

## Chapter 4 Implementation of reforms

Local self-governance in India got a fillip in the year 1992 through the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendment Act passed by the Indian Parliament. These Acts provided for autonomy to the Panchayati Raj Institutions in rural India and the Urban Local Bodies (ULBs) in urban India through decentralization of the governance structure.

States and the ULBs were required to initiate reforms in line with the Constitutional Amendment Act, in accordance with the guidelines of JNNURM and as per the tripartite Memorandum of Agreement (MoA) signed by Gol, State Government and the Urban Local bodies.

23 reforms that were to be implemented by the State/ULB/ Parastatals within the mission period were categorized into 13 mandatory and 10 optional reforms. Cities under JNNURM had the freedom to opt for any two reforms from the optional category in each year of implementation.

MoUD was responsible for monitoring the status of all reforms. MoHUPA was also responsible for monitoring the following three pro-poor<sup>15</sup> reforms:

1. Internal earmarking of funds within ULBs budget for basic services.
2. Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of other existing universal services i.e. education, health and social security, in a time-bound manner;
3. Earmarking 20-25 per cent of developed land in all housing projects (both public and private agencies) for Economically Weaker Section / Low Income Group Category with a system of cross subsidization.

### 4.1 Overview of the status of implementation of the reforms

From the status of reforms in the States/UTs as reported to Audit by the MoUD, it was observed that the pace of reforms varied and the reforms were far from complete.

For the purpose of audit analysis, the reforms have been grouped by Audit under the following broad categories:

- Reforms for delegation of powers and responsibilities to the ULBs
- Constitution of District Planning Committees and Metropolitan Planning Committees
- Reforms for improving operational efficiency of ULBs
- Reforms for augmenting source of funding
- Reforms for bringing about transparency and accountability
- Pro poor reforms

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<sup>15</sup> Three reforms which are critical to slum improvement have been termed as pro-poor reforms in the guidelines for submission on BSUP issued by MoHUPA

- Other state level mandatory reforms
- Other ULB / Parastatal level reforms

#### **4.1.1 Reforms for delegation of powers and responsibilities to ULBs**

##### **4.1.1.1 Conduct of election in ULBs**

As per article 243U of the Constitution, election to ULBs once in every five years is mandatory. If a Municipality is dissolved, the election to constitute a new Municipality is required to be held “before the expiry of a period of six months” from the date of its dissolution.

The above provision in the constitution was a mandatory reform under JNNURM.

Audit observed that in 23 out of 30 selected States/UTs, elections were held timely. In six States (Arunachal Pradesh, Assam, Jammu and Kashmir, Jharkhand, Meghalaya and Nagaland) elections had not been held regularly. In Sikkim, elections were held for the first time in 2010.

MoUD in its reply (April 2012) stated that even holding of elections in Jharkhand, Sikkim, Mizoram, Manipur, etc. was an achievement of JNNURM and it might not have happened otherwise.

##### **4.1.1.2 Transfer of 12<sup>th</sup> Schedule functions**

The 74<sup>th</sup> amendment of the Constitution proposed to strengthen ULBs in terms of their structure, composition, financial resources, functions and powers. Besides the traditional service delivery functions, ULBs have been entrusted with additional responsibilities of social and development planning. The 74<sup>th</sup> CAA also aimed to enhance people’s participation through decentralized and consultative decision making, greater transparency, stronger finances and adoption of a more rigorous democratic process.

The 74<sup>th</sup> CAA provided for transfer of 18 functions in respect of planning, regulation, provision of infrastructure and services, etc. listed in the 12<sup>th</sup> Schedule, to ULBs. These 18 functions are:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.

13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries

All the reforms for delegation of powers and responsibilities to ULBs were to be implemented at State level.

It was observed from the data provided by the MoUD that 11 out of 31 states/UTs transferred all 18 functions to the ULBs. These were Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, Tripura and West Bengal. In the remaining States, the number of functions transferred varied. In Arunachal Pradesh, Jammu and Kashmir and Meghalaya not a single function was transferred. In Himachal Pradesh, eight functions were transferred, in Manipur three functions were transferred, while in Sikkim and Nagaland only one function was fully transferred.

MoUD replied (May 2012) that the States are either assigning all the functions to ULBs or have evolved a mechanism for ULBs to be associated with the concerned parastatal agencies. It further stated that mostly second option has been exercised due to the lack of capacity of the ULBs to perform the functions such as urban planning, urban forestry and fire services. MoUD also stated (May 2012) that the State Governments have been advised to ensure implementation of reforms in letter and spirit.

#### **4.1.1.3 Transfer of city planning functions**

Article 243W of the Constitution requires State laws to provide the Municipalities “with such powers and authority as may be necessary to enable them to function as institutions of self government”.

The JNNURM reform agenda sought to implement Article 243W of the Constitution by transferring the city planning function from the State to the ULBs. These functions relate to local municipal services and therefore are best managed by the ULBs. This creates local accountability of the ULB to the electorate in those areas where citizens expect their local government to act. It also provides the ULB with tools to influence the development and management of the city.

As per the MoUD’s records, in 15 States/UTs (Andhra Pradesh, Assam, Chhattisgarh, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Gujarat, Karnataka, Tamil Nadu, Tripura and West Bengal), functions of city planning and delivery of urban infrastructure development and management functions were transferred to the ULBs. This reform was not implemented in 16 states/UTs (Arunachal Pradesh, Bihar, Chandigarh, Delhi, Goa, Jammu and Kashmir, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Punjab, Sikkim, Uttrakhand and Uttar Pradesh).

MoUD in its reply (April/May 2012) provided the status of some of the states. In Meghalaya, city planning functions are being performed by ULBs, as per review meeting with State in February 2012. City planning functions in Puducherry were also stated to be transferred as per December 2011 quarterly progress report. Further, in Tamil Nadu elected ULBs were also stated to be associated / integrated with city planning functions as of September 2011.

