

# ANNEX C.

## NEPAL AUDITING AND ACCOUNTING LEGISLATION

### (A) Auditing Legislation

**Extracts from Part 12 of the Interim Constitution of Nepal 2007, relating to the Auditor General**

#### **Article 122. Establishment and Term of Office of Auditor-General**

- (1) There shall be one Auditor-General in Nepal.
- (2) The Prime Minister shall appoint the Auditor General on the recommendation of the Constitutional Council.
- (3) The term of the Auditor General shall be six years within the restrictive Clause (7) from the date of appointment. Provided that:
  - (a) if before the expiry of his term, the Auditor General attains the age of sixty five, he shall retire.
  - (b) he may be removed from his office on the same grounds and in the same manner as has been set forth for the removal of a Judge of the Supreme Court.
- (4) The position of the Auditor General shall be deemed vacant in the following circumstances:
  - (a) if his resignation is submitted to the Prime Minister in writing;
  - (b) if pursuant to clause (3) his term expires or he is removed from his office, or
  - (c) if he dies.
- (5) No person shall be eligible to be appointed as the Auditor General without having the following qualification and he:
  - (a) holds a graduate degree in management, commerce or account from a university recognized by Government of Nepal, or has worked in special class of the Nepal Government passing chartered accountancy examination, or has experience at least for twenty years;
  - (b) is not a member of any political party during appointment;
  - (c) attained the age of forty five, and
  - (d) has maintained high moral character.



- (6) The remuneration and other conditions of service of the Auditor General shall be as determined by law. The remuneration and other conditions of service of the Auditor General shall not, so long as he holds office, be altered to his disadvantage.
- (7) A person once appointed to the office of the Auditor General shall not be eligible for appointment in other Government Service.

Provided that nothing in this Clause shall be a bar to appointment to any position of a political nature, or to any position which has the responsibility of making investigations, inquiries or findings on any subject, or to any position which has the responsibility of submitting advice, opinions or recommendations after carrying out studies or research on any subject.

### **Article 123. Functions, Duties and Powers of the Auditor General**

- (1) The accounts of the Supreme Court, the legislative-Parliament, the Constituency Assembly, the Commission for the Investigation of Abuse of Authority, the Auditor General, the Public Service Commission, the Election Commission, the National Human Right Commission, the Office of the Attorney General, other offices of the Constitutional Bodies, the Nepal Army, the Nepal Armed Police and Nepal Police, and all other government offices and courts shall be audited by the Auditor General in the manner as determined by law, with due consideration given to the regularity, economy, efficiency, effectiveness and the propriety thereof.
- (2) The Auditor General shall be consulted in the matter of appointment of auditors for carrying out the audit of any corporate body of which Government of Nepal owns more than fifty percent of the shares or the assets. The Auditor General may also issue necessary directives setting forth the principles for carrying out the audit of such corporate bodies.
- (3) The Auditor General and his assistants shall, at all times, have access to documents concerning the accounts for the purpose of carrying out the functions stipulated in clause (1) above. It shall be the duty of the concerned office to provide all such documents or information, which may be demanded by the Auditor General or his assistants.
- (5) In addition to the accounts of the offices referred to in clause (1) above, the law may also require that the accounts of any other office or institution be audited by the Auditor General.

### **Article 124. Reports of Auditor-General to be laid before Parliament**

- (1) The Auditor General shall submit an annual report to the Prime Minister on the works he has performed. The Prime Minister shall cause such report to be laid before Parliament.
- (2) In addition to the submission of the report as mentioned in the clause (1) above, the Auditor General shall provide details of the statements of the entities audited, status of the irregularities, efforts made to resolve irregularities and progress achieved in clearing the irregularities and suggestions for improvements.

### **Extracts from Audit Act 2048 (1991) (Audit Act 2018 was repealed)**

#### **Section 3 (1). Methods of Audit**

The Auditor General may conduct final audit of the financial activities and other activities relating thereto, of the offices, bodies or organizations under its jurisdiction, either in detail or sporadically or

in samples, prescribe scope, methodology and timing of audit and present the facts obtained therefrom, make critical comments thereon and submit its reports.

#### Section 4. Matters to be audited

The Auditor General, with due regard to the regularity, economy, efficiency, effectiveness and propriety, shall audit following matters to ascertain whether:

