

Head 26 – Right to Information Commission

1 Financial Statements

1.1 Qualified Opinion

The audit of the financial statement of the Right to Information Commission 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 including my comments and observations on the financial statements of the Right to Information Commission was issued to the Chief Accounting Officer on 30 May 2019 in terms of Section 11 (1) of the National Audit Act, No. 19 of 2018, and the Detailed Annual Management Audit Report relating to the Commission in terms of Section 11 (2) of the National Audit Act, No. 19 of 2018 was issued to the Chief Accounting Officer on 30 May 2019. This report will be tabled in Parliament in pursuance of provisions in Article 154 (6) of the Constitution to be read in conjunction with Section 10 of the National Audit Act, No. 19 of 2018.

In my opinion, except for the effects of the matters described in Paragraph 1.6 of this report, the financial statements give a true and fair view of the financial position of the Right to Information Commission as at 31 December 2018, and of its financial performance and its cash flows for the year then ended in accordance with Generally Accepted Accounting Standards.

1.2 Basis for Qualified Opinion

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAS). 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 qualified opinion.

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

The Chief Accounting Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with Generally Accepted Accounting Principles and provisions in Section 38 of the National Audit Act, No.19 of 2018 and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud

or error. As per Sub-section 16(1) of the National Audit Act No. 19 of 2018, the Right to Information Commission 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.

As per Sub-section 38 (1) (c) of the National Audit Act, the Chief Accounting Officer shall ensure that effective internal control system for the financial control of the Commission exists, and carry out periodic reviews to monitor the effectiveness of such systems and accordingly make any alterations as required for such systems to be effectively carried out.

1.4 Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report 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 Auditing Standards, I exercise professional judgment and maintain professional scepticism 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.
- Obtain an understanding of internal control relevant to the audit 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 Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Chief Accounting Officer regarding, significant audit findings, any significant deficiencies in internal control and other matters that I identify during my audit.

1.5 Report on Other Legal and Regulatory Requirements

I express the following matters in accordance with Section 6 (d) of the National Audit Act, No. 19 of 2018.

- (a) Since there was no need to prepare financial statements for the preceding year, it could not be stated that the financial statements presented for the year under review were consistent with the preceding year.
- (b) Since there was no requirement for the Right to Information Commission to prepare financial statements for the preceding year, recommendations on the financial statements of the preceding year had not been made.

1.6 Comments on Financial Statements

1.6.1 Accounting Deficiencies

The following material accounting deficiencies were observed.

Audit Observation	Recommendation	Comment of the Accounting Officer
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(a) The balance of the imprest had been remitted to the Treasury as at 31 December 2018. However, a sum of Rs. 937,541 had been shown as cash and cash equivalents in the statement of financial position as at 31 December 2018.	Accounts should be prepared in terms of instructions of the Circulars.	A sum of Rs. 937,541.41 had been shown by us as cash and cash equivalents in the statement of financial position as accounts should be prepared in a manner that reports of accounts should be presented to be consistent with account balances of the Treasury.
(b) The value of liabilities that had not been identified and brought to accounts by the	Accounts should be prepared in terms of instructions of the Circulars.	It is accepted that the said payments should have been shown in the financial statements as liabilities identified as at 12/31. Action will be taken to rectify those deficiencies in due course.

Commission,
 totaled Rs.
 178,411 as at 31
 December 2018.

1.6.2 Non-compliances with Laws, Rules, and Regulations

Instances of non-compliances with provisions of Laws, Rules, and Regulations observed in the audit test checks, are detailed out below.

Observation -----	Recommendation -----	Comment of the Accounting Officer -----
Reference to Laws, Rules, and Regulations -----	Non-compliance -----	-
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| (a) Sections 11(2) & 16(1) of the Right to Information Act, No. 12 of 2016. | The Commission shall have its own Fund, and there shall be paid out of the Fund all such sums of money required to defray the expenditure incurred by the Commission in the exercise, discharge and performance of its powers duties and functions. However, considering the Commission as a special unit of expenditure, | Action should be taken in accordance with provisions of the Act. | It is informed that action will be taken to establish the Fund for the Commission after having further discussions with the Treasury. |
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provision had been made through the Appropriation Act whilst no information was made available to the Audit that such a Fund had been established.

- (b) Section 16(2) of the National Audit Act, No. 19 of 2018. The annual Performance Report should be furnished to the Auditor General along with the financial statements of the institution. However, the Commission had not furnished the Performance Report so far. Action should be taken in accordance with provisions of the Act. As the financial statements / statements of accounts, had been furnished for the first time, the annual Performance Report could not be prepared by mistake. It is informed that the said deficiency will be rectified in due course.

