

# OUTCOME REPORT

## THE WORKSHOP FOR CHAIRMEN AND THE SENIOR MANAGEMENT OF SUBSIDIARY COMPANIES ON GOOD GOVERNANCE AND FINANCIAL DISCIPLINES IN SUBSIDIARIES

31<sup>ST</sup> JULY 2019, AT 'THE VICTORIAN', KINGSBURY PLC, COLOMBO

### 1. Overview

At present, Subsidiaries have been formed by State Owned Enterprises (SOEs) for different purposes under the Companies Act No. 07 of 2007 and 85 such subsidiaries have been identified. Those Subsidiaries are supervised by the parent SOEs with whole or partial share ownership and are managed by a Board of Directors appointed as per the Articles of the Subsidiary. It is often observed that Subsidiaries do not adhere to the Treasury Circulars and other form of government guidelines while carrying out their administrative and financial matters.

However, with 19th amendment to the Constitution, the overall audit functions were handed over to the Auditor General. In addition, it was presented in the 2016 budget proposal that SOEs cannot form Subsidiaries without having the total shareholding to be vested with Secretary to the Treasury and if the parent SOE is deviating from this, the cabinet approval should be obtained.

In addition, a few Subsidiaries has been summoned by the Public Enterprises (COPE) for last 5 years and the COPE has raised the concern on improving the Treasury oversight on the Subsidiary Companies and has issued following directives to ensure good governance of the Subsidiary Companies.

- 1) To obtain approval from the Ministry of Finance for the Procurement Guidelines prepared.
- 2) To obtain approvals for Corporate plan, Action plan and Annual budget from the Ministry of Finance
- 3) To appoint Treasury Representatives for Subsidiary Companies
- 4) To submit the Cadre information to the Department of Management Services

In this backdrop, introducing a policy for Subsidiaries by the General Treasury is a timely requirement. Hence, it was decided to conduct a workshop for top management of 19 State Owned

Subsidiaries (Annex A) of 6 State Owned Enterprises which comes under the purview of Ministry of Finance.

90 participants attended in the workshop, including the senior management of the Subsidiary Companies, Treasury representatives of the boards of parent SOEs, officials of the General Treasury, and resource persons from different public institutions. (The list of participants is in Annex B)

The workshop consisted of five sessions covering: (i) Awareness of Audit Act(ii) Applicability of Government Procurement Procedures to the Subsidiaries of State Owned Enterprises (iii) Legal Framework of the Subsidiary Companies and the Duties of the Directors (iv) Awareness on COPE procedure (v)General guidelines on cadre and salary structures of state owned enterprises(SOEs).

The sessions were carried out through presentations by resource persons from the General Treasury and Auditor General's Department. Breakout discussions and Q&A segment were also conducted during the event. The format was designed to encourage a participant-driven process in an interactive and facilitative setting.

### 2. Presenters

No	Topic	Resource Persons
(1)	Provisions on Audit Act applicable for State Owned Enterprises and its Subsidiaries	Mr. G.A.M.I. Gunarathne, Deputy Auditor General, Auditor General's Department
(2)	Legal Framework of the Subsidiary Companies and the duties of the Directors	Mr. A.K.D.D.D Arandara, Director, Department of Legal Affairs
(3)	Applicability of Govt. Procurement Procedures to the Subsidiaries of State Owned Enterprises	Mr. S. U. Chandrakumaran, Additional Director General, Department of Public Finance

(4)	Awareness on COPE Procedure	Ms. K.V.C. Dilrukshi, Director, Department of Public Enterprises
(5)	General guidelines on cadre and salary structures of State Owned Enterprises(SOEs)	Mrs. B.M.D. Nilusha Balasooriya, Director, Department of Management Services

### 3. Agenda

The Agenda is provided in Annex C.

### 4. Opening Remarks

Main objective of the Workshop was to make the senior management of Subsidiary Companies aware of the government rules and regulations applicable for Subsidiaries, Provisions given in the National Audit Act, provisions given in the Procurement guideline and General guidelines on cadre and salary structures of the SOEs.

Ms. Thilaka Jayasundara, Director General of the Department of Public Enterprises delivered the opening remarks highlighting the importance of giving the autonomy for SOEs to operate in their own arena while being adhered to the government rules and regulations on Subsidiary Companies. She further emphasized that the main purpose of this workshop is to make the senior management of the Subsidiary Companies make aware of the government regulations presently applicable to the SOEs.

intervention of monitoring the Subsidiary Companies. Further, he emphasized that COPE has raised their concern on strengthening the oversight of State Owned Subsidiaries, having ownership to the General Treasury with public funds being invested in Subsidiary Companies. He also mentioned that the workshop will create a platform to strengthen the mutual understanding between Subsidiaries and the government sector.



Ms. Thilaka Jayasundara, Director General of the Department of Public Enterprises and other PED officials from the gathering.

