

## **Head 10 - Report of the Auditor General on the Commission to Investigate Allegations of Bribery or Corruption – Year 2017**

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The Appropriation Account, Reconciliation Statement and the Advance Account on Bribery Detection under Head and Item Number stated in the First Schedule and Third Schedule of the Appropriation Act, No. 24 of 2016 as amended by the Appropriation (Amendment) Act, No.32 of 2017 were presented to Audit by the Commission to Investigate Allegations of Bribery or Corruption. The financial and physical performance reflected by those accounts were 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**

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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**

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The audit of the Commission to Investigate Allegations of Bribery or Corruption – Head 10 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 Director General of the Commission on 13 July 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

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The audit observations of the Commission to Investigate Allegations of Bribery or Corruption for the year ended 31 December 2017 revealed in audit, appear in the 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 2.15 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 the Financial Regulations 127 and 128 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka.

<b>Accountability of the Chief Accounting Officer in terms of Financial Regulation 127</b>	<b>Non-compliance with those Provisions by the Chief Accounting Officer</b>	<b>Reference to the Paragraph of the report which included the Observation</b>
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### Financial Regulations

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127(1)(a)	All financial work should be planned so as to ensure the business is transacted with correctness and financial propriety.	1. The Action Plan had not been correctly prepared. 2. Non-maintenance of Registers and Books	2.2.1  2.10
127(1)(b)	A system which provides adequate controls over expenditure and the collection of Revenue should be evolved.	1. Management Deficiencies 2. Unresolved Audit Paragraphs 3. Failure in holding Audit and Management Committee 4. Filling of Employees' vacancies 5. Attachment of Staff	2.6 2.5 2.13  2.14(a)
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. Deficiencies in implementing the procurement process 2. Internal Audit	2.14(b) 2.3  2.12

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.	Non-presentation of annual performance reports	2.2.3
127(5)	That, important variations between departmental Estimates and expenditure receive critical examination at the Ministry.	Deficiencies in utilization of provisions obtained by allocations of the supplementary estimate	2.7
127(6)	The collection of Revenue or other Government dues for which Accounting Officers are responsible is closely watched and examined by the Ministry.	Deficiencies in the Advance Account for using bribes in bribery raids.	2.9
127(7)	That the procedure laid down in Financial Regulations 103 to 108 is followed by the Accounting Officers, in cases of losses caused to Government by the delays, negligence, fault or fraud on the part of officers/employees and surcharges are imposed on the officers/employees responsible for such losses, in terms of Financial Regulation 156(1). It is also a duty of the Chief Accounting Officer to appear before the Committee on Public Accounts and to assist it along with his Accounting Officer in explaining and justifying the accounts of the departments for which he is responsible.	Failure in obtaining security deposits from officers responsible for financial activities.	2.15

## **2. Material and Significant Audit Observations**

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### **2.1 Key Functions of the Commission**

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- (a) Investigation of bribery or corruption and offences in illegal acquisition of assets under the Declaration of Assets and Liabilities Law as amended by the Bribery Act, No.11 of 1954.
- (b) Filing and hearing of cases under the Bribery Act in Magistrate Courts and the High Court relating to offences in bribery and corruption and in the acquisition of assets.

- (c) Taking necessary action for appeal cases filed in the Court of Appeal or the Supreme Court.
- (d) Taking action to combat bribery through Awareness Programmes on Bribery and Corruption.

## **2.2 Performance**

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### **2.2.1 Planning**

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In terms of Public Finance Circular No.01/2014 of 17 February 2014, the annual Action Plan prepared by the Commission for the year 2017 had not been prepared in terms of provisions of the said Circular. The annual Action Plan had been prepared for performing 04 expected key functions of the Commission and the following deficiencies were observed thereon.

- (a) Details on the organizational structure of the Commission updated for the year under review had not been included.
- (b) The Activity Plan prepared according to priorities based on the annual budget, Activity Time Line and anticipated output/outcome of those activities relating to the year under review had not been estimated and indicated therein.
- (c) The Internal Audit Plan had not been prepared.

### **2.2.2 Activities not commenced**

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Provisions of Rs.3 million had been made from the annual budget estimate for the year 2017 for the activity of expanding the vehicle park. That activity had not been commenced even by 31 December 2017.

### **2.2.3 Annual Performance Report**

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In terms of Public Finance Circular No.402 of 12 September 2002, the performance report relating to the year under review should be tabled in Parliament by the Commission within 150 days after the close of the financial year. However, it had not been tabled in Parliament even by 10 July 2018.

## **2.3 Implementation of the Procurement Process**

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The following observations are made.