#### **4.1.2 Constitution of District Planning Committees and Metropolitan Planning Committees**

As per Article 243 ZD of the Constitution of India, there shall be constituted in every State at the district level a District Planning Committee (DPC) to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

As per JNNURM Primers<sup>16</sup> of 'Integration of City Planning and Delivery Functions', DPCs were to be formed to provide overall leadership to the district planning process on the basis of consensus among local-governments, line departments, civil society, academia and other stakeholders in development. The DPCs were also to review master plans of local governments and development departments, particularly to ensure that these address the district vision as a whole without overlap or duplication, prepare the Potential Linked Credit Plan for the district, with the support of the National Bank for Agricultural and Rural Development (NABARD) and oversee the participative planning process of the district development plan, to ensure that timelines are followed.

During the field audit, it was seen that DPCs were constituted in selected mission cities in 22 out of 30 States/UTs. No DPC was constituted in five states / UTs (Arunachal Pradesh, Chandigarh, Jammu and Kashmir, Meghalaya, and Puducherry). In Delhi, being a metropolitan city it was not applicable. In Manipur, the Chief Town Planner, Town Planning department, stated that the DPC is not functioning for non appointment of local representatives. In Puducherry, due to vacant post of State Election Commissioner from February 2007, the members to the DPC could not be elected. In Nagaland, DPC was constituted partly. Information in this regard was not available in respect of Dadra and Nagar Haveli

The Ministry in its reply (May 2012) stated that as per the MoA signed, timeline for constituting DPCs varied from state to state. In Arunachal Pradesh, the Arunachal Pradesh District Planning Committee Act, 2011 has been enacted. In Assam and Meghalaya, DPC has been constituted. In Puducherry, the Puducherry DPC Act, 1994 has been amended vide Act No. 3 of 2007 and provision to form DPCs has been included in the amended Act.

As per Article 243 ZE of the Constitution of India, there shall be constituted in every Metropolitan area, a Metropolitan Planning Committee (MPC) to prepare a draft development plan for the Metropolitan area as a whole. MPC was to be set up, with objectives similar to those of DPCs, at metropolitan cities having a population of 10 lakh or more (across two or more Municipalities or Panchayats or other contiguous areas as specified by the Governor).

However, it was seen in audit that it was constituted in six States/UTs (Bihar, Gujarat, Rajasthan, Maharashtra, Uttar Pradesh and West Bengal) and was yet to be constituted in eight States/UTs (Andhra Pradesh, Chandigarh, Haryana, Jharkhand, Madhya Pradesh, Karnataka, Punjab and Tamil

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<sup>16</sup> MoUD instructions / clarifications etc in respect of implementation of reforms have been published as JNNURM Primers

Nadu). The requirement for constituting MPC was not applicable in case of Arunachal Pradesh, Assam, Chhattisgarh, Dadra & Nagar Haveli, Daman and Diu, Himachal Pradesh, Kerala, Manipur, Meghalaya, Nagaland, Puducherry, Odisha, Sikkim and Uttarakhand. Delhi was also exempted for constituting MPC as per the Constitution of India. Information in respect of Jammu & Kashmir was not available with Audit.

MoUD replied (May 2012) that this reform has been achieved in Haryana and in Tamil Nadu MPC Act had been passed in July 2009 and a notification in the Tamil Nadu Government Gazette Notification has been published vide number 211, dated 17.8.09. It also intimated that the MPC Act was passed in December 2007 in respect of Andhra Pradesh.

#### 4.1.3 Reforms for improving operational efficiency of ULBs

The table below gives the status of implementation of reforms for improving operational efficiency of ULBs.

**Table No. 4.1: Status of reforms for improving operational efficiency of ULBs as on 31 March 2011**

S. No.	Reform	No. of ULBs /Parastatal committed to implement the reform by 2010-11	No. of ULBs / Parastatals implemented the reform
1.	Shift to Accrual based double entry accounting	66	44
2.	Administrative Reforms	48	23
3.	Structural Reforms	52	31

Source: Information provided by MoUD

##### 4.1.3.1 Accounting system

JNNURM reform conditionalities called for “improved municipal accounting, with the objective of having a modern accounting system based on double entry and accrual principles, leading to better financial management, transparency and self reliance”, as a mandatory reform for local bodies.

As per Ministry’s data, out of the 66 ULBs /Parastatals who had committed to implement the reform to shift to accrual based double entry accounting by 2010-11, 44 ULBs/ Parastatals had implemented the reform.

MoUD in their reply (May 2012) stated that reviews of cities which had not implemented reforms were carried out from time to time and States had been advised to expedite the reforms.

During field audit in States/UTs, some of the instances on the efforts made in the implementation of this reform were as under:

- i. In **Andhra Pradesh**, although almost all the test checked ULBs (as well as SLNA) reported successful implementation of accrual based double entry system, in reality, only Greater Hyderabad Municipal Corporation (GHMC) had actually finalised accounts on the accrual-based double entry system. The latest accounts of the other test-checked ULBs

(Greater Visakhapatnam Municipal Corporation (GVMC) - 2009-10, Vijayawada Municipal Corporation (VMC) - 2009-10, Tirupati Municipal Corporation (TMC) and Warangal Municipal Corporation), revealed that they had not finalized their accounts on accrual-based double entry system.

While Audit appreciates the enormous challenges involved in the migration towards accrual based double entry system and notes the steps taken by the State in this regard, reporting 'successful achievement' of this reform as such is not appropriate.