### 5. Sessions Summary

#### Session 1- Awareness of Audit Act

Mr. G.A.M.I. Gunarathne, Deputy Auditor General, Auditor General's Department, conducted the presentation on Awareness of Audit Act applicable for State Owned Enterprises and State Owned Subsidiaries.



Dr. R.H.S. Samaratunga, Secretary to the Treasury delivering the speech on the importance of government intervention of monitoring Subsidiaries

Dr. R.H.S Samaratunga, Secretary to the Treasury brought out the importance in government



Mr. G.A.M.I. Gunarathne, Deputy Auditor General, Auditor General's Department, conducting the presentation on Awareness of Audit Act applicable for State Owned Enterprises and State Owned Subsidiaries.

He explained the link between subsidiaries and the National Audit Act referring to the 19th amendment to the constitute as given in the Article 154 as follows; The Auditor General shall audit the accounts local authorities, public corporations, business and other undertakings vested in the Government under any written law and companies registered or deemed to be registered under the Companies Act, No. 7 of 2007 in which the Government or a public corporation or local authority holds forty per centum or more of the shares of that company.

Further, he emphasized the following facts with reference to the SOEs and Subsidiaries

- 1) Scope of the Audit
- 2) Auditing standards
- 3) Powers, Duties and Functions of the Auditor General
- 4) Assistance to the COPE/ COPA to carry out their functions more efficiently and effectively.
- 5) Submission of Reports and Statements by the Auditor General-
  - Management Audit Report
  - An Annual Detailed Management Report
  - Report relating to Corporations and Companies
  - Triennial Reports
  - Annual Financial Statements of the Audited Entities
  - Annual Report of a Public Corporation or Company

In addition, issues encountered in audit were further elaborated; Problems in incorporation of the subsidiary companies, Issues on continuation of the operations of the subsidiaries due to higher dependency on government grants, Litigation issues, Staff Turnover eg LRDC, Loss of market opportunities, Delays in rendition of the financial statements for audit and Delays in receiving necessary information required for audit and the COPE.

## Session 2 - Applicability of Government Procurement Procedures to the Subsidiaries of State Owned Enterprises

Mr. S. U. Chandrakumaran, Additional Director General, Department of Public Finance conducted the presentation on applicability of Government Procurement Procedures to the Subsidiaries of SOEs. He explained the government procurement strategy of creating the necessary legal framework for the procurement of goods, works, consultancy services and other services to ensure value for money, open and effective competition, ethics and fair dealing, transparency and accountability in Public Procurement.

He emphasized the importance of applying procurement guidelines for subsidiaries with reference to the Interpretation to the Govt. Institution in 19th Amendment (156H) while focusing on the following topics during the presentation.

- 1) Principles of the public procurement
- 2) Applicability of the Government Procurement Guidelines
- 3) Objectives of the Government Procurement Guidelines
- 4) Institutional framework in Public Procurement
- 5) Functions of the NPC
- 6) Authority Limits of PC for Contract award recommendation /Determination
- 7) Approving Authority



Mr. S. U. Chandrakumaran, Additional Director General, Department of Public Finance conducting the presentation on applicability of Government Procurement Procedures to the Subsidiaries of SOEs.

### Session 3- Awareness on COPE procedure

Ms. K.V.C. Dilrukshi, Director, Department of Public Enterprises presented the procedures to be followed when participating in the COPE.



Presentation on COPE procedures by Ms. K.V.C. Dilrukshi, Director, Department of Public Enterprises.

This session provided an overview on the COPE procedure providing an explanation of the scope, objectives and powers of the COPE. Further, following key points were elaborated on the procedures.

- 1) Activities to be carried out when an entity is summoned by the COPE
- 2) Participant for the COPE from the entity
- 3) Main documents to be taken
- 4) Key points for preparation
- 5) COPE examination
- 6) COPE minutes and progress review

- 7) Observations to the COPE report

### Session 4 - Framework of the Subsidiary Companies and the Duties of the Directors

Mr. A.K.D.D Arandara, Director, Department of Legal Affairs conducted the presentation on the Legal Framework of the Subsidiary Companies while bringing out the points from the relevant provisions for subsidiaries as given in the Companies Act No. 07 of 2007. During his presentation two main ideas were discussed; Provisions in the Companies Act relating to the Subsidiaries and the Duties of the Directors of the Company as stipulated by the Companies Act.



Presentation on Legal Framework of the Subsidiary Companies and the duties of the Directors by Mr. A.K.D.D Arandara, Director, Legal Affairs Department.

