty and 50 percent of the penalty amount is used to pay rewards to officials and spies. But, no investigation was done on it. Due to the neglect of this situation, it was also observed that the amount of reward money distributed to the officers continues to increase and further observations in this regard are given below.

government get 30 percent of the amount collected by being able to catch the customs offence base on the skill of the officers, there is some quantitative contribution to the government revenue and the motivation of officials to catch customs offences can also be maintained at a high level. It would be appropriate to get further answers from the policy planning and research sector.

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| (i) | There was a need to formally and timely amend the Customs Ordinance Act as well as the legal provisions of these funds to suit the complexity of imports and exports based on the existing free economic policies of the country. | No answers have been given as there is further discussion on this. | -Do- |
| (ii) | The Director of Customs was empowered to take appropriate action in relation to violations of custom rules as per section 162 of the Customs Ordinance. But the attention given by the Sri Lanka Customs in securing the government revenue was not at a satisfactory level. | -Do- | -Do- |

3. Accountability and Good Governance

3.1 Annual Performance

According to section 153(2) (b) of the Customs Ordinance No. 17 of 1968, an amount equal to 50 percent of the proceeds of the sale of fines and confiscated goods for various customs offences shall be credited to the Custom Officers' reward fund and detection of customs duty evasions and this fund has been established to provide rewards to officials and spies with the objectives of detecting, controlling and preventing customs tax frauds. Money will be allocated from this fund for sub-funds for officials, spies and various service providers during the period of 09 years from the year 2012 to the year 2021. The following observations are made in this regard.

Audit Observation	Management Comment	Recommendation
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(a) A sum of Rs. 14,778,000,068 was distributed among officials and spies from the year 2012 to the year 2021 and among this, Rs. 12,910,816,963 or 87.36 percent had been paid to officials. The reward fund paid to the officers in the year 2021 had shown a growth of 118.4 percent compared to the previous year.	The money will be credited to the general deposit rewards fund account of these customs officers at the time of completion of investigation file and payment of reward file. A large number of reward files have been paid compared to previous years in the year 2021. Hence it was shown the growth of the rewards fund. Also, the payments in the year 2021 were mostly for reward files for investigations completed in the years 2018, 2019 and 2020, so this was not affected by the import restrictions due to the Covid epidemic.	Paying attention to the utilization of funds and getting appropriate action.
(b) Rs. 62,611,784 had been credited to the fuel fund, which is a sub-fund of the rewards fund during the year under review. Although it was stated that the purpose of establishing the fund is to settle the fuel expenses required for customs investigations, no expenditure was incurred from the said fund during the year under review due to that the cost of fuel incurred for investigation activities has become an expense on the general expenditure head of the department. However, due to the continued accumulation of money in this fund regardless of reasonable needs, its balance at the end of the reviewed year was Rs. 651,419,513 and this money, which was saved from the provisions related to the general expenditure head without incurring any cost to the fund, was indicated as a surplus of the fund.	Agree with the audit observations. However, the establishment of this fuel fund is basically intended to be used for customs investigations if any excess fuel is required and fulfill the fuel requirement of the marine unit, which was used for the customs prevention activities implemented by the Customs Department before the LTTE military situation. The balance of this fund has accumulated during the inactivity of this section during the wartime atmosphere. Also, this fund was not used as there was a surplus in the allocated provision for fuel due to the reduction in going for investigations during the Covid epidemic.	-Do-
(c) The Narcotics prevention fund (Narcotics fund), which is a sub-fund of the reward fund for	Agree with the observation. Funds related to this sub-fund have been transferred as per departmental	-Do-

payments to officers participating to the drug raids, was an increase of Rs. 22,847,367 during the year, but the amount paid during the year is only Rs. 7,910,000.

circulars and the respective payments have been made for the demands made during the year based on the departmental circulars.

- (d) Among the hundred officers who received the highest rewards in the period of 05 years from the year 2016 to the year 2021, Rs. 3,924,053,810 was distributed as rewards. Accordingly, the average amount of reward paid to one officer was around Rs. 39 million. Further, there were 05 cases where more than Rs. 60 million was paid to one person during this period. Details are given below.

The payment of reward file is made for the officials who are participated to the relevant investigation on the approval of the Director General of Customs dealing with the said investigation file. Therefore, it is appropriate to get the answers from the officers who received the highest reward money and the relevant details from the relevant investigation divisions.

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Distributed Amount Rs. (Million)	No. of distributed times
02 – 10	162
11 – 19	65
20 – 29	33
30 – 39	13
40 – 49	03
50 – 59	03
Over 60	05
Total	284