- ii. In **Chandigarh**, though double entry accounting system has been introduced and the Municipal Financial Accounting Manual has been prepared, the full migration to double entry accounting system (income-expenditure accounts and balance sheet) could not be achieved by the Municipal Corporation, Chandigarh.
- iii. In **Bihar**, the All India Institute of local self Government had been engaged for shifting to accrual based double entry system by 2008-09. However, the Accounting system had not been developed so far.
- iv. In **Assam**, the Guwahati Development Department (GDD) stated that, 'Draft Accounting Manual' had been submitted to the State Government for approval and preparation of accounts under double entry system, was under progress at ULB level in Guwahati Municipal Corporation (GMC). MoUD replied (April 2012) that the GMC had achieved double entry accounting and had to progress towards accrual based accounting.
- v. In **Puducherry**, though, a committee had been constituted in October 2009 to prepare the Municipal Accounting Manual for introduction of the 'Accrual Based Double Entry Accounting System', the reform could not be achieved till October 2011.
- vi. In **Jharkhand**, only in March 2011, an agreement had been executed with M/s Price Water House Coopers Pvt. Ltd. Gurgaon for installation of double entry accrual accounting system in the ULBs. This system was to be in practice from financial year 2012-13
- vii. In **Chhattisgarh**, it was stated that the accrual based double entry system had been achieved but no supporting document was provided to audit for verification.

#### **4.1.3.2 Administrative Reforms**

Administrative reforms were expected to contribute to strengthening of the skills as well as overall human resource development practices of municipalities, resulting in enhanced administrative efficiency. As per Ministry's data, out of the 48 ULBs /Parastatals who had committed to implement the administrative reforms by 2010-11, 23 ULBs/ Parastatals had implemented the reform.

It was observed that out of 39 mission cities selected for audit scrutiny, reforms related to administration were carried out in 13 cities (Ahmedabad, Ajmer-Pushkar, Bangalore, Chennai, Greater Mumbai, Faridabad, Kanpur, Lucknow, Madurai, Pune, Raipur, Shimla and Vishakhapatnam).

MoUD replied (April/May 2012) in respect of Chandigarh stating that it had addressed staff rationalization and training but reduction in establishment expenditure was yet to be done. MoUD also stated (May 2012) that an advisory has been issued to the States for early implementation of the reforms.

#### 4.1.4 Reforms for augmenting source of funding

All the reforms under this category were to be implemented at ULB level.

The table below gives the status of these four reforms.

**Table No. 4.2: Status of Reforms for augmenting source of funding as on 31 March 2011**

S. No.	Reform	No. of ULBs /Parastatal committed to implement the reform by 2010-11	No. of ULBs / Parastatals implemented the reform
1.	Property Tax (85 per cent coverage)	51	27
2.	Property Tax (90 per cent collection efficiency)	42	23
3.	100 per cent Cost Recovery (Water Supply)	47	12
4.	100 per cent Cost Recovery (Solid Waste)	35	8

Source: Information provided by MoUD

Status of reforms under individual sub sectors are stated in subsequent paragraphs.

##### 4.1.4.1 Property Tax (85 per cent coverage)

Property tax is the single most important tax revenue source available to a ULB. Thus reform of the property tax systems is one of the mandatory reforms under JNNURM. The guidelines emphasized the need for the following:

- a) Proper mapping of properties using a Geographic information system (GIS) so that the ULB is able to have a full record of properties in the city and bring them under the tax net.
- b) Making the system capable of self-assessment (that is a system which is formula driven and where the property owner can calculate the tax due).
- c) Achieving coverage efficiency of at least 85 per cent of property tax alongwith achieving 90 per cent of collection efficiency of the same.

During audit in the States/UTs, out of 39 mission cities selected for audit scrutiny, GIS database was put in effect in only seven cities (Ranchi, Bangalore, Indore, Pune, Shillong, Kanpur and Lucknow). MoUD stated (May 2012) that the point had been noted.

As per MoUD's data, out of the 51 ULBs /Parastatal who had committed to implement the reform of 85 per cent coverage of property tax by 2010-11, 23 ULBs/ Parastatals had implemented the reform. It is pertinent to mention that four ULBs/ Parastatals though not committed to implement had implemented this reform before target year. However, 28 ULBs (Guwahati, Patna, Bodhgaya, Chandigarh, Delhi, Faridabad, Shimla, Ranchi, Kochi, Bhopal, Indore, Jabalpur, Ujjain, Nagpur,

Amritsar, Ludhiana, Bhubaneswar, Puri, Jaipur, Ajmer, Agartala, Dehradun, Haridwar, Kanpur, Lucknow, Mathura, Meerut and Varanasi) which had committed to implement this reform by 2010-11, could not implement it.

MoUD in its reply (May 2012) intimated that Hyderabad had achieved property tax reform, as per first cycle report of Reform Appraisal Agency. However, Chandigarh, Nagpur, Ludhiana, Dhanbad, Haridwar and Nanital had not achieved 85% coverage, as per reports available with Mission Directorate.

#### **4.1.4.2 Property Tax (90 per cent collection efficiency)**

The guidelines emphasized the need to implement the reform of 90 percent collection efficiency of property tax.

As per MoUD's data, out of the 42 ULBs /Parastatal who had committed to this reform, 19 ULBs/ Parastatals had implemented the reform. Four ULBs/ Parastatals though not committed to implement had implemented this reform before the target year. Audit observed that 10 (Vijaywada, Hyderabad, Visakhapatnam, Chandigarh, Faridabad, Bangalore, Mumbai, Pune, Shillong and Lucknow) out of 39 selected cities had reported success in implementation of this reform. In respect of five cities (Ahmedabad, Cochin, Indore, Rajkot and Raipur), collection efficiency of property tax was reported as more than 75 per cent.

