

CHAPTER-III

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

AN OVERVIEW OF THE FUNCTIONING, ACCOUNTABILITY MECHANISM AND FINANCIAL REPORTING ISSUES OF URBAN LOCAL BODIES

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3.1 Introduction

Consequent upon the 74th Constitutional Amendment in 1993, Articles 243 P to 243 ZG were inserted in the Constitution. These Articles provided constitution and composition of municipalities and ward committees, reservation of seats for SCs/STs, powers, authority and responsibilities of municipalities, power to impose taxes, audit of accounts, elections to the municipalities, constitution of district planning committee, *etc.* This provided that the legislatures could endow certain powers and duties to the Urban Local Bodies (ULBs) in order to enable them to function as Local Self Government Institutions (LSGIs). It would also enable the ULBs to carry out the responsibilities conferred upon them including those listed in the Twelfth Schedule of the Constitution.

As per Census 2011, Gujarat ranks sixth after Maharashtra, Uttar Pradesh, Tamil Nadu, West Bengal and Andhra Pradesh in the tally of most urbanised States. The urban population of Gujarat State was 2.57 crore, which constituted 42.55 *per cent* of the total population (6.04 crore) of the State and 2.12 *per cent* of the total population (121.06 crore) of India. In Gujarat, there were 200 ULBs *i.e.* eight Municipal Corporations (MCs), 162 Nagarpalikas (NPs) and 30 Notified Areas¹ (NAs) as of October 2016. Each MC/NP is divided into a number of wards. Wards are determined and notified by the State Government considering the population, dwelling pattern, geographical condition and economic status of the respective area.

3.2 Organisational set-up

3.2.1 The administrative department dealing with affairs of the ULBs is the Urban Development and Urban Housing Department (UD&UHD). An organizational chart indicating administrative set-up of the ULBs in Gujarat is as shown below:

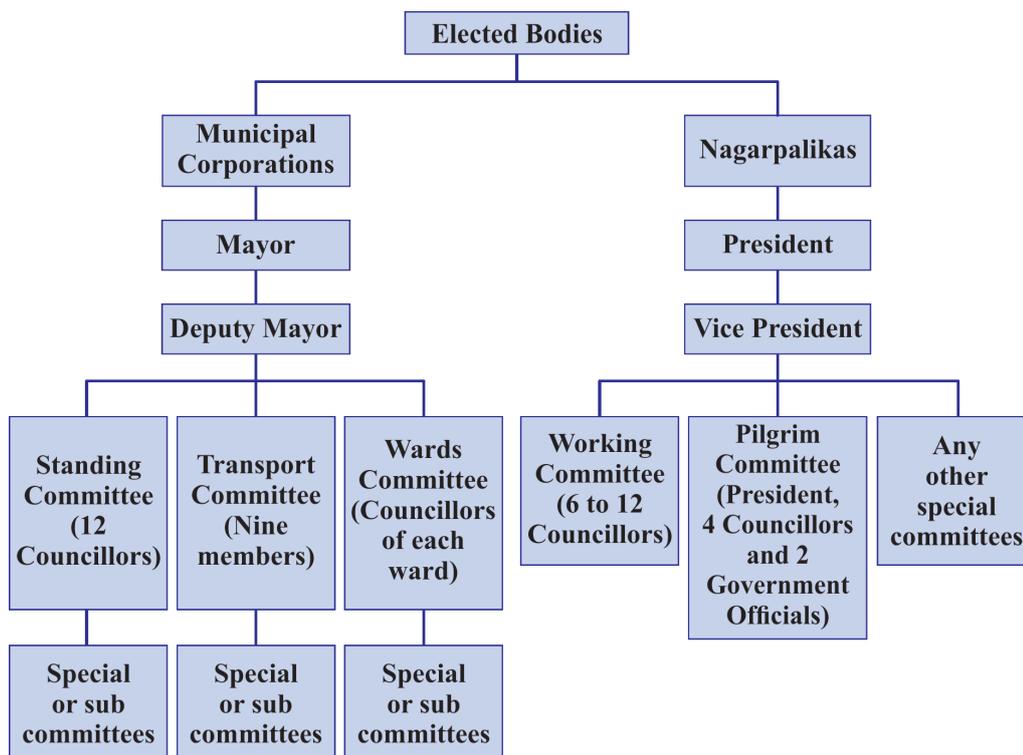


¹ Notified areas are declared by Industries and Mines department. Every notified area shall have a committee called the Board of Management appointed by the Government and shall perform its function and duties as per Gujarat Municipalities Act, 1963.

