

Report of the Auditor General on Head 13 – Human Rights Commission Sri Lanka – Year 2017

The Appropriation Account under Head stated in the First Schedule of the Appropriation Act, No. 24 of 2016 as amended by the Appropriation (Amendment) Act, No.32 of 2017, was presented to Audit by the Human Rights Commission Sri Lanka. The financial and physical performance reflected by that Account was 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 for the Financial Management and Accountability

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

The audit of Human Rights Commission Sri Lanka – Head 13 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 Chairman of the Commission on 23 June 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

The audit observations of the Human Rights Commission 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 included in the Management Audit Report appear in paragraph 2.1 to 2.12 of this report. It was observed that the accountability as the Chief 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 Financial Regulation 127 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka.

Accountability of the Chief Accounting Officer in terms of Financial Regulation 127	Non-compliance with that Provision by the Chief Accounting Officer	Reference to the Paragraph of the report which included the Observation
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Financial Regulation		

127(1)(a)	All financial works should be planned so as to ensure that the business is transacted with correctness and financial propriety.	Shortcomings of the Action Plan 2.2.1
127(1)(b)	A system which provides adequate control over expenditure and the collection of revenues, should be evolved.	1.Irregular transactions 2.4 2.Management weaknesses 2.5 3.Deficiencies of operating of bank accounts. 2.7 4.Non-compliance with laws, rules and regulations 2.9 5.Non-establishment of an Internal Audit Unit 2.10 6.Non-establishment of the Audit and Management Committee 2.11 7.Failure in obtaining the approval for the excess staff 2.12(b)
127(2)	Existing items of expenditure, as well as proposals for new or increased expenditure in the departments under his control, are closely examined in the Ministry from the points of view of economy and efficiency.	1.Non-performance of functions. 2.2.2 2.Deficiencies of operating of bank accounts 2.7

		3. Improper training of the staff	2.12(a)
127(3)	All cases of doubt or difficulty are referred to him so that he may bring his own administrative experience and Judgement to bear on them.	1.Non-tabling of Performance Reports in Parliament 2.Non-maintenance of registers and books 3.Assets given to external parties	2.2.3 2.3(a) and 2.8 2.3(e)
127(4)	Appropriation Accounts are duly rendered by each of his Accounting Officers and examined at the Ministry before he signs them; and that important differences in the Estimates and the actual expenditure are critically investigated by him.	Making excess provisions.	2.6

2. Material and Significant Audit Observations

2.1 Key Functions of the Commission

- (a) To ensure that all State procedures comply with fundamental rights guaranteed by the Constitution of Sri Lanka;
- (b) To advise and assist the government in drawing up legislations, administrative directives, and procedures in compliance with fundamental rights;
- (c) To take steps to inquire into and investigate, complaints regarding infringements or imminent infringements of fundamental rights, and to provide for resolution thereof by conciliation and mediation in accordance with the provisions hereinafter provided;
- (d) To make recommendations to the government regarding how national laws and administrative practices can be brought in line with international human rights obligations of Sri Lanka;
- (e) To advise the government on acceding to international human rights treaties and other international instruments in the field of human rights;
- (f) To promote human rights awareness in the country.

2.2 Performance

2.2.1 Planning

The Action Plan for the year 2017 had been prepared in terms of the Public Finance Circular No.01/2014 of 17 February 2014. Accordingly, there were 06 key functions which should be performed by the Commission in the year under review and the following deficiencies were observed in respect of the Action Plan prepared for the achievement of results intended by the Commission.

- (a) Information on the updated organizational structure for the year under review, approved cadre and the current staff of the Commission had not been made available.
- (b) Information on Activity Plan prepared according to the priority based on the Annual Budget, Activity Time Line and anticipated output/outcome relating to the year under review had not been made available.
- (c) The Imprest Requirement Plan for annual activities had not been prepared.

2.2.2 Non-performance of Functions

According to the Action Plan for the year 2017, 06 key functions should have been performed by the Commission. As such, only details on the progress of complaints had been presented and the Office of the Commission had failed to present the information on the progress of performing other functions, to Audit. However, provisions totalling Rs.208 million had been made from the Annual Budget Estimate for the performance of key functions and out of that, provisions of Rs.9 million had not been utilized. There were 3,046 unresolved complaints at the beginning of the year 2017 and 7,949 new complaints had been received by the Commission in the year 2017. As such, the Commission had to take action on 10,995 complaints in the year under review. Moreover, 2,917 complaints had been set aside due to various reasons and out of 8,078 remaining complaints, 304 complaints had been **concluded**, including 195 complaints which were conciliated, 25 complaints which were forwarded to the Court and other Authorities and 84 complaints for which recommendations are given.