- (a) In terms of Guideline 8.9.1 of the Government Procurement Guidelines, a formal contract agreement should be entered into in the implementation of the contract for Works. However, a written agreement had not been so entered into in respect of buildings vested with the Department of Buildings and 04 projects under Rehabilitation and Improvement in the year 2017. Moreover, the Department of Buildings had failed to complete even 03 projects out of those projects during the year 2017.

- (b) In terms of Guideline 5.4.4 (1) of the Government Procurement Guidelines, a maximum of twenty per cent (20%) of the contract sum (less any provisional sums and contingencies) may be paid against the submission of an acceptable advance payment guarantee for advance payment for Works Contracts. Nevertheless, advances of Rs.1.5 million exceeding the estimated value had been paid to the Department of Buildings based on an estimate of Rs.1.48 million (inclusive of tax) for repairs of the old two storeyed building.
- (c) In terms of Guideline 7.1.1 of the Government Procurement Guidelines, Technical Evaluation Committees should be appointed for procurements. However, no Technical Evaluation Committees had been appointed for the procurements of the salary slip printing machine and computer accessories.
- (d) In terms of Guideline 3.12.2 (ii) of the Government Procurement Guidelines, pre-qualification shall be based exclusively upon the capability of and resources available with the prospective bidders to perform the particular contract satisfactorily, taking into account their resources available in regard to personnel, equipment and construction or manufacturing facilities. However, in the procurement carried out in March 2017 for selecting an institution to maintain the cleaning service of the Commission in the years 2017/2018, the procurement had been carried out without considering the number of employees which is an important factor of an institution supplying cleaning services.

## **2.4 Assets Management**

### **----- Conducting Annual Boards of Survey -----**

The following observations are made.

- (a) Annual Boards of Survey for the year 2017 should be conducted in terms of Public Finance Circular No.05/2016 of 31 March 2016 and the reports thereof should be presented to the Auditor General by the Commission before 17 March 2018 in terms of paragraph 3.1.6 of the Circular. However, the said reports had not been presented to the Auditor General even by 06 June 2018. The Annual Boards of Survey had been last held for the year 2016.
- (b) The survey on motor vehicles owned by the Commission had not been conducted at the Board of Survey conducted relating to the year 2016.

## **2.5 Unresolved Audit Paragraphs**

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According to paragraph 3.2 of Report 154(6) of the year 2016, the Commission had not established an Internal Audit Unit in terms of Financial Regulation 133.

## **2.6 Management Weaknesses**

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The Commission had not systematically maintained a store with adequate space in a specific place so as to obtain proper protection for goods in stores.

## 2.7 Utilization of Provisions made by Parliament for Performance of Functions

Details on provisions made for the Commission during a period of 05 years ended 31 December 2017, utilization and savings and audit observations thereon appear below.

Year	Type of Expenditure	Net Provision	Utilization	Savings	Savings as a Percentage of Net Provisions
		Rs.Millions	Rs,Millions	Rs,Millions	
2013	Recurrent	163.57	161.71	1.86	1.14
	Capital	28.02	18.96	9.06	32.33
	<b>Total</b>	<b>191.59</b>	<b>180.67</b>	<b>10.92</b>	<b>5.70</b>
2014	Recurrent	183.37	180.06	3.31	1.80
	Capital	17.27	16.07	1.20	6.95
	<b>Total</b>	<b>200.64</b>	<b>196.13</b>	<b>4.51</b>	<b>2.25</b>
2015	Recurrent	245.50	225.16	20.34	8.29
	Capital	46.45	31.17	15.28	32.90
	<b>Total</b>	<b>291.95</b>	<b>256.33</b>	<b>35.62</b>	<b>12.20</b>
2016	Recurrent	273.40	272.58	0.82	0.30
	Capital	135.70	44.86	90.84	66.94
	<b>Total</b>	<b>409.10</b>	<b>317.44</b>	<b>91.66</b>	<b>22.41</b>
2017	Recurrent	332.36	330.91	1.45	0.44
	Capital	42.60	35.45	7.15	16.78
	<b>Total</b>	<b>374.96</b>	<b>366.36</b>	<b>8.60</b>	<b>2.29</b>

The following observations are made in this connection.

### Non-utilization of Provisions made

The savings out of the provision of Rs.07 million made by supplementary estimates for a Capital Object of the year under review represented 97 per cent without being utilized.

## 2.8 Advances to Public Officers Account

### Limits Authorized by Parliament

The limits authorized by Parliament for the Advances to Public Officers Account of the Commission under Item No.01001 and the actual amounts are given below.

