

Head 299 – National Intellectual Property Office of Sri Lanka

1. Financial Statements

1.1 Unqualified Opinion

The audit of the financial statements of the National Intellectual Property Office of Sri Lanka for the year ended 31 December 2018 comprising the statement of financial position as at 31 December 2018 and the statement of financial performance, and cash flow statement for the year then ended, was carried out under my direction in pursuance of provisions in Article 154(1) 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. The Summary Report containing my comments and observations on the financial statements of the National Intellectual Property Office of Sri Lanka was issued to the Accounting Officer on 2 July 2019 in terms of Section 11(1) of the National Audit Act No. 19 of 2018. The Annual Detailed Management Audit Report of the Office was issued to the Accounting Officer on 20 June 2019 in terms of Section 11(2) of the Audit Act. This report is presented to the Parliament in terms of Section 10 of the National Audit Act No. 19 of 2018 which is read in conjunction with Article 154(6) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

In my opinion, the accompanying financial statements give a true and fair view of the financial position of the National Intellectual Property Office of Sri Lanka and the financial performance and cash flow for the year ended 31 December 2018 in accordance with Generally Accepted Accounting Principles.

1.2 Basis for Unqualified Opinion

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 opinion.

1.3 Responsibilities of Chief Accounting Officer and the Accounting Officer on Financial Statements

The Accounting Officer is responsible for the preparation of financial statements in a manner that reflects a true and reasonable position and determines the internal control required to enable financial statements to be prepared without inadequate false statements that may result from fraud and error in accordance with Generally Accepted Accounting Principles and the provisions of Section 38 of the National Audit Act, No. 19 of 2018.

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

The Accounting Officer shall ensure that an effective internal control system is maintained and maintained for the financial control of the Office in terms of sub-section 38(1) (c) of the National Audit Act and it should be periodically reviewed the effectiveness of the system and make any necessary changes to keep the system running efficiently.

1.4 Auditor's Responsibility on Audit of Financial Statements

My objective is to express a reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue the Summary Report of the Auditor General 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 Accounting Standards, I exercise professional judgement and maintain professional skepticism 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.
- It is not intended to express an opinion on the effectiveness of internal control of the Office to plan appropriate audit procedures in a timely manner.
- Evaluate the structure of financial statements including disclosures and content-based transactions and events the structure that the financial statements are appropriate and reasonable.
- The transactions and events underlying the structure and content of the financial statements are appropriately and fairly when submitting financial statements as a whole.

The Accounting Officer was made aware of important audit findings, key internal control deficiencies and other matters identified in my audit.

1.5 Report on Other Legal Requirements

I declare the following matters in terms of Section 6 (d) of the National Audit Act No. 19 of 2018. It cannot be stated that the financial statements of the National Intellectual Property Office are consistent with the previous year, since financial reports for the previous year were not prepared. Therefore, recommendations on financial statements are not included in this report.

1.6 Comments on Financial Statements

1.6.1 Property, Plant and Equipment

Following observations are made.

Audit Observation	Recommendation	Comments given by the Accounting Officer
Assets costing Rs.3,861,267, which were acquired with the	Assets acquired from the Line Ministry should be	Although the cost of acquisition of assets has been

use of provisions by the Line Ministry, were stated under other machinery and equipment in the statement of non-financial assets.

recorded as assets of the Office after being acquired.

recorded, there has been a failure to inform the Ministry in writing; however, steps will be taken to transfer the assets after informing the Ministry of Industries.

1.6.2 Certification that should be made by the Accounting Officer

Although the Accounting Officer should certify the following matter in terms of the provisions of Section 38 of the National Audit Act, No. 19 of 2018, actions have not been taken accordingly.

