

Legal Aid Commission of Sri Lanka - 2021

1. Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the Legal Aid Commission of Sri Lanka for the year ended 31 December 2021 comprising the statement of financial position as at 31 December 2021 and the statement of comprehensive income, statement of changes in equity and cash flow statement for the year then ended and the notes in relation with the financial statements, including a summary of significant accounting policies 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 and the provisions in the Finance Act No. 38 of 1971. My comments and observations which I consider should be report to Parliament appear in this report.

In my opinion, except for the effects of the matters described in Paragraph 1.5 of this report, the financial statements prepared give a true and fair view of the financial position of the Commission as at 31 December 2021 and its financial performance and cash flow for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.2 Basis for Qualified Opinion

My opinion is qualified based on the matters appear in Paragraph 1.5 of this report.

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 qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards, 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.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intend to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Commission's financial reporting process.

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

1.4 Audit Scope (Auditor's Responsibility on the Audit of 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 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.
- Obtained 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 internal control.
- Evaluated the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Concluded on the appropriateness of the Management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. However, future events or conditions may cause to cease to continue as a going concern.
- Evaluated the 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.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following.

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Commission and whether such systems, procedures, books, records and other documents are in effective operation;
- Whether the Commission has complied with applicable written law, or other general or special directions issued by the governing body of the Commission;
- Whether the it has performed according to its powers, functions and duties; and
- Whether the resources had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Audit Observations on Preparation of Financial Statements

1.5.1 Internal Control over the Preparation of Financial Statements

Entities are required to “devise and maintain” a system of internal accounting controls sufficient to provide reasonable assurance that , transactions are executed in accordance with Management’s general or specific authorization, transactions are recorded as necessary to permit preparation of financial statements in conformity with the applicable reporting standards , and to maintain accountability for assets, access to assets is permitted only in accordance with Management’s general or specific authorization, and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

1.5.2 Non-compliance with Sri Lanka Public Sector Accounting Standards

| Non-compliance with reference to the Standards | Comments of the Management | Recommendation |
|---|---|--|
| As a result of not reviewing of the effective lifetime of non-current assets annually in terms of Paragraph 65 of Sri Lanka Public Sector Accounting Standards 07, although the 02 motor vehicles and office equipment and furniture cost at Rs. 5,900,625 had been fully depreciated as at 31 December 2020 were further being used and actions had not been | The Micro vehicle (Rs. 3,173,333) cannot be used and actions will be taken as per the recommendation of the Ministry in this regard. The repair of YL1947 Three Wheel has been started. It will be revised during this year. As it has to incur a lot of money to | Actions should be taken in accordance with Sri Lanka Public Sector Accounting Standard No. 07. |

taken to revise the estimated error in accordance with Sri Lanka Public Sector Accounting Standards No. 03 .

revise the office equipment and furniture, it has not been done .

1.5.3 Accounting Deficiencies

| Audit Observation | Comments of the Management | Recommendation |
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| <p>(a) As the depreciation of the year had been deducted from the expenditure instead of crediting the revaluation profit of Rs. 1,900,000 to the revaluation reserve account which had arisen from the revaluation of 04 vehicles, the profit for the year was overstated by that amount and the revaluation reserve was understated by that amount in the financial statements .</p> | <p>Depreciation expense will be changed this year by adding profit of Rs.1,900,000 to the revaluation reserve.</p> | <p>Actions should be taken to account for the transactions properly.</p> |
| <p>(b) Although the revaluation value of 02 motorcycles which had been fully depreciated amounting to Rs. 500,000 should be debited to the relevant asset account and credited to the revaluation reserve account, the profit and net value of assets in the year under review had been understated by that value because of the depreciation account was debited and the depreciation provision account was credited.</p> | <p>This mistake will be corrected during this year.</p> | <p>Actions should be taken to account for the transactions properly.</p> |

- (c) Because of both the cost of 03 vehicles and the revaluation value was considered as the cost of vehicles, the balance of fixed assets had been overstated by Rs.5,700,000 . This mistake will be corrected during this year. Actions should be taken to accurately identify and account for the cost of fixed assets.

1.6 Non-compliance with Laws, Rules, Regulations and Management Decisions

| | Reference to the Laws, Rules, Regulations etc. | Non-compliance | Comments of the Management | Recommendation |
|-----|---|---|--|---|
| (a) | Section 14 (3) of Finance Act No. 38 of 1971 | The Annual Reports for the year 2019 and 2020 had not been submitted to the Parliament by the end of April 2022 . | The Annual Report of the year 2019 was sent to the Ministry of Justice on 05.01.2022 to refer to the approval of the Cabinet. Arrangements are being made to send the Annual Report 2020 to the Cabinet for approval. | Actions should be taken in terms of Section 14 (3) of the Finance Act . |
| (b) | Stamp Duty Act No. 43 of 1982 | Although a stamp duty of Rs. 25 should be charged for payments above Rs.25,000, stamp duties related to 14 vouchers for the payment of Rs.691,190 had not been collected. | All centers have been informed in this regard. | Actions should be taken in terms of Stamp Duty Act No. 43 of 1982 . |

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| <p>(c) Section 9.12 of Public Enterprises Circular No. PED / 12 dated 02 June 2003</p> | <p>Initiating a private insurance scheme for the employees of the Commission in the year 2015 without obtaining an approval, a sum of Rs.1,466,321 had been paid to an insurance company as 50 per cent of the insurance contribution of 56 employees during the year under review.</p> | <p>The Ministry has been informed in this regard.</p> | <p>Arrangements should be made to make payments after receiving the relevant approval in terms of Section 9.12 of the Public Enterprises Circular.</p> |
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2. Financial Review

Financial Results

The operating result for the year under review was a deficit of Rs. 15,754,042 and the corresponding deficit of the preceding year was Rs. 21,323,099 . Accordingly, a growth of Rs. 5,569,057 was observed in the financial result. Increase of Government Grant and receipt of registration fees by Rs. 2,692,256 and decrease of administrative expenses by Rs. 2,877,501 had mainly attributed to this growth in financial results.

