

National Intellectual Properties Fund - 2015

The audit of financial statements of the National Intellectual Properties Fund of the Office of the Sri Lanka National Intellectual Properties for the year ended 31 December 2015 comprising the Financial Status Statement as at 31 December 2015 and the Financial Performance Statement, Changes in Equity Statement and the 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(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 176(6) of the Intellectual Properties Act No.36 of 2003. My comments and observations on the said Financial Statements appear in this report.

1.2 Managements Responsibility for the Financial Statements

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 Auditors Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000-1810). These Standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making these risk assessments, the auditor considers internal control relevant to the Fund's preparation and fair presentation of the financial statements 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 Fund's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

1.4 Basis for qualified opinion

My opinion is qualified based on the matters shown in paragraph 2.2 of this report.

2. Financial Statements

2.1 Qualified Opinion

In my opinion except for the effects of the matters described in paragraph 2.2 of this report, the financial statements give a true and fair view of the financial position of the National Intellectual Properties Fund of the Office of the Sri Lanka National Intellectual Properties as at 31 December 2015 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

2.2 Comments on Financial Statements

2.2.1 Sri Lanka Public Sector Accounting Standards

The following observations are made.

- (a) The expenditure of the year should be classified and shown while preparing the Performance Statement in terms of Sri Lanka Public Sector Accounting Standard 01. However, such action had not been taken.
- (b) Even though the effective life span of the non current assets should be renewed annually in terms of Sri Lanka Public Sector Accounting Standard 07, it had not been done. As a result, the fully depreciated assets continued to be used. Accordingly, action had not been taken to revise the estimated error in terms of Sri Lanka Public Sector Accounting Standard 03.

2.2.2 Accounting Policies

The Fund had adopted a policy of depreciation contravening the provisions relating to depreciation of assets in terms of Sri Lanka Public Sector Accounting Standard 07.

2.2.3 Accounting Deficiencies

The following observations are made.

- (a) A sum of Rs.60,000 had been understated in the accounts due to errors in computing the investment interest for the year under review.
- (b) The sum of Rs.88,771 obtained by auctioning furniture, office equipment and computers during the year under review had been accounted under other income. However, action had not been taken to identify the assets concerned and to remove their costs and depreciation from the books of accounts.

2.3 Non-compliance with Laws, Rules, Regulations and Management Decisions

The following non-compliances with laws, rules, regulations and management decisions were observed in audit.

Reference to Laws, Rules, Regulations And Management Decisions	Non-compliance
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Section 3.1 of Chapter XV of the Establishments Code of the Democratic Socialist Republic Of Sri Lanka	An officer on probation should not be sent abroad for education or exercises unless for the purpose of obtaining any qualification needed for permanency in the service as stipulated in the conditions relevant to his appointment. Contravening this, 14 officers under probation had been allowed to participate in foreign training programmes during the year under review.
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3 Financial Review

3.1 Financial Results

According to the financial statements presented, the financial results of the Fund for the year under review resulted in a surplus of Rs.48,032,685 as compared with the surplus of the previous year amounting to Rs.51,285,906 showing a deterioration in financial results of the year under review by Rs.3,253,221 as compared with the previous year. Although the income from trade marks had increased by Rs. 8,941,464, the operating expenses had increased by Rs.11,319,036 and these had mainly attributed to the above deterioration.

4. Operating Review

4.1 Performance

The Fund had been established with the objective of promoting the nations creativity, facilitate trade and regularize it in a best manner, increase investments, to protect the rights of consumers and to consolidate the national economy with the global economic activities based on knowledge etc. The following matters were observed at an examination of functions such as, trade marks, patent licences and registration of technical designs which had been planned to be carried out during the year under review.

	Registration of Trade Marks		Registration of Patent Licences		Registration of Industrial Designs	
	2015	2014	2015	2014	2015	2014
No. of applications received during the year	9,415	8,552	481	536	457	529
No. of applications on which examination reports had been prepared	12,623	21,931	439	313	443	349
No. of gazette notifications issued	5,088	2,184	41	41	351	200
No. of Registrations	2,272	1,140	262	263	246	529

The following observations are made.

- (a) Registration of trade marks, patent licences and technical designs are the main functions of the Institution. However, the number of gazette notifications issued and registrations made during the year as compared with the number of applications received during the year was at a low level. Examinations relating to trade marks had decreased by 42 per cent as compared with the previous year. Test checks revealed that the licences for applications for 19 licences received from the year 2007 to 2010 had been issued in 2015.
- (b) A piece rate payment method had been introduced for examination activities since 2013 in order to intensify activities pertaining to trade marks, patent licences and registration of industrial indications as the number of applications to be examined had increased. In this connection, an expenditure of Rs.1,164,609 had been incurred during the year under review. However, at a comparison of the number of notifications in the gazette and the number of registration certificates issued since the year 2011 had not shown a significant improvement.
- (c) It had been planned to introduce a computerized cash collection method and an internal electronic mail method under the introduction of automatic system of the Funds' activities. However, purchasing of computers alone had been carried out under the improvement of systems, during the year under review and a sum of Rs.3,969,434 had been spent in this connection.
- (d) It had been planned to establish 09 centres covering up 09 provinces under the establishment of technology and new creations centres during the year under review. However, 06 centres alone had been established during the year.