	<u>Expenditure</u>		<u>Receipts</u>		<u>Debit Balance</u>	
	Maximum Limit	Actual	Minimum Limit	Actual	Maximum Limit	Actual
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	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
<b>2.9</b>	7.50	6.98	4.00	4.50	30.00	2.47

#### **Advancing monies to be used in Bribery Detection as Bribes Account**

##### **Limits Authorized by Parliament**

The limits authorized by Parliament for the Advancing monies to be used in bribery detection as bribes Account of the Commission under Item No.01002 and the actual amounts are given below.

	<u>Expenditure</u>		<u>Receipts</u>		<u>Debit Balance</u>	
	Maximum Limit	Actual	Minimum Limit	Actual	Maximum Limit	Actual
T.-----	-----	-----	-----	-----	-----	-----
	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
	150.00	3.11	2.00	2.69	275.00	18.95

The following observations are made in this connection.

- (a) Even though judgements had been passed in respect of advances of Rs.1,784,155 granted from the Bribery Detection as Bribes Account, those advances had not been settled even by 31 December 2017. The Commissioner General has informed me that those advances have to be retained for a period of 2 years as there are opportunities for other appeal after passing judgement.

- (b) Even though 10 types of court productions valued at Rs.219,000 existed as the balance of court productions of the Officer in charge of court productions as at 31 December 2017, that balance had not been physically verified by the Annual Board of Survey conducted as at 31 December 2017.

## 2.10 Non-maintenance of Registers and Books

It was observed during audit test checks that the Commission had not maintained the following registers while a certain register had not been maintained in the proper and updated manner.

Type of Register	Relevant Regulation	Observations
Register of Fixed Assets	The Register of Fixed Assets in terms of Treasury Circular No.842 of 19 December 1978/Financial Regulation 502(2) as mentioned in Appendix 11 thereof.	Not updated properly.
Register of Fixed Assets on Computers, Accessories and Software	Treasury Circular No. IAI/2002/02 of 28 November 2002	Not maintained.

## 2.11 Non-compliance

### Non-compliance with Government Financial Regulations

In terms of Financial Regulation 751 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka, in the transfer of goods from one Department to another Department of the Commission, all goods received by the Department had not been entered in the Inventory and the Inventory had not been properly maintained.

## 2.12 Internal Audit

Even though it had been stressed by Financial Regulation 133 that the Chief Accounting Officer of the Commission should establish Internal Audit Units in their Departments for the purpose of the discharge of his duties and responsibilities indicated in Financial Regulation 128, action had not been taken to establish an Internal Audit Unit.



## 2.13 Audit and Management Committee

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Audit and Management Committee had not been established.

## 2.14 Human Resources Management

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### Approved Cadre, Actual Cadre and Expenditure on Personal Emoluments

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The position of the approved cadre, actual cadre and vacancies as at 31 December 2017 in the performance of the functions mentioned in paragraph 2.1 above is as follows. The Commission had spent a sum of Rs.264.79 million for the Object of Personal Emoluments for the year under review.

	Category of Employees	Approved Cadre	Actual Cadre	Vacancies
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(i)	Senior Level	69	37	32
(ii)	Tertiary Level	282	19	263
(iii)	Secondary Level	582	242	340
(iv)	Primary Level	130	73	57
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		1,063	371	692
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The following observations are made in this connection.

#### (a) Filling of Staff Vacancies

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The Commission had recruited 5 officers of Secondary Level, 01 officer of Primary Level on casual and contract basis respectively. There had been 692 vacancies as at the end of the year under review and action had been taken in the year 2018 to suppress 200 posts out of them. Action was being taken to recruit 332 out of the remaining vacancies and there had been further vacancies for 160.

#### (b) Training of the Staff

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Even though it is required to train the staff regularly, the Commission had not trained its staff adequately. Details on the Object of Training and Capacity Building of 5 preceding years are as follows.

Year	Provision	Transfers	Net Provision	Expenditure	Savings	Savings as a Percentage of Net Provisions
	Rs.	Rs.	Rs.	Rs.	Rs.	
2013	500,000	-	500,000	72,700	427,300	85
2014	600,000	-	600,000	198,500	401,500	67
2015	600,000	51,000	549,000	327,750	221,250	40
2016	600,000	70,000	530,000	212,500	317,500	60
2017	600,000	82,000	518,000	385,000	133,000	26

## 2.15 Security of Public Officers

Officers who are administratively responsible for, or who under delegation are entrusted with, the receipt or custody of public money, revenue stamps or stores, or the disbursement of public money or the issue of stamps or stores and those who certify vouchers or sign cheques on Government Account will be required to give security in accordance with the Public Officers (Security) Ordinance (Cap.612) and in terms of provisions of Financial Regulation 880 for the faithful discharge of their duties. Nevertheless, security had not been so given.