Audit Observation	Recommendation	Comments given by the Accounting Officer
<p>(a) The Accounting Officer must ensure that the Department has developed and maintained an effective internal control system for financial control, and the effectiveness of the system should be reviewed periodically and that necessary modifications should be made to ensure the effectiveness of the system and although such reviews must be made in writing and a copy of that should be submitted to the Auditor General, it has not been submitted to the audit that such a review was conducted.</p>	<p>Actions must be taken in terms of Section 38 of the National Audit Act, No.19 of 2018.</p>	<p>The Chief Accounting Officer has failed to submit a review on the effectiveness of the internal control system despite the terms of Section 38 (c) of the National Audit Act, No.19 of 2018. Steps will be taken to inform the Ministry and act accordingly by informing the Auditor General in writing about the certification in terms of the act in the future.</p>
<p>(b) Although the Accounting Officer should ensure that there is an effective system for the proper implementation of internal audit function, that requirement was not achieved as per the observations made in</p>	<p>-do-</p>	<p>Appointment of an Internal Auditor post has been obtained with the approval of the Department of Management Services. Due to the inadequate financial provisions for the year 2019, the approval has been granted from 2020 onwards and</p>

Paragraph 4 of the report.

therefore, a request has been made to the Ministry of Public Administration to compensate for that year.

1.6.3 Non-compliance with Laws, Rules and Regulations

Following observation is made.

Audit Observation	Recommendation	Comments given by the Accounting Officer
Reference to Laws, Rules and Regulations		
Section 175 of the Intellectual Property Act No. 36 of 2003, as amended by section 58 (2) of the Intellectual Orders No. 01 of 2006.		
Although the examination for the recruitment and registration of agents must be held in accordance with the provisions of the act to recruit agents, actions have not been taken accordingly.	Actions must be taken in accordance with the Act.	Considering the necessity of recruiting the agents, it has been communicated that amendments will be made after discussing with the Intellectual Property Commission.

2. Financial Review

2.1 Utilization of funds provided by other Ministries and Departments

The Line Ministry has provided provisions worth Rs.29,000,000 for the Madrid Protocol for the International Trade Mark Registration for the year 2018. Due to only Rs. 17,176,802 being utilized out of that, there was a balance of Rs.11,823,198 and it was 40 percent of the total provision. Following observations are made regarding this.

Audit Observation	Recommendation	Comments given by the Accounting Officer
(a) Upon acceptance of trademark application,	If fees were charged, it is unnecessary to utilize funds	Applicants are required to pay a fee to the Government

Rs.14,107,927 as from the provisions for the publication fees for a project. Rs.444,200 for translation which amounts to Rs.14,552,127 in total was spent for the year under review. However, a fee is charged from the clients as well for the publication of the gazette notification and provisions allocated for the project have been utilized without spending these fees. Rs.14,635,318 out of provisions amounting to Rs.26,000,000 that were allocated for this project in 2017 has been spent for the same purpose.

as from the provisions for the project.

Printer for publication in the Gazette before the application is accepted for the registration of trademark. After the payment has been made, the publication will be translated in to the three languages by the Gazette Publication Division and will be sent to the Government Gazette. The amount we charge for publication in the Gazette is for a government-issued service and it is not a payment to the private sector.

- (b) A consultancy service had been hired for the purpose of formulating amendments in order to meet the legal requirements and regulations according to Intellectual Property Act and for the purpose of updating trademark registration. Rs. 4,504,877 and Rs. 1,995,123 which totals to Rs. 6,500,000 was paid in the year 2017 and 2018 respectively for this purpose. The company had agreed to submit the draft bill to the Cabinet by the end of October 2017, but that had not been fulfilled and the agreement had expired in April 2018.

Planned activities should be carried out on time and without delays, and an adequate service should be provided for the expense borne.

With the approval of Cabinet paper dated August 2nd, the service of an outsourcing company had to be obtained. Since the Intellectual Property Commission was considering urgent amendments to the Copyright Regulations and Geographical Draft Laws in early 2018, the commission failed to consider amendments for the laws formulated according to the Madrid Agreement.