Following sections were taken into consideration broadly

- 1) Cross holdings
- 2) Duty to prepare financial statements
- 3) Appointing auditors
- 4) Age limit of the Directors of a subsidiary company
- 5) Corporate governance – essence of the Cadbury report
- 6) Director's duty
- 7) Use of information and advice
- 8) Conflict of interest
- 9) Disclosure of interest
- 10) Avoidance of Transactions

### Session 5- General guidelines on cadre and salary structures of SOEs





**Presentation on General guidelines on cadre and salary structures of state owned enterprises (SOEs) Mrs. B.M.D. Nilusha Balasooriya, Director, Department of Management Services**

Mrs. B.M.D. Nilusha Balasooriya, Director, Department of Management Services presented the General guidelines on cadre and salary structures of state owned enterprises (SOEs) and her presentation was composed of below topics.

- 1) Authority for approving scheme of recruitment for public services
- 2) Salary of codes of SOEs
- 3) Sample Designation of Salary Codes of SOEs
- 4) Schemes of Recruitments (SORs)

## 6. Analysis of the Participant Feedback

80% of the participants have stated that program structure was up to the expected level.

The participants have specified that they gained detailed knowledge on applicability of government laws and regulations for Subsidiaries, awareness on COPE procedure, procurement process reporting requirement and coordination requirement with PED. Further, they have mentioned that the awareness of PED circulars and the framework of SOE supervision by MoF was further extended.

They have stated that they would take measures to ensure compliance and update existing policies preparing new policies and procedures. Further, they have stated that would follow the procurement procedure and coordinate with relevant people for better guidance. It is further stated that application of PED circulars will be done in the future. (Evaluation Report is given in

Annex D)



The participants have suggested followings;

- Necessity to gain more knowledge on procurement procedure
- Provide the senior Management of Subsidiaries on Timely awareness of amendments and changes to Subsidiary policies and regulations
- Necessity to gain more knowledge on current legal procedures, Companies Act and audit standards
- More discussion on competitive framework and governance framework



- Regular Sessions covering similar aspects
- Need for periodic reviews and follow ups
- Appointing a Subject Officer from PED and PFD for each of the subsidiaries in order to strengthen the coordination between the subsidiary companies and the Treasury.



- Conduct progress meetings one to one with the Ministry
- Invite next level managers as well for similar workshops in the future (the implementers)
- Organize the same program on regular basis specially when new Acts, rules/regulations are imposed
- Need for more discussion on competitive framework and governance framework



- 4) Need for issuing proper guidance with regard to cadre appointment and cadre revision of such subsidiaries with the consent of the Management Service Department(MSD) of the General Treasury
- 5) Concern the matter of incompatibility in the salary structures of subsidiary companies and SOEs.
- 6) Strengthening the supervision and monitoring by the relevant SOE, Line Ministry and the General Treasury.
- 7) Introduce a guideline for Subsidiaries based on the 2006 budget proposal which says that SOEs cannot form Subsidiaries without having the total shareholding to be vested with Secretary to the Treasury.
- 8) Clearly define the rules & regulations to be adopted by the Subsidiaries (Ex: Finance Act, Treasury Circulars).

## 7. Outcomes and findings of the Training-Workshop

- 1) Necessity of issuing clear instructions by the Public Enterprises Department on financial and assets management of the subsidiary companies.
- 2) Necessity of issuing clear instructions by the Department of management Services on recruitment and promotions of the staff members, salaries and other allowances etc.
- 3) Establish a Government Policy for introduction of subsidiaries.



- 9) Request NPA to implement separate guidelines for government for SOEs and Subsidiaries taking into account their nature of the business, the competition, level of complexity of the business nature and business development.

- 10) Concerning the provisions given in the 19<sup>th</sup> amendment, when addressing circulars to all State Owned Companies and Subsidiaries with 50 percent or more government shareholding accordingly.
- 11) Necessity of clearly defining the view of the MSD with regard to collecting cadre details; whether they are collected just for information or cadre revisions.
- 12) Necessity of clearly defining the view of the PED as to which extent the PED Circulars should be adopted by Subsidiary Companies.

## 8. Follow up Actions

- 1) Issue clear instructions by the Public Enterprises Department on financial and assets management of the subsidiary companies.



- 2) Clearly defining the view of the PED as to which extent the PED Circulars should be adopted by Subsidiary Companies.
- 3) Issue clear instructions by the Department of Management Services on recruitment and promotions of the staff members, salaries and other allowances etc.
- 4) Establish a Government Policy for introduction of Subsidiaries.



Mr. P.H.A.S. Wijayarathne, Additional Director General, Department of Public Enterprises delivering the Vote of Thanks.

- 5) Introduce a guideline for Subsidiaries based on the 2006 budget proposal which says that SOEs cannot form Subsidiaries without having the total shareholding to be vested with Secretary to the Treasury.
- 6) Request NPA to implement separate guidelines for SOEs and Subsidiaries taking into account their nature of the business, the competition, level of complexity of the business nature and business development.
- 7) Request the view of Security and Exchange Commission with regard to the Subsidiary policy.

Work Plan for follow up actions is given in Annex E

Submitted by:

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