- (e) It had been planned to construct a new office building. However, a suitable land could not be found and as such the work had not been fulfilled.

4.2 Management Activities

The following observations are made.

- (a) An Intellectual Properties Sales Promotion Centre had been constructed by the Fund in a land belonging to the Co-operative Wholesale Establishment by spending a total sum of Rs.22,298,751 by the year 2014. That land had been acquired by the Urban Development Authority and as such, approval had been obtained to recover the amount spent from the Urban Development Authority vide Cabinet Memorandum No. අම/15/0272/625/007 of 23 April 2015. However, the amount concerned could not be recovered even by end of the year under review.
- (b) One third of the income credited to the Fund is remitted to the Deputy Secretary to the Treasury. But, action had not been taken to obtain a Revenue Code for the revenue concerned from the Treasury. The amount so credited during the year under review was Rs.30,679,973.
- (c) Shortage of a laptop machine had been observed at the board of survey for the year under review and it was found that it had been misplaced in December 2008. Except obtaining a preliminary inquiry report, no action, whatsoever, had been taken up to now.

4.3 Transactions of Contentious Nature

The following observations are made.

- (a) A sum of Rs.271,320 had been spent during the year under review to publish a newspaper advertisement which has no relevance to the objectives of the Fund.
- (b) Twelve officers of other Ministries and Institutions which were not relevant to the Fund had been allowed to participate in foreign workshops and seminars during the year under review and a sum of Rs. 206,389 had been spent by the Fund on the incidental expenses of six of them.

4.4 Personnel Administration

The approved cadre of the Fund was 104 and the actual cadre as at end of the year under review was 59 resulting in vacancies of 45 officers. The Fund had failed to fill these vacancies and as such the functions of the Fund such as, registration of trade marks, patent licences and technical designs had been significantly delayed. The Fund had commenced a payment of piece rate basis from 01 May 2013 to fulfill the above functions.

5. Accountability and Good Governance

5.1 Action Plan

An Action Plan including necessary information had not been prepared in terms of Public Finance Circular No.01/2014 of 17 February 2014.

5.2 Procurement and Contract Activities

The following observations are made.

- (a) The following shortcomings were observed in the Procurement Procedure prepared by the Fund.
 - (i) The procurement activities expected for at least a minimum period of 3 years had not been listed in the procurement plan, as required by 4.2.1(b) of the Procurement Guideline.
 - (ii) The detailed procurement activities for at least the ensuing year should be prepared in terms of 4.2.1 (c) of the Procurement Guideline. However, action had not been taken accordingly.
 - (iii) According to 4.2.1 (e) of the Procurement Guideline, the procurement plan should be properly updated within a period of not exceeding 06 months. However, action had not been taken accordingly.
 - (iv) A procurement time table should be prepared in terms of 4.2.2.(a) of the Procurement Guideline. However, action had not been taken accordingly.
- (b) According to Section 8.12.3 (a) of the Procurement Guideline, the officer in charge should issue a certificate stating that the goods supplied were of required specifications and were in accordance with other agreed conditions. However, action had not been taken accordingly with regard to the purchases made by the institution.
- (c) Vehicles purchased during the year had not been included in the procurement plan. Meanwhile, there were instances where the values indicated in the procurement plan and the estimates had differed.

5.3 Budgetary Control

Variances ranging from 10 to 100 per cent were observed between the budgeted and actual income and expenditure showing that the budget had not been utilized as an effective instrument of management control.

6. Systems and Controls

Deficiencies observed during the course of audit were brought to the notice of the Director General of Intellectual Properties from time to time. Special attention is needed in respect of the following areas of control.

Systems and Controls

Observations

(a) Accounting	The register of fixed assets had not been updated and maintained with reference to depreciation of fixed assets and disposal of assets. Meanwhile, assets disposed of had not been correctly noted and accounted for.
(b) Registration of trade marks, patent licences and industrial designs	Delays ranging from 05 to 08 years existed in registration of trade marks, patent licences and technical designs.
(c) Personnel Administration	Forty three per cent of the approved cadre of the institution is vacant. This adversely affects the fulfilment of objectives of the Fund.
(d) Inventory Control	Register of inventories had not been separately maintained in each division. All the assets had been entered only in the register maintained at the stores.