MoUD in its reply (May 2012) stated that in Faridabad, collection efficiency was 58.71%, as communicated by the State, Bangalore had achieved 91% collection ratio in the Bruhat Bengaluru Mahanagara Palike area, as per June, 2011 QPR<sup>17</sup>. However, collection efficiency figure in whole municipal area was not reported. Ministry also reported that Ahmedabad and Rajkot had achieved 90% collection efficiency, as per cycle 4 of Reform appraisal report.

#### **4.1.4.3 100 percent Cost Recovery (Water supply and Solid Waste Management)**

A mandatory reform to be undertaken at the local body/city level was the levy of reasonable user charges by the ULBs and parastatals with the objectives that the full cost of Operation and Maintenance (O&M) or recurring cost is collected within the next seven years.

It was, observed in audit that out of 39 mission cities selected for audit scrutiny, mechanism for collection of user charges for water supply with the objective to meet the cost of operation and maintenance was reportedly achieved in seven cities (Visakhapatnam, Ahmedabad, Pune, Imphal, Raipur, Lucknow and Haridwar).

It was, further, observed in audit that for solid waste management, out of 39 mission cities selected for audit scrutiny, mechanism for collection of user charges with the objective to meet the cost of operation and maintenance was reportedly achieved in five cities (Ahmedabad, Indore, Nagpur, Pune, and Lucknow).

MoUD replied (May 2012) that 20 cities had achieved the reform. However, the names of the cities thus achieving the reform were not intimated by the Ministry. It was stated that Haridwar had not achieved 100 per cent cost recovery in respect of water supply, though as per Uttarakhand Jal

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<sup>17</sup> Quarterly Progress Report



Sansthan 102.79 per cent of total operating cost was being recovered (May 2011). MoUD in its subsequent reply (June 2012) stated that 19 ULBs had achieved the water supply cost recovery.

MoUD replied (May 2012) that in case of Solid Waste Management, Chandigarh, Ahmedabad, Indore, Nagpur, Kanpur and Lucknow had not achieved 100% recovery whereas Hyderabad, Visakhapatnam, Surat, Pune, Greater Mumbai, Pimpri Chindwad, Shillong and Chennai had achieved this reform.

#### 4.1.5 Reforms for bringing about transparency and accountability

The nature of some of the mandatory and optional reforms indicated that they were required to be implemented to bring about greater transparency. These reforms included enactment of 'Public Disclosure Law', e-governance set up, introduction of property title certification, revision of building bye-laws and computerized registration of land and property.

The table below gives the status of ULB level reforms for bringing about transparency and accountability as per MoUD data.

**Table No. 4.3: Status of reforms for bringing about transparency and accountability as on 31 March 2011**

S. No.	Reform	No. of ULBs /Parastatal committed to implement the reform by 2010-11	No. of ULBs / Parastatals implemented the reform
1.	E-governance setup	62	27
2.	Introduction of Property Title Certification System	28	0
3.	Revision of Building Bye-laws – streamlining the approval process	63	43
4.	Introduction of computerized process of registration of land and property	63	49

Source: Information provided by MoUD

##### 4.1.5.1 Enactment of 'Public Disclosure Law'

One of the State level mandatory reforms was the enactment of Public Disclosure Law. The goal of public disclosure is to institute transparency and accountability in the functioning of municipalities through publication of information pertaining to various facets of municipal governance, namely, personnel, particulars of administrative structure, finances and operations. JNNURM envisaged the enactment of a Public Disclosure Law (PDL) to ensure release of quarterly performance information to all stakeholders.

As per the MoUD's data, there were 31 States/UTs which had committed to implement this reform, 20 states/ UTs had implemented the reform by 2010-11. The nature, mode of implementation also varied in the states.

For example, in **Kerala**, the Kerala Municipal Act had provisions for public disclosure. In Madhya Pradesh, such provisions were made in Municipal Act rather than enacting a separate Act.

In **Puducherry**, the Puducherry Municipalities (Amendment) Act, 2010 provided for publication of information to public on the functioning of Municipalities, on periodical basis to ensure transparency and accountability. The Municipalities had, however, not published any information on their functioning till date (October 2011). Similarly, in **Karnataka**, vide government notification dated 26 November 2009 under RTI Act 2005, public disclosure of service level indicators was made mandatory for the ULBs in the State. Thus the State RTI Act was amended to give effect to Public Disclosure law.

In **Uttarakhand**, all ULBs were instructed (3 June 2009) to ensure Public Disclosure System by disclosing their working through the media (print as well as web) in newspapers, internet and media. PDL was proposed to be incorporated in the Uttarakhand Local Body Act.

In **Andhra Pradesh**, an amendment was made in April 2008 to the Hyderabad Municipal Corporation Act. However, Audit observed that information relating to identification of beneficiaries under different subsidy programmes and welfare programmes, list of plan and non-plan grants received from the Government, and annual accounts were not available on the ULB websites.

In **Odisha** also, the disclosure was not adequate. The Public Disclosure Law was notified (February 2009) and information on budget, scheme, services and all letters issued were displayed on the website by the Municipal Corporation, Cuttack and Bhubaneswar. However, no such information was uploaded by the Berhampur Municipal Corporation.

MoUD replied (May 2012) that the Mission primarily focuses on the notification of the law. In Nagaland, Sikkim, Chhattisgarh, Delhi and Uttarakhand, PDL had been implemented as per the Reforms Appraisal reports. In Bihar, executive orders had been issued by the State Government. In Puducherry – Amendment to Municipal Act for enactment of PDL was approved on 21 February 2011 and notified in the Gazette of Puducherry vide NO. 11 dated 10 March 2011. Moreover, all the ULBs/States were also covered under the RTI Act 2005. MoUD further stated that the advisory had been issued to the states.

The reference to the RTI Act 2005, in response to audit observation of enactment of PDL, reduces the significance of PDL which was a mandatory reform. The RTI Act is a need based system to get information by an individual user whereas PDL is to bring out transparency through public disclosure on the part of municipal governance.