1.6.3 Assurances to be Made by the Chief Accounting Officer / Accounting Officer

Assurances should have been made by the Chief Accounting Officer with respect to the following matters in terms of Section 38 of the National Audit Act, No. 19 of 2018, but it had not been so done.

Audit Observation	Recommendation	Comment of the Accounting Officer
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| (a) The Chief Accounting Officer and the Accounting Officer should | The reviews should be carried out and a copy thereof should be furnished to the | The Commission has made reviews on the internal control system as always as possible. However, the only failure is that such reviews could not be reported |
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ensure that an Auditor General. to the Auditor General .
 effective internal control system
 for the financial control exists in
 the Commission and carry out
 periodic reviews to monitor the
 effectiveness of such systems and
 accordingly make any alternations
 as required for such systems to
 be effectively carried out. Such
 reviews should be made in
 writing and a copy thereof
 should be presented to the
 Auditor General. However, no
 reviews had been carried out in
 that manner thereby failing to
 furnish a copy thereof to the
 Auditor General.

- (b) The Chief Accounting Officer and Accounting Officer should ensure that annual and other financial statements are prepared on time. In addition, the Chief Accounting Officer should
- The annual reports relating to the entity should be tabled in Parliament .
- The annual and other financial statements have been prepared during the specified period. However, as the Commission had been established in October 2016, a report has not been prepared for that year.

ensure that the annual reports relating to the auditees should be tabled in Parliament.

Nevertheless, such requirements had not been fulfilled due to audit observations mentioned in Paragraph 3.1.3 of the report.

- (c) The Chief Internal Accounting Officer and the Accounting Officer should ensure that a productive methodology is adopted for the proper execution of internal audits. However, that requirement had not been fulfilled due to observations given in Paragraph 4.2 of the report. It is expected to carry out internal audits on the Commission in due course. out properly.

2. Financial Review

2.1 Management of Expenditure

2.1.1 Deficiencies in Preparing Estimates – Expenses

Audit Observation	Recommendation	Comment of the Accounting Officer
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(a) The provision totalling Rs. 1,527,704 allocated through the annual budget estimate on 03 recurrent Objects and capital Objects, had been saved in full during the year.	The budget should be made use of as an effective instrument of management control.	This is the first time the Commission furnished its annual estimate of expenses. Due to lack of skilled officers in the Commission, they were unable to properly prepare the financial estimates for the year 2018.
(b) Only a sum of Rs. 18,698,206 had been spent out of the net provision totalling Rs. 37,627,396 made under 13 Objects as at 31 December 2018. Accordingly, as overprovision equivalent to the saving of Rs. 18,929,190 had been made, it represented 18 per cent – 95 per cent of the provision allocated.	The budget should be made use of as an effective instrument of management control.	Had there been estimates of expenditure relating to the activities carried out at least in one preceding year, it is believed that expenses could have been forecasted more formally thus being able to prepare the estimates of expenditure. It is informed that estimates of expenditure would be prepared by the Commission with emphasis in this connection in the ensuing years.

3. Operating Review

3.1 Performance

3.1.1 Planning

Audit Observation	Recommendation	Comment of the Accounting Officer
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The Commission had prepared an Action Plan for the year 2018, but the said Plan had not complied with the requirements set out in Public Finance Circular, No. 01/2014, dated 17 February 2014.

The Action Plan should be prepared in accordance with the Circulars.

Once provision had been provided for the Commission under a single Head in the year 2018, the prerequisites for further activities should have been fulfilled as soon as possible. Hence, it was difficult to plan the activities that should have been executed within a specific period. The preliminary activities to be executed in the year 2018 had been determined, and the Action Plan for the year 2018 had been prepared accordingly.

It is accepted that there are instances in which the Action Plan of the Commission does not comply with the Public Finance Circular, No. 01/2014, dated 2014.02.17. Those deficiencies will be rectified in the year 2019.