3.2.2 The State Government constituted various Boards and Authorities assigning specific functions to them. They were constituted to ensure comprehensive development and to improve service delivery systems in the thickly populated and urbanised areas of the State.

3.2.3 Composition of ULBs

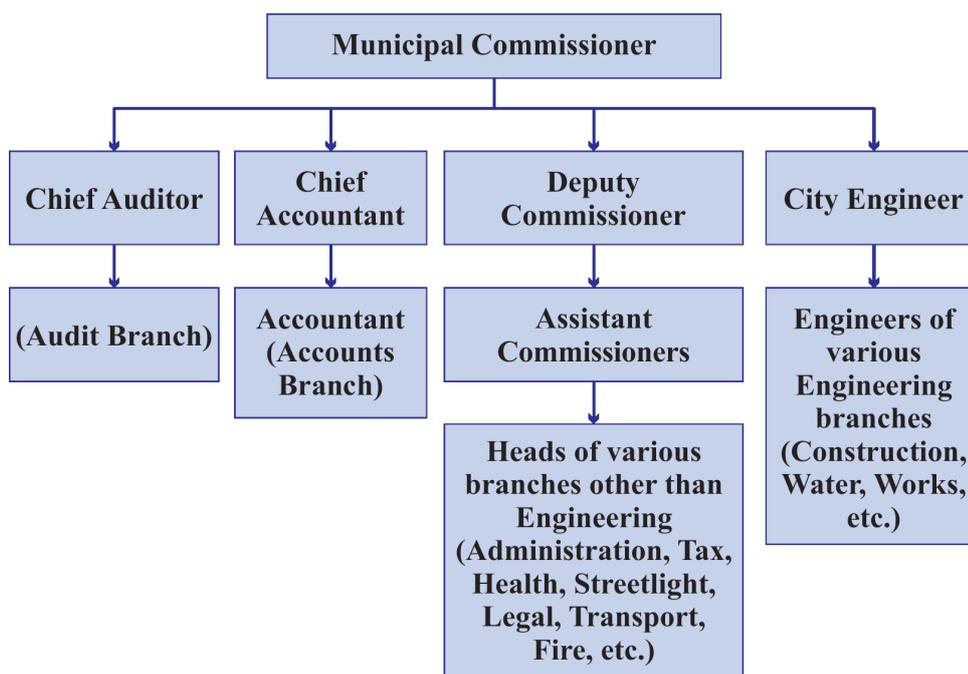
All the ULBs have a body comprising of Corporators/Councillors elected by the people under their jurisdiction. The Mayor/President who is elected by majority of the Corporators/Councillors presides over the meetings of the Corporation/Council and is responsible for governance of the body. The following **chart** shows the set-up of elected bodies in ULBs:



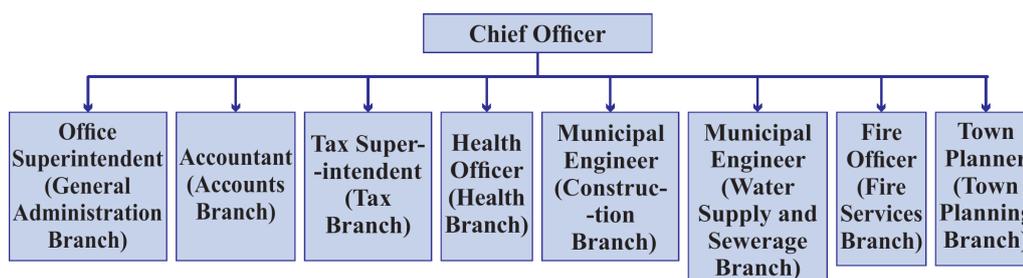
The Mayor, Deputy Mayor, President and Vice President are elected from amongst the elected councillors. The members of committees/sub-committees are elected from the elected councillors and the Chairperson of the committee is appointed from the members of the committee. The members of Transport Committee are persons with experience of Administration/transport engineering/ industrial/commercial/financial/labour matters. They may or may not be councillors.

The Municipal Commissioner is the executive head of MC and Chief Officer is the executive head of NP. The officers of ULBs exercise such powers and perform such functions as notified by the State Government from time to time. The executive set-up of MCs and NPs is shown as follows –

Executive set-up of Municipal Corporations



Executive set-up of Nagarpalikas



3.3 Functioning of ULBs

3.3.1 Powers and functions

ULBs exercise their powers and functions in accordance with provision of Section 87 of the Gujarat Municipalities Act, 1963. Section 87 of the Gujarat Municipalities Act, 1963 provides for various functions to be exercised in the sphere of Public Works, Education, Public Health and Sanitation, Development, Town planning and Administration. Under Section 63 to 72 of the Bombay Provincial Municipal Corporation Act, 1949, the State Government had devolved various functions and powers to Municipal Corporations.