As the JNNURM primer envisages that public disclosure supplements the RTI Act, 2005 by making available regular information on ULB activities suo-motu, the nature, mode and extent of implementation of the various public disclosures should be seen to verify whether they are disclosing information as envisaged under the rules.

#### **4.1.5.2 E-Governance**

The objective of this reform of deploying e-governance in ULBs and parastatals was to improve the system of governance, using IT applications to make the ULBs more efficient and effective in delivering services to the citizens. Implementation of this reform was expected to benefit the ULBs as well as the citizens by simplifying systems and processes. The broad aim as envisaged in JNNURM Primers, for implementing e-governance in municipalities, was to:

- Focus on clearly identified citizen services that would be covered with clearly laid down service levels and outcomes to be achieved.
- Improve efficiency and effectiveness in interaction between local government and its citizens and other stakeholders.
- Improve quality of internal local government operations and management information systems to support and stimulate good governance.
- Bring about transparency and accountability in urban local body operations.
- Help improve reach of the delivery of services to citizens.

Services such as Basic citizen services (Birth and death registration and health programs); Revenue earning services (Property tax and licenses); Development services (Water supply and other utilities, building plan approval); Efficiency improvement services (Procurement and monitoring of projects); Back office improvements (Accounting and personnel management system); and Monitoring (Citizen Grievance redressal) were to be covered under e-governance.

As per MoUD data, 62 ULBs / Parastatals committed to implement this reform by 2010-11, whereas 27 ULBs / Parastatals had implemented this reform. It was, however, observed in audit that out of 39 mission cities selected for audit scrutiny, E-governance was not put into effect in 14 cities (Vijayawada, Ludhiana, Itanagar, Patna, Faridabad, Jammu, Dhanbad, Nagpur, Imphal, Kohima, Thiruvananthapuram, Kochi, Puducherry, Gangtok). In 14 cities (Hyderabad, Visakhapatnam, Raipur, Delhi, Shimla, Ranchi, Shillong, Bhubaneswar, Madurai, Chennai, Nainital, Haridwar, Kolkata, Asansol) it was being implemented partially. E-governance was put into practice only in 11 cities (Chandigarh, Bangalore, Indore, Mumbai, Pune, Ajmer-Pushkar, Lucknow, Kanpur, Ahmedabad, Guwahati and Rajkot).

MoUD replied (April 2012) that Vijaywada, Hyderabad and Visakhapatnam have achieved e-governance reform completely as per the reform appraisal report. It also stated that Faridabad had implemented all the eight modules of e-governance reform and Delhi and Bhubaneswar had achieved e-governance reform as communicated during review meetings in February 2012. Ministry further replied that Madurai and Kolkata achieved the reform as per September 2011 QPR. MoUD further replied during exit conference (June 2012) that 35 ULBs had achieved this reform.

#### **4.1.5.3 Introduction of property title certification system in ULBs**

JNNURM recognized the adverse effects of the manual system of registration. The objective of the reform on introduction of property title certification system in ULBs was to enable the cities in moving towards guaranteed title systems. It sought to create a public record of titles which would truly describe the property as well as the title and has a system for reflecting any transaction in real time.

As per MoUD records, none of the cities had achieved this reform. MoUD replied (May 2012) that this was one of the complex reforms, more so as land is a State subject. The Ministry further stated that the Department of Land Resources, Ministry of Rural Development, which were responsible for the matter had taken steps to facilitate this reform.

#### 4.1.5.4 Revision of building bye-laws for streamlining the approval process

Revision of building bye laws for streamlining the approval process was required as one of the reforms to be undertaken by States/ cities to establish a simple, transparent and lesser time-consuming process that encourages development.

As per Ministry's data, out of the 63 ULBs /Parastatal who had committed to implement the reform for revision of building bye laws for streamlining the approval process by 2010-11, 42 ULBs/ Parastatals had implemented the reform.

Analysis of information furnished by MoUD, revealed that 21 ULBs (Chandigarh, Delhi, Panaji, Faridabad, Shimla, Jammu, Srinagar, Dhanbad, Ranchi, Aizwal, Puducherry, Gangtok, Dehradun, Haridwar, Nainital, Agra, Allahabad, Lucknow, Mathura, Meerut and Varanasi) which had committed to implement the reform by 2010-11, did not implement it.

#### 4.1.5.5 Introduction of computerized process of registration of land and property

The JNNURM inter alia aimed at computerization of the process of registration of land and property, so as to deliver efficient, reliable, speedy and transparent services to citizens. The states/ cities were therefore required to undertake steps to introduce computerized process of registration to bring in an efficient real estate market where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers, and in a transparent manner. One of the many barriers to the efficient functioning of the real estate market has been, and continues to be, the age – old practice of manual system of registration, which results in corruption and delay.

As per MoUD data out of 63 ULBs/Parastatal who had committed to implement the reform by 2010-11, 49 ULBs/Parastatal had implemented this reform.

#### 4.1.6 Pro Poor Reforms

Under this category, reforms related to earmarking of funds for services to urban poor, earmarking of land in housing projects and provision of basic services to urban poor are covered.

**Table No. 4.4: Status in respect of implementation of pro poor reforms as on 31 March 2011**

S. No.	Reform	No. of ULBs /Parastatal committed to implement the reform by 2010-11	No. of ULBs / Parastatals implemented the reform
1.	Internal earmarking of funds for services to Urban Poor	64	55
2.	Earmarking 20-25 per cent developed land in all housing projects (both Public and Private Agencies) for Economically Weaker Section / Low Income Group Category with a system of cross subsidization	54	39

Source: Information provided by MoUD

#### 4.1.6.1 Internal earmarking of funds for services to urban poor

A mandatory reform under JNNURM was institutionalizing internal earmarking of funds by ULBs in their budgets specifically for basic services to the poor. The purpose was to scale up delivery of civic amenities and services with emphasis on universal access to the urban poor.