2.2.3 Annual Performance Report

In terms of the Public Finance Circular No.402 of 12 September 2002, the Performance Report for the year under review should be tabled in Parliament within 150 days after close of the finance year by the Commission. Nevertheless, that Report had not been tabled in Parliament even by 07 June 2018.

2.3 Assets Management

The following deficiencies were observed during the audit test check carried out in respect of assets of the Commission.

(a) Record of Assets

The Register of Fixed Assets had not been maintained in an updated manner in terms of the Treasury Circular No.842 of 19 December 1978.

(b) Utilization of Motor Vehicles

Twenty four motor bicycles had been handed over to the Officers who conduct investigations of the Commission. However, evidence on confirmation that those motor bicycles are made use of for duties had not been presented to Audit. Those motor bicycles had not been subjected to the Annual Boards of Surveys.

(c) Idle and Underutilized Assets

Four motor bicycles valued at approximately Rs.120,000 which were recommended to be disposed, owned by the Commission had not been disposed of even by the end of the year under review and kept at the vehicle park.

(d) Conduct of Annual Boards of Survey

The Annual Boards of Survey had been conducted in terms of the Public Finance Circular No.05/2016 of 31 March 2016 and reports thereon should have been presented to Audit by 15 June 2018 in terms of paragraph 3.2.6 of the Circular. Even though the Annual Boards of Survey had been conducted for the year under review, selling, disposal and repairs of Goods recommended in the Report of the Boards of Survey in terms of paragraphs 3.2.4 and 3.2.5 of the circular had not been completed even by 10 April 2018. Moreover, the Report of the Boards of Survey, prepared without carrying out those activities had been made available to Audit on 17 July 2018.

(e) Assets given to External Parties

Even though two Jeeps and a Van owned by the Commission had been handed over to the Presidential Secretariat on 07 November 2017, those vehicles had not been legally transferred.

2.4 Irregular Transactions -----

The following irregular transactions were revealed during the audit test checks carried out on transactions of the Office of the Commission.

- (a) A Bid Submission Form had not been submitted by the contractor selected out of bids submitted for obtaining the cleaning service. Even though the Procurement Committee should have taken action by considering the non-performance of the said requirement as a major deviation in terms of Guideline 7.8.4(f) of the Government Procurement Guidelines, it had not been so done.

- (b) Even though a cheque valued at Rs.67,717 which was brought to account and written as a payment on 08 August 2016 had elapsed over a period of 16 months by 31 January 2018, that cheque had not been issued to the relevant party.
- (c) An order had been placed at a State Corporation for the purchase of a workstation on 14 December 2017. A cheque valued at Rs.154,721 had been written based on a photocopy of an invoice issued by the relevant Corporation without confirming that the relevant item had been received by offices of the Commission, had been retained in the office without being issued.
- (d) A transport allowance of Rs.225,063 had been paid in the year under review to an officer who had met with an accident while serving in the Office of the Commission, without taking action in terms of provisions of the Public Administrative Circular No.22/93 of 21 September 1993.

2.5 Management Weaknesses

Direct Foreign Aid

The following observations are made in this connection.

- (a) The foreign aid of Rs.6.46 million had been granted in the year 2016 to the Commission by the Government of Switzerland and the Development Programme of the United Nations. Out of that foreign aid, a sum of Rs.4.22 million had been saved by 01 January 2017 without being utilized and out of that, a sum of Rs.3.55 million had been utilized in the year under review. Even though necessary action should have been taken by sending details on that foreign aid to the Department of External Resources in terms of provisions of the Treasury Circular No.MOFP/ERD/2014/01 of 26 June 2014, action had not been taken by the Office of the Commission.
- (b) The foreign aid of Rs.1.15 million had been received by the Commission in the year under review and action should have been taken thereon in terms of Financial Regulations 620, 625(3) and 625(7). However, action had not been so taken by the Office of the Commission and information of that foreign aid had not been sent to the Department of Public Accounts.

2.6 Utilization of Provisions made by Parliament for the Performance of Functions

Information on provisions made for the Commission, utilization and savings within the period of 05 years ended 31 December 2017, are given below.