3. Operational Review

3.1 Projects which haven't progressed even though money has been released

Out of the provisions amounting to Rs.64,000,000 which was provided by the Line Ministry in the period between 2016 to 31 December 2017, Rs.62,257,628 was utilized to initiate the Madrid Protocol which is currently in operation. Following observations are made regarding above.

Audit Observation	Recommendation	Comments given by the Accounting Officer
(a) Rs.32.5 million to acquire a server machine, to implement a new computer system, including Rs.7.5 million for maintenance in the first, second and third years was paid to the Information and Communication Technology Agency in the month of December 2016,. The Memorandum of Understanding signed between the two parties did not include any payment terms and only a full cost estimate was included. Section 4.3 of the Agreement states that the company is responsible for the entire procurement process and must carry out the procurement within six months from the date of agreement. However, by the end of May 2019, steps have not been taken to acquire the server machine.	Maximum benefit should be received for the cost incurred.	The procurement process of the server machine was initiated in the year 2017 by the Information and Communication Technology Agency of Sri Lanka (ICTA). However, since the agency had failed to complete the procurement process of the machine by 1 February 2019, a letter dated 12 February 2019 was sent to the Attorney General's Department inquiring regarding possible legal action. Following a question raised on the 2019 Parliamentary Budget debate, the ICTA held a meeting with its officials on 23 March 2019. However, the ICTA hasn't arrived at a decision yet. As the ICTA has not taken any steps to fulfill this procurement, the Secretary of the Ministry decided to submit a notice to the Cabinet in writing, following the terms in the Circular.
(b) The ground floor of the Chamber of Commerce building was leased for the purpose of building the necessary physical facilities for the implementation of	Should act for maximum utilization of financial provisions.	The staff of the Madrid Protocol had to make space in the office premises, so the disposable items and files had to be transferred to the ground floor of the Chamber

the project. Although an amount of Rs.4,672,500 was spent for a period of two years from May 2016 to May 2018, the building was not used for the intended purpose but was used as a storeroom for disposals.

of Commerce building. Furthermore, the IPAS program is required to carry out the duties of the Madrid Protocol, and if the division was established there, the computers had to be networked in order for the IPAS program to run, which would have cost more than Rs. 2 Million. This facility was used to store files that are need to be discarded, which are related to the Madrid Protocol.

3.2 Annual Performance Report

Following observation is made.

Audit Observation

Recommendation

Comments given by the Accounting Officer

According to the Public Finance Circular No. 402 dated 12 September 2002, the relevant Performance Report had to be presented to the Parliament within 150 days from the end of financial year, but the Report of the Office for the years 2015, 2016 and 2017 had not been presented to the Parliament by the end of May 2019.

Should act according to circulars.

Performance Reports scheduled to be presented to the Parliament for the years 2015 and 2016 have been submitted to the Presidential Secretariat for approval. The 2017 Performance Report has been submitted to the Ministry for approval.

4. Good Governance

4.1 Internal Audit

Following observation is made.

Audit Observation	Recommendation	Comments given by the Accounting Officer
An internal auditor has not been appointed in terms of Financial Regulations 133 and Sub-section 40 (1) of the Audit Act No. 19 of 2018, and no internal audit has been conducted at least by the Audit Division of the Ministry.	An internal audit should be conducted on the activities of the Department in terms of Financial Regulations and provisions of the Act.	An internal auditor post for the Department has been approved by the letter dated 06.04.2019, and due to lack of provisions for the year 2019, recruiting an officer for the post has been problematic. However, a request has been made to the Secretary of the Ministry of Public Administration to fill the vacant post.

5. Human Resource Management

Following observations are made.

Audit Observation	Recommendation	Comments given by the Accounting Officer
(a) As of 31 November 2018, the number of approved staff was 98 while there was only 81 actual staff members, which created 17 vacancies.	Actions should be taken to recruit the required staff.	It has been stated that arrangements are being made to fill the vacancies.
(b) 09 out of 10 tertiary-level patent examiners are vacant and this has been the main reason for the delays in issuing patents.	-do-	-do-