As per MoUD data, out of 64 ULBs / Parastatals committed to implement this reform by 2010-11, 55 ULBs / Parastatals had implemented this reform.

MoHUPA stated (June 2012) that this reform had been achieved by all the 65 mission cities.

#### 4.1.6.2 Earmarking of developed land in all housing projects for EWS/LIG

States /cities, as part of the sub mission II, Basic Services to the Urban Poor (BSUP) under the JNNURM, were required to earmark at least 20-25 percent of developed land in all housing projects (developed by public and private agencies) for Economically Weaker Section (EWS) and Lower Income Group (LIG) category<sup>18</sup> with a system of cross subsidization. This reform was aligned with the goal of “Affordable Housing for All” in the National Urban Housing and Habitat Policy, 2007 (NUH&HP). The NUH&HP mandates reservation of “10-15 percent land in new public/ private housing projects or 20-25 percent of FAR<sup>19</sup> (whichever is greater) for EWS/ LIG housing through appropriate legal stipulations and special initiatives.

MoHUPA replied (April 2012) that in 62 out of 65 cities, the States had issued directives for ‘Reservation of Developed Land for EWS’. MoHUPA further stated (June 2012) that 29 States<sup>20</sup> (comprising 62 mission cities) had implemented this reform.

#### 4.1.6.3 Reforms related to provision of basic services to urban poor

Provision of basic services for the urban poor was a mandatory urban poverty reform for all local bodies supported under JNNURM. The goal was to provide basic services (including water supply and sanitation) to all poor including security of tenure, improved housing at affordable prices and ensure delivery of social services of education, health and social security to poor people.

It was, observed in audit that out of 39 mission cities selected for audit scrutiny, provision of basic services to urban poor was reported to have been put in place in 22 cities ( Chandigarh, Ludhiana, Chennai, Madurai, Vishakhapatnam, Guwahati, Raipur, Delhi, Rajkot, Ahmedabad, Faridabad, Shimla, Dhanbad, Bangalore, Indore, Greater Mumbai, Nagpur, Pune, Imphal, Bhubaneswar, Puducherry, and Ajmer-Pushkar).

<sup>18</sup> EWS is officially defined as a monthly household with a monthly family income below INR 2100/; BPL families are those with monthly income INR 2000/ or less. By definition EWS encompasses BPL category however as this segment is large it is important to disaggregate by mentioning BPL as a separate category. LIG is officially defined as household with a monthly income between INR 2100/ and 4500/.

<sup>19</sup> The Floor Space Index (FSI) or Floor Area Ratio (FAR) is the ratio between the area of a land parcel and the total amount of floor space which can be built on it. For instance, on a parcel of 1000 sq m with FSI 2, a structure with a total floor space of 2000 square meters will be allowed. In the absence off set back and heights requirements, this could be a 2 storied structure covering the entire parcel or, for instance, a 4 storied structure with an area off 500 square meters per floor, or any other combinations which would result in a total floor area equal to product off the land parcel area by the FSI.

<sup>20</sup> Goa and Kerala did not implement the reform.

Regarding, 'Provision of Basic Services', MoHUPA stated (April 2012) that this was largely an outcome of JNNURM and it was to be implemented in a staggered manner. The achievement of this reform was contingent upon successful implementation of the schemes and projects.

However, it is pertinent to point out that in the cities which reported achievement of reform, several housing and infrastructure projects remained incomplete as elaborated chapter 6. Therefore, it is not understood how these cities had reported that basic services for urban poor had been put in place.

#### 4.1.7 Other state level mandatory reforms

The table below gives the status of other state level mandatory reforms.

**Table No: 4.5: Status of other state level mandatory reforms as on 31 March 2011**

S. No.	Reform	No. of States / UTs committed to implement the reform by 2010-11	No. of States / UTs implemented the reform
1.	Reform in Rent Control	26	10
2.	Stamp Duty rationalization to 5 per cent	20	16
3.	Enactment of Community Participation Law	31	17

Source: Information provided by MoUD

##### 4.1.7.1 Reform of Rent Control Laws

Amendment of rent control laws is one of the mandatory reforms. States were expected to implement the reform within the Mission period. Reform in the rent control laws were needed to meet the following objectives:

1. Promoting supply of rental housing.
2. Establishing a better balance between the interests of landlords and tenants.
3. Reducing litigation under the rent control act.
4. Making rent control act more effective to protect the legitimate interests of tenants.
5. Reducing complexity of the act.

Recognizing the negative impact and social tensions created by the rent control laws, the Government of India (GoI) came out with a Model Rent Legislation (MRL) in 1992.

Analysis of information furnished by MoUD revealed that 16 States / UTs (Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Meghalaya, Puducherry, Punjab, Sikkim, Tamil Nadu, Tripura and Uttarakhand) which had committed to implement the reform by 2010-11, failed to implement it.

#### 4.1.7.2 Rationalization of Stamp Duty to five per cent

The real estate market in India was narrow and extremely cumbersome. One of the many barriers to the efficient functioning of the real estate market had been the high rates of stamp duty on conveyance transactions. Although a few states had taken steps to bring down the stamp duty rates, in several states, the rates were in excess of 10 percent, deterring individuals, businesses and industry from registering properties at actual, or market values.

JNNURM required the rates of stamp duty to be brought down to five per cent or less (including the surcharge that ULBs levy in several states) within the Mission period. It was expected that a reduction in the rate would help to develop a healthy real estate market, by providing boost to the economy, and reduce the size of the black money. It was also expected that reduction in stamp duty rates would lead to an increase in revenues both for the states as well as the ULBs.