- (a) The amount appropriated in the concerned heads and sub-heads by the Appropriation Act for respective services and tasks have been expended for the specified purposes of designated services or tasks within the approved limit;
- (b) The financial transactions comply with the existing laws, and the evidence relating to items of income and expenditure are sufficient;
- (c) The accounts have been maintained in the prescribed forms, and such accounts fairly represent the position of the transactions;
- (d) The inventory of government assets is accurate and **up-to-date**, and the arrangement for protection and management of governmental property is adequate;
- (e) The arrangements for internal audit and internal control of cash, kind and other governmental property against any loss, damage and abuse are adequate and if so, are they pursued;
- (f) The accounts of revenue, all other incomes and deposits are correct and the rules relating to evaluation, **realization** and methods of book-keeping are adequate and if so, are they followed;
- (g) The accounts relating to public debts, security, deposit, Debt Relief Fund and the amounts set aside for debt services and repayment of debts are accurate;
- (h) The accounts of income and expenditure of industrial and business services, and their balance of cash and kind, and the arrangements and rules relating to their financial transactions are adequate and if so, are they observed;
- (i) The **organization**, management and job allocation of the office are sufficient and proper and are they operating accordingly;
- (j) Any function is being unnecessarily performed **in duplication** by any employee or agency or any essential function is being omitted;
- (k) The available resources, means and assets are properly utilized and the maintenance and preservation thereof against any loss or damage has been properly arranged;
- (l) The progress has been achieved within scheduled time and the quality and quantity of the work is satisfactory;
- (m) The objective and policy of the Office is explicit and the program is delineated conforming to the specified objective and policy;
- (n) The program is being implemented within the limits of approved cost estimate and the proceeds received in comparison to the cost is reasonable;
- (o) The arrangements for maintaining data relating to target, progress and cost are adequate and reliable;



## Section 6. Audit of Corporate Bodies Wholly Owned by Government of Nepal

- (1) Notwithstanding anything contained in the existing laws, the audit of the corporate bodies wholly owned by Government of Nepal shall be audited by the Auditor General, pursuant to this Act.
- (2) If the Auditor General is constrained by time and resources to audit the corporate bodies wholly owned by Government of Nepal pursuant to Sub-section (1), he may appoint professional auditors according to the existing laws, as his assistants. While appointing auditor as such, he shall give priority to Nepali citizens.
- (3) The auditors appointed pursuant to Sub-section (2) shall act under the direction, supervision and control of the Auditor General.
- (4) The powers, functions, duties and responsibilities of the auditors appointed pursuant to Sub-section (2), and the procedures to be followed by them in course of audit and provisions relating to their report shall be as prescribed by the Auditor General.
- (5) The remuneration to be paid by the concerned **organization** to the auditors appointed pursuant to Sub-section (2) shall be prescribed by the Auditor General, keeping in view the volume of financial transactions, status of accounts, number of branches and sub-branches, work load and work progress of the concerned **organization**.

## Section 7. Audit of Corporate Bodies Substantially Owned by Government of Nepal

- (1) The audit of the corporate bodies substantially owned by Government of Nepal shall be done in accordance with the existing laws relating to such body.
- (2) Notwithstanding anything contained in Sub-section (1), the Auditor General shall be consulted while appointing an auditor for auditing of the corporate bodies substantially owned by Government of Nepal.
- (3) The procedures to be followed while consulting the Auditor General for appointing **auditors pursuant** to Sub-section (2) and on matters of principles of audit to be followed by the auditors during their audit, shall be as prescribed by the Auditor General.
- (4) The concerned **organization** shall deliver at the Office of the Auditor General a copy of the report submitted by the auditor appointed in consultation with the Auditor General, pursuant to Sub-section (2).
- (5) The Auditor General may issue directives to the concerned **organization** in respect of the irregularities observed in the report received pursuant to Sub-section (4) and it shall be the duty of concerned **organization** to abide by such directives.

## Section 8. Annual Report of the Auditor General

The Auditor General shall submit its annual audit report, including his critical comments and recommendations thereon, to The Prime Minister on the final audit of Government Offices and other offices and **organization** prescribed by existing laws, which are subject to audit by the Auditor General.

Provided that the Auditor General may submit at any time, a report to The Prime Minister if he deems necessary to take immediate action against any loss or damage already happened or impending upon the fixed and current national assets.

### **Section 9. Recruitment of Officers and Employees and Condition of Services**

- (1) There shall be officers and employees as approved from time to time by Government of Nepal in order to assist the Auditor General in the performance of his duties. The number of such employees shall not be reduced without the approval of the Auditor General.
- (2) A separate cadre of officers and employees in the Office of the Auditor General shall be constituted. The recruitment and other conditions of services of the officers and employees within the cadre shall be as prescribed in the Rules to be framed under this Act.

### **Section 11. Powers to Frame Rules**

The Government of Nepal may, in consultation with the Auditor General, frame Rules for the implementation of this Act.

### **Section 12. Action to be taken Against Irregularities**

Necessary legal action shall be taken in respect of the faults and irregularities observed during the audit of income and expenditure and other financial matters of Government of Nepal, according to the existing laws.

## **(B) Accounting Legislation**

### **Extracts from Part 13 of the Interim Constitution of Nepal 2007 relating to the Auditor General**

#### **Article 123 (4). Form and manner of keeping public accounts**

The accounts to be audited pursuant to clause (1) above shall, subject to the relevant law, be maintained in such form as prescribed by the Auditor General.

