

Intellectual Property Fund - 2016

The audit of financial statements of the Intellectual Property Fund for the year ended 31 December 2016 comprising the statement of Financial Position as at 31 December 2016 and the statement of financial performance, statement of changes in equity and statement of cash flows for the year then ended and the 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 Property Act, No.36 of 2003. My comments and observations, on the above financial statements appear in this report.

1.2 Responsibility of the Management for Financial Statements

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

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). Those 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 judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those 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 the financial statements.

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

1.4 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraphs 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 Intellectual Property Fund as at 31 December 2016 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) According to the Sri Lanka Public Sector Accounting Standard 01 expenditure for the year had not been classified in preparing performance statement.
- b) According to the Sri Lanka Public Sector Accounting Standard 07, the fair value of the assets of the fund had not been shown in the financial statements after revaluating those assets.

2.2.2 Accounting Deficiencies

The following observations are made.

- a) A sum of Rs. 14,369,104 had been invested on 23 December 2016 in Treasury Bills with the face value of Rs.13,993,000. Out of the coupon value of Rs. 741,629 receivable as at 02 January 2017, the value relating to the year under review was Rs.667,466. However, it had been shown as Rs.32,961 in the financial statements, as a result the receivable interest for the year under review had been understated by Rs.634,505.
- b) Provision had not been made for audit fees relating to the year under review.
- c) Due to acquisition of lands by the Urban Development Authority for tourism associates development activities in the year 2009, construction of the intellectual property promoting center commenced in the year 2008 had to be abandoned. Although the sum of Rs.22,298,751 incurred on that construction was under the work in progress in the year 2009 and actions was being taken to acquire relevant assets to the authority, it had been capitalized as a fixed asset from the year 2013. Moreover a sum of Rs. 3,344,813 had been depreciated in the rate of 5 per cent from the year 2014 to end of the year under review. Although it was scheduled to be recovered the sum of Rs.22,298,751 incurred on the construction, it had not been disclosed in the financial statements.

2.2.3 Unexplained Differences

The following observations are made.

- a) According to the financial performance statement the other income was Rs.673, 843 whilst according to the Note 03 to the financial statements it was Rs. 835,821 thus a difference of Rs.161, 978 was observed.
- b) Although a sum of Rs.1, 511,452 had been shown as other receives in the account of receives and payments, according to the schedules presented to audit the said amount was Rs. 1,695,869 thus a difference of Rs.184, 417 was observed.
- c) According to the vote ledger the monthly rental payment was Rs.2, 575,000 whilst according to the general ledger the said amount was Rs.2, 400,000 thus a difference of Rs.175, 000 was observed.

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.60, 154,755 as compared with the surplus of the previous year amounting to Rs.48, 032,685 showing an increase in financial results of the year under review by Rs.12, 122,070 compared with the previous year. Increase of income of interest on investments by Rs. 11,355,425 had mainly attributed to the above increment.

In the analysis of the financial results for 04 preceding years from the year 2012 to 2016 a financial surplus had existed with variations. However, considering the adjustments of employee's remuneration, and depreciation for non-current assets made to the financial results the contribution of Rs.51, 278,754 for the year 2012 had continuously increased to Rs. 57,474,118 in the year 2014 and it had decreased to Rs.54,204,728 in the year 2015. However it had increased to Rs. 67,694,524 in the year 2016.

3.2 Legal Cases against to the Fund

Court actions had been taken against to the Fund by 11 external parties for granting patent licenses and technical designs. However it had not been disclosed in the financial statements.

4. Operating Review

4.1 Performance

The Fund had been established with the objectives 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 economics activities based on knowledge ect. The performance of the functions planned to be carried out during the year under review in order to fulfil those objectives is as follows.

4.1.1 Registration of Trade Marks, Patent Licenses and Technical Designs

	Trade Mark Registration		Registration of patent License		Technical Design Registration	
	2016	2015	2016	2015	2016	2015
Number of applications received during the year	10,825	9,415	574	481	382	457
Number of applications which testing reports prepared	9,174	12,623	383	215	406	443
Number of Gazzete notifications published	8,517	5,088	50	41	328	351
Number of registration done	3,312	2,272	124	263	341	246

The following observations are made in this regard.

a) Registration of Trade Marks

- (i) The number of trademarks registered during the year under review was 3,312 and applications received from the year 1983 to the year 2015 was included therein. Accordingly it had been taken a period from 01 year to 33 years to register those applications. According to the Intellectual Property Act, an application for registration of trade mark should be registered from the date it received and it should be considered as the date of registration. Further that mark is valid for 10 years and registration should be renewed for next period of 10 years. However it was observed that, most of times, renewal dates had been passed at the date of registration due to taking a long period of time for registration.
- (ii) The number of applications commenced registration activities on 01 January 2016 was 41718 whilst the number of applications which had not been commenced registration activities was 10,631. Further 10,825 applications had been received during the year and the number of applications rejected and registered during the year was 7,668. Accordingly 55,506 applications for trade mark had been remained unregistered as at 31 December 2016. Out of that testing activities had not been commenced for 12,282 applications.