However, out of 30 States / UTs selected for audit scrutiny, only 16 States /UTs (Andhra Pradesh, Chandigarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Punjab, Puducherry, Rajasthan, Sikkim<sup>21</sup>, Uttar Pradesh, Dadra & Nagar Haveli) brought down stamp duty rates to five percent. In Dadra and Nagar Haveli, the rate of stamp duty was even lower than the envisaged five percent i.e. one per cent.

In the remaining 13 states/ UTs, rates continued to remain over five per cent (Arunachal Pradesh, Assam, Bihar, Delhi, Jammu & Kashmir, Karnataka, Uttarakhand, West Bengal, Chhattisgarh, Daman & Diu, Kerala, Manipur and Tamil Nadu). In Haryana, stamp duty was 7 per cent (5 per cent plus 2 per cent ULB surcharge) for men and 5 per cent (three per cent plus two per cent ULB surcharge) for women in urban area.

MoUD stated that in Arunachal Pradesh and Manipur, rationalization of stamp duty to 5 per cent had been achieved as per the reform appraisal agency report. The Ministry further intimated that in Uttarakhand, stamp duty was reduced to 5 per cent for men and 3.75 per cent for women in May 2011. Also in Puducherry, rationalization of stamp duty to 5 per cent has been done with effect from 30 October 2011.

The reply, in respect of Delhi that the Stamp duty is 4 per cent for female and 6 per cent for male and thus average of 5 per cent, is as per Mission guideline is not acceptable to Audit as it was to be reduced to 5 per cent in general and there was no such requirement of average reduction.

#### 4.1.7.3 Enactment of 'Community Participation Law'

The Community Participation Law (CPL) is aimed at:

- Strengthening municipal governments by:
  - Institutionalizing citizen participation.
  - Introducing the concept of *Area Sabhas* (consisting of all registered voters of a polling booth) in urban areas.

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<sup>21</sup> As per notification dated February 2011 stamp duty was five percent for the people of Sikkimese origin but for others it is 10 percent.

- Involving citizens in municipal functions like setting priorities, budgeting provisions, exerting pressure for compliance of existing regulations, etc.

JNNURM makes it mandatory for states either to enact a separate CPL or to make appropriate amendments to their existing municipal laws. These enactments will need to ensure clear definition of functions, duties and powers of each of these tiers, and provide for appropriate devolution of funds, functions and functionaries to these levels.

Citizen participation is essential for making democratic processes effective and for strengthening them. It provides a platform to citizens to influence policy/program development and implementation. While various platforms and systems for citizen's participation have developed organically there is a need to institutionalize them to make them effective and sustainable. The CPL aims to institutionalize such community participation platforms/systems.

Incidentally JNNURM was to also provide an enabling environment for the growth of the cities by stakeholder participation in local governance

MoUD stated (April 2012) that in J&K, the CPL was part of Municipal Law (2<sup>nd</sup> Amendment) Bill 2010 which had been passed by Legislative Assembly, as per the report received in September 2011. MoUD, stated that 'Bhagidari system' in Delhi suffices as community participation law. However, it did not clarify as to how this system can be substituted for an agenda of reform of enactment of CPL. MoUD also replied (May 2012) that in Nagaland, CPL had been achieved, as per cycle 4 of Reform appraisal report. MoUD stated that an advisory had been issued to the states in this regard. MoUD during exit conference (June 2012) intimated that 23 States had received this reform. However, names of the States were not intimated.

#### 4.1.8 Other ULB / Parastatal level mandatory reforms

The table below gives the status of implementation of other ULB/ Parastatal mandatory reforms as on 31 March 2011.

**Table No. 4.6: Status of other ULB / Parastatal level mandatory reforms as on 31 March 2011**

S. No.	Reform	No. of ULBs /Parastatal committed to implement the reform by 2010-11	No. of ULBs / Parastatals implemented the reform by 2010-11
1.	Revision of Building Bye-laws – mandatory rain water harvesting in all buildings	67	61
2.	Simplification of legal and procedural framework for conversion of agricultural land for non-agricultural purpose.	61	50
3.	Bye-laws on re-use of recycled water	61	43
4.	Encouraging Public Private Partnership	63	55

Source: Information provided by MoUD

##### 4.1.8.1 Revision of Building Bye-laws to make Rain Water Harvesting mandatory

The objective of revising building bye laws to make rain water harvesting mandatory was to cope with the problem of depleting ground water levels in the country and to promote conservation of



water. The harvested rainwater can be used for direct consumption or for recharging groundwater through simple filtration devices. It was required to prepare draft bye-laws to reflect mandatory clauses of rain water harvesting and to amend existing legislation to introduce the new bye-laws and notifications followed by, dissemination of the new set of Building Bye-laws through the internet. Thereafter, approval was to be started as per new bye-laws.

As per MoUD data, out of the 67 ULBs / Parastatals committed to implement this reform by 2010-11, 61 ULBs / Parastatals had implemented this reform by then and 6 ULBs (Chandigarh, Panaji, Imphal, Aizwal, Kohima and Gangtok) failed to implement it by 2010-11.

MoUD replied (April 2012) that Chandigarh and Gangtok had revised building bye laws to make rain water harvesting mandatory, as per respective ULBs QPRs. MoUD further replied that the focus of reform was on revision of bye-laws and implementation was done by the states and cities. However, the Ministry should see the nature, mode and extent of revision of bye-laws to verify whether the desired / expected results of the reforms could be achieved.