Year	Type of Expenditure	Net Provision	Utilization	Savings	Savings as a percentage of the Net Provision
		Rs. Million	Rs. Million	Rs. Million	
2013	Recurrent	149.95	144.84	5.11	3.41
	Capital	12.75	5.59	7.16	56.16
	Total	162.70	150.43	12.27	7.54

2014	Recurrent	150.50	137.87	12.63	8.39
	Capital	40.75	15.73	25.02	61.40
	Total	191.25	153.60	37.65	19.69
2015	Recurrent	172.20	159.91	12.29	7.14
	Capital	14.30	8.73	5.57	38.95
	Total	186.50	168.64	17.86	9.58
2016	Recurrent	174.00	170.30	3.70	2.13
	Capital	14.20	13.19	1.01	7.11
	Total	188.20	183.49	4.71	2.50
2017	Recurrent	197.25	192.34	4.91	2.49
	Capital	11.45	7.26	4.19	36.59
	Total	208.70	199.60	9.10	4.36

The following observations are made in this connection.

Excess Provisions

Excess provisions totalling Rs.5.6 million had been made for 03 Objects and as such, the savings, after the utilization of provisions, had been Rs.2.5 million. Accordingly, savings ranged between 12 per cent 63 per cent of the net provisions relating to the respective Objects.

2.7 Operation of Bank Accounts

In terms of the Treasury Operations Circular No. 5/2007 of 05 September 2007, action should have been taken to close all existing bank accounts parallel to opening of new bank accounts. However, balances of Rs.1.5 million had remained in another 05 bank accounts in addition to the official bank account of the Commission even by the end of the year under review.

2.8 Non-maintenance of Registers and Books

Stock books had not been maintained properly by the Commission in terms of Financial Regulations 751 and 763.

2.9 Non-compliance with Laws, Rules and Regulations

Instances of non-compliance with the provisions in laws, rules and regulations observed during the course of audit test checks are analyzed below.

Reference to Laws, Rules and Regulations	Value	Non-compliance
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	Rs.	
(a) Statutory Provisions -----		
Section 30 of the Human Rights Commission Sri Lanka Act, No. 21 of 1996.	-	Annual Reports for the years 2015 2016 and 2017 had not been tabled in Parliament.
(b) Procedural Rules of the Public Service Commission of the Democratic Socialist Republic of Sri Lanka -----		
Procedural Rule 89 of Chapter vii	-	Action had not been taken to give duty lists in writing to officers of the Commission.
(c) Financial Regulations of the Democratic Socialist Republic of Sri Lanka -----		
Financial Regulation 135		Even though functions for financial control should be delegated to officers of the Commission in a manner in which an internal examination is occurred in compliance with financial regulations, functions for financial control had not been delegated among officers so as to accomplish the said requirement.
(d) Internal Circular No.36/2016 of 31 May 2016		An academic allowance of Rs.136,162 had been granted by the Commission to two officers who follow academic programmes not directly relevant to the duties of them. Moreover, the officers who obtained the financial assistance in terms of the circular, should submit quarterly progress reports. However, the said officers had not submitted those reports as well.

2.10 Internal Audit

An Internal Audit Unit had not been established for Offices of the Commission.

2.11 Audit and Management Committee

Audit and Management Committee had not been established by the Commission.

2.12 Human Resources Management

Approved Cadre and Actual Cadre and Expenditure on Personal Emoluments

The position on the approved cadre, actual cadre, vacancies and excess cadre as at 31 December 2017 for the performance of the functions mentioned in paragraph 2.1 above, is as follows. A sum of Rs.96.7 million had been spent by the Commission under the Object of Personal Emoluments for the year under review. As such, the per capita expenditure had been Rs.636,161.

	Category of Employees	Approved Cadre	Actual Cadre	Number of Vacancies	Excess Cadre
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(i)	Senior Level	46	14	32	-
(ii)	Tertiary Level	58	01	57	-
(iii)	Secondary Level	88	92	-	04
(iv)	Primary Level	41	46	-	05
(v)	Casual/ Contract	-	01	-	01
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	Total	233	154	89	10
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The following observations are made in this connection.

(a) Training of the Staff

Even though a sum of Rs.225,055 had been spent for officers of the Commission in the year under review for participation in a computer training course, adequate information on confirmation that the said officers had participated properly in that course, had not been made available to Audit.

(b) Non-approval of the Excess Cadre

Action had not been taken to obtain the approval of the Department of Management Services for the excess cadre consisting 10 persons by the end of the year under review.