■ Devolution of Funds, Functions and Functionaries to Urban Local Bodies

Twelfth Schedule (Article-243 W) of the Constitution of India envisaged that the State Government may, by law, endow the ULBs with such powers and authority as may be necessary to enable them to function as LSGIs. The State Government devolved all the 18 functions envisaged in the Twelfth Schedule to the NPs and MCs to enable them to function as LSGIs.

3.4 Formation of various Committees

3.4.1 District Planning Committee

Article 243 ZD of the Constitution of India envisaged constitution of District Planning Committee (DPC) at district level in every State. The tenure of DPC is five years and it is required to meet at least once in three months. DPCs are constitutionally responsible to consolidate the plans prepared by LSGIs in the District. Thereafter, prepare a Draft Development Plan (DDP) for the District as a whole for onward transmission to the Government. The DPC is to monitor the quantitative and qualitative progress, especially its physical and financial achievements in the implementation of the approved DDP. The State Government, while preparing the State plan, considers the proposal and priority included in the DDPs prepared for each District by the DPC.

DPCs were constituted in only 11 out of 33 districts; meetings of DPC were not held in these 11 districts² during 2016-17. This could have factored the aspirations and felt needs of the populace.

3.4.2 Formation of committees in Urban Local Bodies

Bombay Provincial Municipal Corporation (BPMC) Act, 1949, provided that there shall be two mandatory committees in each MC *i.e.* Standing committee and Transport committee. It also provided that the MC may, from time to time, appoint out of its own body, special committees which shall conform to any instructions that the MC may from time to time give them. As per the information provided to Audit, the above mandatory committees have been formed in all MCs and additional committees have been formed based on their requirements.

Gujarat Municipalities Act, 1963 provided that there shall be two mandatory committees in each NP *i.e.* Executive committee and Pilgrim committee. It also provided that the NPs may from time to time constitute other committees to exercise the powers and perform the duties of the NP. As per the information provided to Audit, the above mandatory committees have been formed in all NPs and other committees have been formed based on their requirements.

3.5 Audit arrangement

3.5.1 Primary Auditor

Examiner Local Fund Accounts (ELFA) is the primary auditor of the accounts of ULBs under the provisions of the Gujarat Local Fund Audit (GLFA) Act, 1963. The GLFA Act provided that ELFA shall prepare a report on the accounts audited and examined after the completion of the Audit. Thereafter, not later than three months, the report shall be sent to the local authority and copies thereof to such officers and bodies as the State Government may direct. The ELFA under

² Amreli, Aravalli, Banaskantha, Dahod, Dang-Ahwa, Junagadh, Mehsana, Panchmahals, Patan, Porbandar and Tapi

the State Finance Department is headed by the Examiner and has district level offices headed by Assistant Examiners.

The status of Audit conducted by ELFA as of January 2018 is shown in **Table 1** below -

Table 1: Status of Audit by ELFA

ULBs	Number of Auditable entities ³	Entities audited and period of accounts covered	Entities yet to be audited and period of accounts to be covered	Audit Report placed before the State legislature
MCs	08	2012-13 to 2015-16	02 (2012-13) 04 (2013-14) 06 (2014-15) 07 (2015-16)	2010-11
NPs	162	2012-13 to 2015-16	02 (2013-14) 01 (2014-15) 02 (2015-16)	2012-13

(Source: Information furnished by ELFA)

The above table shows that the Audits of MCs and NPs were in arrears from 2012-13 and onwards. The Audit Report of ELFA on MCs for the year 2011-12 was yet to be placed before the State legislature.

3.5.2 Audit by Comptroller and Auditor General of India

State Government by a resolution (May 2005) entrusted the Technical Guidance and Supervision (TGS) over the audit of local bodies to CAG. As per the resolution, the CAG would conduct test-check of some of the PRI and ULB units audited by the ELFA in order to provide technical guidance. The report of the test-check conducted by the CAG would be sent to the ELFA for pursuance of action taken by the PRIs and ULBs. Subsequently, the State Government entrusted (April 2011) audit of ULBs to CAG under Section 20(1) of CAG's Duties, Powers and Conditions of Service (DPC) Act, 1971. It also provided that the CAG shall have the right to access the accounts and records of the ULBs under other sections of the CAG's DPC Act, 1971 and under other due statutory process. The CAG may also provide suitable TGS to primary external auditors of ULBs viz. ELFA for the purpose of strengthening Public Finance Management and Accountability in ULBs. The provision of laying the Report of CAG on TGS with the Audit Report of ELFA before the State Legislature was made by amending (May 2011) the Gujarat Provincial Municipal Corporations Act, 1949 and Gujarat Municipalities Act, 1963. Accordingly, the Audit Reports for the year ended March 2012 to March 2016 had been placed before the State Legislature. The discussions of the Audit Reports have been assigned to the Public Accounts Committee (PAC) of the State Legislature. The PAC has completed the discussion of Audit Report for the year ended March 2013.