### **Extracts from Audit Act 2048 (1991)**

#### **Section 10. Powers to issue Directives by the Auditor General**

The Auditor General may, subject to the Constitution of Nepal and the existing laws, issue **directives** to the concerned Government Offices, and Corporate Bodies wholly or substantially owned by Government of Nepal, from time to time to make proper arrangements on matters of accounts and to maintain regularity therein. It shall be the duty of the concerned offices or **organizations** to abide by such directives.

### **Extracts from Financial Procedure Act 2055 (1997)**

#### **Section 4. Responsibility to keep accounts of consolidated fund**

- (1) Maintenance of up to date accounts of consolidated fund and preparation of its annual statement shall be the duty and responsibility of the Financial Comptroller General Office and for that and



other function including submission of accounts, Financial Comptroller General Office may fix responsibility to Government office, Nepal Rastra Bank and other banks.

- (2) It will be the duty of all respective offices and bank to take and execute the responsibility as prescribed in the Sub-section (1).
- (3) Other procedures relating to operation of consolidated fund, maintenance of central accounts and preparation of financial statement shall be as prescribed.

### **Section 10. Keeping of accounts of transactions**

- (1) Accounting system of transaction shall be as prescribed by the Government of Nepal. Unless prescribed, accounts of the transactions shall be maintained as per current prevailing accounting system till such system is not prescribed
- (2) Accounts of the transaction shall be maintained in the format approved by the Office of the Auditor General.
- (3) It will be the duty of the Financial Comptroller General office to get approval of the format as per sub-section (4) and for its implementation. Auditor General, if deemed necessary to improve in the prevailing accounts format, may issue directives mentioning the improved format to the Financial Comptroller General office after obtaining suggestion of the Financial Comptroller General.
- (4) Financial Comptroller General Office shall be responsible for maintaining accounts of other two kinds of transactions except foreign aid, loan grant, investment, appropriation, revenue apart from consolidated fund and to submit consolidated financial statement to the Auditor General. Respective office shall maintain accounts of expenditures from any kind of grant or sources not included in the budget and submit its statement to the Financial Comptroller General Office within fifteen days from the end of fiscal year.
- (5) Responsible Accounts Officer shall get the consolidated accounts prepared after obtaining all the financial statements of appropriation, revenue and deposit from subordinate offices.
- (6) Responsible Accounts Officer shall arrange for keeping statement of other types of assistance received as per Sub-section (3) of Section (5) in the Subordinate office and be responsible for keeping its consolidated statement.

### **Section 11. Responsible person shall be accountable**

- (1) Responsible person shall clearly keep or arrange to keep accounts of each transaction following the procedures prescribed by the prevailing Laws.

### **Section 12. Maintenance of accounts of revenue, submission of its statements and its audit**

- (1) Chief of office shall be responsible for submission of records, statement and accounts of revenue, maintenance of its accounts and audit conducted.

### **Section 13. Deposit and accounting of cash and stock**

- (1) The responsible person shall deposit the cash in the same day or the next day & goods in the appropriate place within 7 days of the receipt and maintain the records of the same.

### **Section 14. Submission of accounts**

- (1) Financial Comptroller General Office shall submit financial statement of consolidated accounts of each financial year and accounts of the appropriation, revenue, deposit, foreign aid and loan and investment apart from consolidated fund within the period specified by the Auditor General to the Office of the Auditor General.
- (2) The Responsible Accounts Officer shall prepare and submit the consolidated financial statement of all revenue and expenditures of each fiscal year along with subordinate office to the Financial Comptroller General Office and Office of the Auditor General.
- (3) The responsible person shall submit the accounts of transactions and related documents to the concerned office or Auditor as prescribed.

### **Section 16. Audit**

- (1) Financial Comptroller General Office shall conduct or get conducted the internal audit as prescribed.
- (2) Each office shall get audit conducted from the Office of the Auditor General submitting prescribed accounts and financial statements of all kinds of income and expenditure.

### **Section 18. Responsibility for settlement of findings**

- (1) The responsible person shall be accountable for settlement of irregularities reported by the auditor by providing evidence/ documents or regularizing the legibility of the transaction or recovering.
- (2) The Responsible Accounts Officer shall be accountable to settle or get settled the audit irregularities as per prevailing laws supervising whether irregularities were settled or not as per Sub-section (1).

### **Section 19. Audit and settlement of irregularities**

- (1) The respective office shall get audit conducted of the settlement of the irregularities within 35 days from the date of receipt of irregularities reported by the Office of the Auditor General.
- (2) An application may be submitted to the Office of the Auditor General mentioning reasons if available for not able to settle the irregularities within the time limit as prescribed in Sub-section (1). Office of the Auditor General shall extend the reasonable time on receipt of such request.
- (3) The Office of the Auditor General shall intimate the responsible account officer if irregularities are not settled and audit of the same is not get conducted within the time limit as prescribed in sub-section (2) and Responsible Accounts Officer shall be accountable to initiate actions according to information received. The Auditor General shall intimate to the minister or state minister if the Responsible Accounts Officer does not take action.

### **Section 36. Making of rules**

The Government of Nepal may enact necessary rules to implement the objectives of this Act.