#### **4.1.8.2 Simplification of legal and procedural framework for conversion of agricultural land to non-agricultural purposes**

Reforms for simplification of legal and procedural framework for conversion of agricultural land, was a part of the overall package of reforms in land and property markets. Simplification of conversion process would also impact and be impacted by other reforms, (also considered under JNNURM) viz. rationalization of stamp duty, property tax reforms, property title certification, earmarking of land for poor, computerized registration of Properties and Integration of city planning and delivery functions with ULBs

As per MoUD data, out of the 61 ULBs / Parastatals committed to implement this reform by 2010-11, 50 ULBs / Parastatals had implemented this reform by then, 11 ULBs/parastatal (Itanagar, Patna, Bodhgaya, Delhi, Shimla, Dhanbad, Jamshedpur, Ranchi, Imphal, Shillong and Puducherry), had not achieved this reform. The Revenue and Land Reform Department, Government of Jharkhand, has been asked by the Urban Development Department (UDD) to submit action taken report. In the case of Ranchi, permission has been sought from the UDD, for approval of Building plans on agricultural lands.

MoUD replied (April 2012) that Chandigarh had not committed the reform and land use conversion of agricultural land is governed under separate laws. Though Faridabad had simplified the process of legal and procedural framework, the ULB had not reduced the number of days taken for approval to 60 days. MoUD further intimated that Ranchi had not achieved the reform. MoUD during exit conference (June 2012) stated that land was a state subject and registration of the property was done in different manner as per their rules.

#### **4.1.8.3 Bye-laws on re-use of recycled water**

Water reuse reforms allow ULBs to ensure dependable and cost-effective water supply to communities in an environmentally sustainable manner. To meet the water demand for the growing population and to provide for protection against droughts, local governments must make the most efficient use of their water resources. Water recycling and reuse offer cost-effective and ecologically beneficial solutions. Water re-use involves using domestic wastewater from bathroom, kitchen,

clothes washing and toilets a second time around, for an appropriate purpose after primary, secondary or tertiary treatment. This can be at an individual property level or at group housing level like apartment complexes or at community level.

Analysis of information furnished by MoUD, revealed that out of 61 ULBs 19 ULBs/ parastatal (Raipur, Panaji, Porbandar, Jammu, Srinagar, Dhanbad, Jamshedpur, Ranchi, Kochi, Thiruvananthapuram, Nagpur, Imphal, Bhubaneswar, Jaipur, Ajmer, Gangtok, Dehradun, Haridwar and Nainital) which had committed to implement the reform by 2010-11, could not implement it.

Further, out of the 61 ULBs / Parastatals committed to implement this reform by 2010-11, 42 ULBs / Parastatals had implemented this reform by then.

#### **4.1.8.4 Reform related to Public Private Participation**

Many cities do not have capacity to cope with the rising demand for water supply, sewerage, drainage, electricity supply, roads and solid waste management etc. Public Private Partnership (PPP) was thus considered a viable alternative to overcome the systemic problems and to infuse efficiency into the operation and maintenance of infrastructure, while bringing in much-needed capital to supplement public funds. PPP projects means a project based on contract or concession agreement between a Government or statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges.

As per MoUD data, out of the 63 ULBs / Parastatals committed to implement this reform by 2010-11, 55 ULBs / Parastatals had implemented this reform by then.

MoUD replied (April 2012) that some cities have achieved the reform as per reform appraisal report or as per communication during review meeting. It also intimated that some cities are considering projects under PPP and stated that such actions of cities might be sufficient for encouraging PPP reform. MoUD further replied (April 2012) that PPP Cell / separate cell had been set up in Haryana, Tamil Nadu and Nagaland. The Ministry further stated that Thiruvananthapuram had achieved this reform even before signing of MoA.

MoUD, however, did not provide the specific reply regarding progress of 'Formulation of PPP Policy', 'Creation of PPP Cell', 'Execution of projects under PPP', and other components like formulating legal and regulatory framework; formulating procedures and guidelines; methodology for selection of private sector partner, developing and dissemination of guidance materials, selection of transaction advisor, in Cities.

## **4.2 Response of MoUD on the implementation of reforms**

MoUD in their reply (May 2012) acknowledged that the requirement of implementation of each of 23 reforms by ULBs and States, big or small, in 7 years had been too ambitious, particularly with the varying capacities of the ULBs. MoUD explained that one must acknowledge and appreciate the fact that States and Cities made concerted efforts to achieve these reforms. It was stated that seven years of implementation of JNNURM has exposed major lacunae within the ULBs in terms of capacity and resources which are highly inadequate to implement urban reforms. It was also stated that the Ministry has embarked upon a number of capacity development initiatives to bridge this gap. The Mission Directorate has undertaken a Rapid Training Program (RTP) on Governance and Reforms, extended assistance for preparation of DPRs and supervision and monitoring of project

implementation. More than 1800 ULBs and Parastatal staff and over 2000 elected representatives had undergone training across various cities.

In addition to the above, the States have been advised to implement various reforms in both letter and spirit in order to ensure that the benefits envisaged out of implementation of the reforms are fully realized. The present tenure of the Mission was over on 31 March 2012. The Government has given two years extension, i.e. upto 31 March 2014 for achievement of the reforms. The States have been advised to achieve the pending reforms within the extended period.

MoUD (April and May 2012), also stated that the Ministry had envisaged reforms in institutional, financial and structural governance structure of the ULBs to make them efficient, accountable and transparent. The Ministry explained that though they laid a great emphasis on implementation of 23 reforms, the implementation was a huge challenge. Besides, most of the smaller cities have inadequate capacity in terms of finance and human resource, which has led to slow achievement of reforms. The larger cities have, by and large, managed to shift to a more professional work orientation for better implementation of reforms. The Ministry also felt that for implementation of reforms, the leadership of the State/UT Governments and political will is extremely important. The fact that no provision was made for funding of implementation of reforms has also had an adverse impact.

***Recommendation No. 1:***

*The Government of India may consider giving suitable incentives to those States which are implementing the reforms as envisaged in JNNURM guidelines and MoA. Besides, capacity building in terms of finance and human resources may be enhanced so that the States may achieve the pending reforms within the extended period i.e. upto 31 March 2014.*