3.1.2 Failure to Achieve the Expected Level of Output

Audit Observation	Recommendation	Comment of the Accounting Officer												
<p>a) In terms of Section 32(1)(b) of the Act, the Commission, once the appeal is received, shall forward such an appeal to the Information Officer within a period of 30 days for necessary action. Nevertheless, instances of failing to do so were observed and details in that connection are as follows.</p>	<p>Action should be taken in accordance with the Act.</p>	<p>To arrive at a decision within a period of 30 days is non-practical. It is necessary to study every appeal received by the Commission for consistency with provisions of Law, thus setting dates for the inquiry of the appeal.</p>												
<table border="1"> <thead> <tr> <th data-bbox="400 853 539 920">Duration/ Year</th> <th data-bbox="568 853 687 1077">No. of Appeals Received by the Commission</th> <th data-bbox="716 853 823 1077">No. of Appeals Inquired as at 2019.02.28</th> <th data-bbox="852 853 948 1160">No. of Verdicts Returned out of the Appeals Inquired</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 1330 539 1514">From the inception up to 2017.12.31</td> <td data-bbox="568 1330 624 1357">230</td> <td data-bbox="716 1330 772 1357">198</td> <td data-bbox="852 1330 908 1357">198</td> </tr> <tr> <td data-bbox="400 1525 539 1749">2018 From 2019.01.01 up to 2019.02.28</td> <td data-bbox="568 1525 624 1592">800 200</td> <td data-bbox="716 1525 772 1592">549 22</td> <td data-bbox="852 1525 908 1592">549 10</td> </tr> </tbody> </table>	Duration/ Year	No. of Appeals Received by the Commission	No. of Appeals Inquired as at 2019.02.28	No. of Verdicts Returned out of the Appeals Inquired	From the inception up to 2017.12.31	230	198	198	2018 From 2019.01.01 up to 2019.02.28	800 200	549 22	549 10		
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2018 From 2019.01.01 up to 2019.02.28	800 200	549 22	549 10											
<p>b) With the objective of publishing the regulations and rules, it had been planned to publish regulations and rules during the year 2018 in terms of Sections 41 and 42 of the Right to Information Act, No. 12 of 2016. However, no any regulation or rule had been</p>	<p>The relevant activities should be executed as planned.</p>	<p>Action will be taken in due course either to make new regulations and rules, or amend</p>												

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| | published in the year 2018. | | the existing regulations and rules. |
| c) | As for regulating the management of documents in the public sector, it had been planned in the year 2018 to provide instructions for the general authorities on the management of documents through publishing the regulations, rules, guidelines and procedures of the Commission. However, it was revealed that preliminary steps had been taken to draft the document management directives with the cooperation of Ministry of Public Administration and the Department of National Archives, whilst legal consultants were studying the laws and techniques relating to the management of existing documents. The relevant rules, regulations, guidelines, and procedures were not published by the Commission. | The relevant activities should be executed as planned. | The directives are further studied, thereby identifying the requirements at present. |
| d) | With the objective of promoting the disclosure of progressive information, it had been planned to issue instructions / guidelines in the year 2018 relating to the contents of disclosing such information. However, no follow up action was taken on the implementation of such instructions / guidelines. | The relevant activities should be executed as planned. | Action will be taken in due course to take follow up action on the disclosure of progressive information and promote the disclosure of progressive information by apprising the general authorities. |
| e) | With the objective of promoting the disclosure of progressive information by December 2018, it had been planned to make plans and formulate minimum standards thereon. However, it had not been done as planned. | The relevant activities should be executed as planned. | Action will be taken in due course to take follow up action on the disclosure of progressive information and promote the disclosure of progressive |

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| | | information by apprising the general authorities. |
| f) | With the objective of improving the disclosure of progressive information through the websites of the Government Ministries, Departments, and institutions, it had been planned to issue instructions by December 2018 to survey and update the websites. Nevertheless, it had not been so done, and no follow up action had been taken. | The relevant activities should be executed as planned. Action will be taken in due course to take follow up action on the disclosure of progressive information and promote the disclosure of progressive information by apprising the general authorities |
| g) | Provision amounting to Rs. 1,500,000 had been received through foreign grants for the settlement of expenses on the publications to be published by the Commission during the year under review. However, such provision had not been utilized on the relevant projects. | The provision intended for the project should be promptly utilized on the achievement of relevant objectives. Although provision amounting to Rs. 1,500,000 had been received in the year 2018 to settle the expenses of several publications of the Commission, such publications could not be printed before 12/31 due to delays in translating the books and receiving the letters of the resource persons. |

3.1.3 Annual Performance Report

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>In terms of Section 37(1) of the Act, the Commission shall cause to be prepared a report of its activities so that it shall prepare at least one report in each calendar year. The Commission shall transmit a copy of every such report to be tabled before Parliament</p>	<p>Action should be taken in accordance with the Act.</p>	<p>As the Commission had been established in October, 2016, a special report was not prepared for the year 2016.</p>