(iii) Although the testing activities are being done under peace rate from the year 2013 in order to avoid delays, a large number of files which had not been registered and had not been commenced work had been remained even up to the end of the year under review.

b) Registration of Technical Designs

(i) The number of technical designs registered during the year under review was 341 and applications received from the year 2009 to the year 2016 was included therein. Accordingly a period from 10 months to 07 years had been taken to register an application for technical designs.

(ii) 2321 applications for technical designs had been received from the year 2011 to the year 2016 and out of those applications, activities have not been completed for 825 applications even up to 31 December 2016.

c) Registration of Patent License for New Inventions

(i) The number of patent license registered during the year under review was 124 whilst an applications received in the year 2001 and applications received from the year 2006 to the year 2016 was included therein. Accordingly a period from 9 months to 15 years had been taken for registration of patent. Further it was observed in sample audit that a period of 01 year to 05 years had been taken to inform deficiencies to relevant parties after checking applications.

(ii) It was observed that importance of commercializing patent licenses in new inventions and creditability of patent licenses may be come down due to the delay of registration.

(iii) Number of 2984 applications had been received from the year 2011 to 2016 and out of those applications activities relating to 1,903 applications had not been completed even up to 31 December 2016. Moreover out of the applications received for registration as at 31 December 2016, examination activities had not been commenced relating to 85 applications.

4.1.2 Establishment of New Technical Invention Centers

Although it had been planned in the year to establish 08 new technical invention centers covering up all provisions of the Island in order to facilitate the access to new technical information for new inventors, scientist and researchers in the field of technical and new inventions, only 3 centers had been established.

4.1.3 Performance

Even though the construction of new building for the office had been included in the action plan, provisions had not been allocated or plans had not been prepared in this regard.

4.2 Management Activities

Only a preliminary investigation had been done relating to the lap top machine misplaced in December 2008 and it was stated that adequate evidence had not found to issue a charge sheet for relevant parties. However any other action had not been taken in this regard.

4.3 Transactions in Contentious Nature

08 officers of the line Ministry had been participated to foreign workshops and seminars relating to the office of Intellectual property during the year under review and a sum of Rs.316,768 had been incurred from the Intellectual Fund as subsistence.

4.4 Idle and Underutilized Assets

Even though an executive chair and a book rack had been purchased at a cost of Rs.73,542 in December 2016 , those had not been taken to use even up to 20 June 2017.

4.5 Procurement and Contract Activities

The following observations are made

a) Purchasing of Computers and Accessories

Approval of the procurement Committee had been granted to purchase 8 laptop computers, 31 computers, 2 scanners, 20 printing machines and 39 UPS at a total cost of Rs. 6,023,600. However it had been informed to supply those goods before 28 December 2016, goods had been received within the period from 30 December 2016 to 27 March 2017.

The following observations are made in this regard.

- (i) Before receiving goods to the office except lap top computers a member of the Technical Evaluation Committee had certified on 28 December 2016 that goods were complied with the specifications.
- (ii) As per the paragraph 8.9.1 (b) of the Procurement Guide Line, actions had not been taken to enter in to proper agreement with relevant suppliers.
- (iii) At the beginning of the year 2016, the office was equipped with 77 monitors,79 CPUS, 74 UPS and 49 printing machines. Although the actual number of employees in secondary level up to management assistance was 48. The above computers and accessories had been purchased in such a situation.

- (iv) Out of the goods purchased, 4 printing machines, 5 laptops, 18 computers and 27 UPS at the total value of Rs.3, 028,200 had not been used even up to 20 June 2017.
- (v) Even though performance bond valued at 10 per cent of the contract sum should be obtained as per the paragraph 5.4.10 of the Government Procurement Guideline, actions had not been taken accordingly.

5. Accountability and Good Governance

5.1 Presentation of Financial Statements

According to the section 6.5.1 of the Public Enterprises Circular No. PED/12 dated 02 June 2003, financial statements should be presented to the Auditor General within 60 days at the end of the financial year. However financial statements had been presented on 21 March 2017.

5.2 Procurement Plan

According to the 4.2.1 (b), (c), (e) and 4.2.2 (a) of the Government procurement Guideline a procurement plan indicating expected procurement at least a period for 3 years' time should be prepared by the procurement entity including the details for the following year and the plan should be updated within a period of less than 06 months .Further procurement time table should be prepared too. However procurement plan had not been prepared accordingly.

5.3 Budgetary Control

Variances ranging from 15 per cent to 39 per cent between the budgeted and actual income and variances ranging from 15 per cent to 99 per cent between the actual and budgeted expenditure were observed thus indicating that the budget had not been use as an effective instrument of management control.

6. Systems and Controls

Deficiencies in systems and controls observed during the course of audit were brought to the notice of the Secretary General from time to time. Special attention is needed in respect of the following areas of control.

Areas of Systems and Controls

Observations

a) Accounting

Fixed assets register had not been maintained completely and up to date and in events of removing assets, such assets had not been written off from the assets after identifying correctly.

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| b) Registration of trademarks, patent licenses and technical designs | Considerable delays were in examination of application received to the office, registration and renewal etc. |
| c) Procurement process | Procurement made during the year had not been done according to a proper time table and requirement. |
| d) Utilization of physical assets | Non utilization of physical assets in efficient, effectiveness and economical manner. |