3. Operating Review

3.1 Management Inefficiencies

| Audit Observation ----- | Comments of the Management ----- | Recommendation ----- |
|---|--|--|
| <p>(a) The necessary steps have not been taken to execute the key powers such as to establish, administer, develop and co-operate in experimental programmes, law clinics and projects in respect of any aspect of the provision of legal aid and employing the necessary staff for the development and</p> | <p>Comments had not been made.</p> | <p>Actions should be taken to implement the objectives of the Act.</p> |

implementation of programmes and projects for that purpose as mentioned in Paragraph 4 (i) of the Legal Aid Commission Act No. 27 of 1987.

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|--|------------------------------------|---|
| <p>(b) Even though the Cabinet had approved the Proposed National Policy on Legal Aid for Sri Lanka on 30 March 2016 with the view of making State Legal Aid Programme in a more formal empowerment in civil society, it had not been implemented.</p> | <p>Comments had not been made.</p> | <p>Actions should be taken to implement legal aid programmes as stipulated.</p> |
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3.2 Operational Inefficiencies

Audit Observation

The number of cases brought forward for providing legal aid in 2020 was 36,567 and the total number of cases to be carried out with 8,075 newly filed cases in the year 2021 was 44,642. The legal assistance (legal aid) had been provided for the disposal of 6,543 cases in the year under review out of that and a number of 38,099 cases left as at 31 December 2021. It had been 85 per cent of the total cases which were to be provided services.

Comments of the Management

Judicial activities are a process that cannot be done in isolation. The backlog of Cases affect the entire judicial system and 56 per cent of the existing cases at the Legal Aid Commission are maintenance cases. A maintenance case should be carried out till children complete 18 years of age and maximum age of 25 of the children who are having education. Likewise, the maintenance cases should also be maintained until a divorce decree is obtained between the parties. So that this fact has a very strong impact on the data which affects closure the data of the cases.

Recommendation

Actions should be taken to improve performance for the achievement of the purposes of the Act.

3.3 Underutilization of Funds

Audit Observation

Although an amount in between Rs.1.8 Million and Rs.8.7 Million had remained in idle in the current account maintained by the Commission at the Aluthkade Branch of the Bank of Ceylon for the entire 12 months from January to December 2021, actions had not been made to utilized the money effectively.

Comments of the Management

Comments had not been made.

Recommendation

Planning and utilization of funds should be done in an efficient manner.

3.4 Procurement Management

Audit Observation

The Procurement Plan to be prepared for at least 3 years and the Detailed Procurement Plan for the year under review had not been prepared in terms of Section 4(2) and 4(2)(2) of the Government Procurement Guidelines .

Comments of the Management

It is informed that the actions will be taken to prepare the Procurement Plan for a period of at least 03 years from now on .

Recommendation

The Detailed Procurement Plan should be prepared as per the provisions of the Government Procurement Guidelines.

3.5 Human Resources Management

Audit Observation

- (a) There were 79 vacancies, including 27 in senior level, 02 in secondary level, 18 in tertiary level and 32 in primary level at the end of the year under review and these vacancies had directly affected the performing of the tasks of the Commission efficiently.

Comments of the Management

Answers have not been given.

Recommendation

Arrangements should be made to fill the vacancies in essential posts.

(b) Although two officers who served in the Legal Aid Commission should have reported to work 2 years ago after going abroad, since they have not reported as such, actions had not been taken to be recovered the bond of Rs. 844,056 from them in terms Paragraph 4:7 of Chapter XV of the Establishments Code.

The relevant officials have been made aware to pay this money.

The money should be collected by making arrangements in terms of Establishments Code.

4. Accountability and Good Governance

4.1 Annual Action Plan

Audit Observation

The activities and results of activities on monthly basis were not presented as per the priority to be included in the Action Plan in terms of Guideline No. 12 of Public Finance Circular No. 02/2020 dated 28 August 2020 and the targets were not set and the performance was not measured in relation to awareness programmes.

Comments of the Management

Targets have been presented based on the quarterly of the Action Plan. Actions will be taken in the future to enter the targets on a monthly basis.

Recommendation

The Annual Action Plan should be prepared in terms of Public Finance Circular No. 02/2020 dated 28 August 2020 and targets should be identified for the respective activities and performance should be measured.

4.2 Sustainable Development

Audit Observation

Identify the risk of not being able to continuously obtain the resources and capacities needed to achieve the Sustainable Development Goals and although the attention was drawn in preparing a proper Procurement Plan, informing the officials and appointing a Committee to implement the necessary solutions and decisions as measures to be taken to minimize them, it had not been so done.

Comments of the Management

The necessary activities are being done at present, after naming the said Committee.

Recommendation

Necessary measures should be taken to achieve Sustainable Development Goals.