4. Good Governance

4.1 Rendering Services to the Public

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>With the objective of conducting awareness programmes for the people in rural areas, it had been planned to conduct one-day discussions with community based associations in 8 selected areas on the provision amounting to Rs. 1.2 million. However, only one programme had been conducted by March 2019.</p>	<p>Awareness programmes should be conducted as planned.</p>	<p>This project was scheduled to be implemented from 01 May 2018 to 30 August 2019. It is planned to conduct the rest of the programmes once the provision is received.</p>

4.2 Internal Audit

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>In terms of Section 40(1) of the National Audit Act, No. 19 of 2018, an internal auditor should be duly appointed by the governing body of an entity to carry out internal audits of the entity. However, an internal auditor had not been appointed thus far by the Commission.</p>	<p>An internal audit should be carried out as per provisions of the Act.</p>	<p>It is expected to appoint an internal auditor in due course.</p>

4.3 Audit and Management Committee

Audit Observation	Recommendation	Comment of the Accounting Officer
<p>In terms of Section 41(1) of the National Audit Act, No. 19 of 2018, there shall be an Audit and Management Committee for every auditee entity appointed by the respective Chief Accounting Officer or Accounting Officer or respective governing body, as the case may be, to assist him. However, the Commission had not appointed such a Committee and as such, continuous review of operations of the entity had not been undertaken.</p>	<p>The governing body should appoint an Audit and Management Committee in terms of provisions of the Act.</p>	<p>In case of being appropriate to review the affairs of the Committee under the Audit and Management Committee of the Ministry of Mass Media, it is expected to do so. Otherwise, such a Committee shall be appointed with the participation of the Chief Accountant of that Ministry.</p>

5. Human Resource Management

5.1 Approved Cadre and Actual Cadre of the Commission

The following observations were made on the cadre position of the Commission as at 31 December 2018.

Audit Observation	Recommendation	Comment of the Accounting Officer
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a) The post of Director General, the Chief Executive Officer of the Commission as per Section 13(1)(a) of the Act, had remained vacant even as at the date of audit in February 2019.	The vacancy in the post of Director General of the Commission should be filled as soon as possible.	Action was taken to conduct the interview on 2019.06.24 to recruit a Director General.
b) A post of Accountant had not been approved for the Commission. Financial administration and preparation of accounts had been done by a financial officer even by the date of audit.	Approval should be obtained for the post of Accountant.	A letter is being prepared requesting approval of the Department of Management Services for the post of Accountant.
c) Six of the approved posts remained vacant as at 22 May 2019.	Vacancies of the posts should be filled.	It is expected to promptly conduct the interviews relating to make recruitments for the posts of Research Officer and the Translator (Tamil) as well.

Furthermore, recruitments have already been made for the post of Development Officer that had remained vacant as at 2018.12.03.

It is also expected to make recruitments for the posts of

- Management Assistant, Driver, and KKS during this year.
- d) An officer aged above 60 years had been appointed on 20 October 2016 for the post of Administrative Officer of the Commission. However, in terms of Section (ii) of the Public Administration Circular, No. 09/2007(1), dated 24 August 2007, a retired officer would be appointed subject to a maximum period of 12 months upon recommendations of the Secretary to the Ministry / Head of the Department in the cases of a difficulty in appointing a successor, and existing officers cannot perform the duty under alternative options such as acting appointments. But, the said Administrative Officer had continuously been appointed for about 2 years until 30 September 2018 with payments totalling Rs. 890,121 being made.
- Action should be taken in accordance with provisions of Circulars.
- Due to lack of time for selecting an officer, and as it was essential to recruit an Administrative Officer for the Commission to proceed, a retired and qualified officer had been recruited on contract basis for the post of Administrative Officer on approval of the Commission - the appointing authority of this institution.
- The said officer remained employed only until the lapse of the second year.
- e) According to the Scheme of Recruitment for the Management Assistant (Non-technical), it is necessary to pass 06 subjects of the G.C.E. (OL) Examination
- Recruitments should be made in accordance with the approved Scheme of Recruitment.
- It was inhumane to remove those two officers from service on their failure to meet the qualifications as they had been in the Commission since its inception. They have so far been allowed to remain employed on the basis of confirming in the service when

including Sinhala / Tamil, Mathematics, and English. However, two officers who had not met the said qualifications, were recruited.

they meet the said qualifications.