³ 159 NPs were audit entities for the year 2013-14

Accountability Mechanism and Financial Reporting Issues

Accountability Mechanism

3.6 Ombudsman

Thirteenth Finance Commission (ThFC) guidelines provided that the State Government must appoint “Ombudsman⁴” at the State level for LSGIs⁵. The Ombudsman shall conduct investigations and enquiries in respect of any complaints of corruption and mal-administration. Thereafter, it may recommend suitable action against the functionaries of both elected members and officials concerned in accordance with the provisions of the Act.

The State Government decided to bring the functionaries of local bodies under the jurisdiction of Lokayukta. Accordingly, a bill seeking to amend the Gujarat Lokayukta Act, 1986 had been passed by the State Legislature on 30 March 2011 and the Gujarat Lokayukta Ayog Act, 2013 was enacted in September 2014. The appointment of Lokayukta is under consideration in General Administrative Department of the State.

3.7 Social Audit

The system of Social Audit (SA) was introduced to curb corruption and to promote integrity and quality of decision-making in delivery of public services. Social auditing is taken up for the purpose of enhancing local governance, particularly for strengthening accountability and transparency in LSGIs. Social Audit had been set-up in the State only for works carried out in PRIs whereas no SA had been carried out for works carried out in NPs and MCs.

3.8 Property Tax Board

The ThFC recommended setting-up of a State Level Property Tax Board to assist the ULBs to put in place an independent and transparent procedure for assessing property tax. The commission also recommended that the Board shall enumerate all properties in the ULBs in the State and develop a data base. The Board shall review the property tax system and suggest suitable basis for valuation of properties, design and formulate transparent procedure for valuation of properties, inspection for verification in ULBs in the State. The State Level Property Tax Board was constituted in March 2011. Audit observed that the Board was non-functional as the assigned functions⁶ were not carried out by the Board.

3.9 Service Level Benchmark

The Thirteenth/Fourteenth Finance Commission recommended that the ULBs should put in place a system of benchmarking four basic services *i.e.* water

4 An independent quasi judicial authority

5 PRIs and Urban Local Bodies

6 Provide guidance, technical support to ULBs in State for valuation of the properties, cause to enumerate the new properties in ULB area on request of concerned ULBs, ensure quality in valuation of properties, recommend modalities for periodic revision if necessary and undertake directly or through any institution, training of officers and employees of ULBs as the State Government may direct or as the Board may consider necessary for carrying out the recommendations made by the ThFC.

supply, sewerage, solid waste management and storm water drainage. The State Government notifies every year the targets with respect to the benchmarks for above services to be achieved by the end of next fiscal year.

3.10 Fire Hazard Response

ThFC guidelines for release and utilisation of grants provided that all MCs with population of more than 10 lakh (Census 2001) must put in place a fire hazard response and mitigation plan. Publication of these plans in the respective State Government Gazette will demonstrate compliance with this condition. Audit observed that all four MCs⁷ with more than 10 lakh population had prepared and published fire hazard response and mitigation plan.

3.11 Submission of Utilisation Certificate

The Gujarat Financial Rules provided that Utilisation Certificates (UCs) for the grants should be submitted within 12 months of the closure of the financial year. The UCs shall be submitted by the institution or organisation concerned to the Head of Department concerned and after verification; these should be forwarded to the Accountant General. Audit observed that 87 UCs aggregating to ₹ 870.23 crore due in respect of grants paid upto March 2016 were outstanding.

3.12 Internal Audit and Internal Control Systems of ULBs

Internal Audit and Internal Control System is an integral component of ULBs' management process. It is established in order to provide reasonable assurance that the ULBs' operations are carried out effectively, economically and efficiently. Financial report and operational data are reliable and applicable laws and regulations are complied with to achieve objective of providing better civic facilities with its own revenue income. Audit observed that the State Government had established an independent internal audit wing in the MCs and NPs. The bills were being passed after pre-audit by the internal auditor.

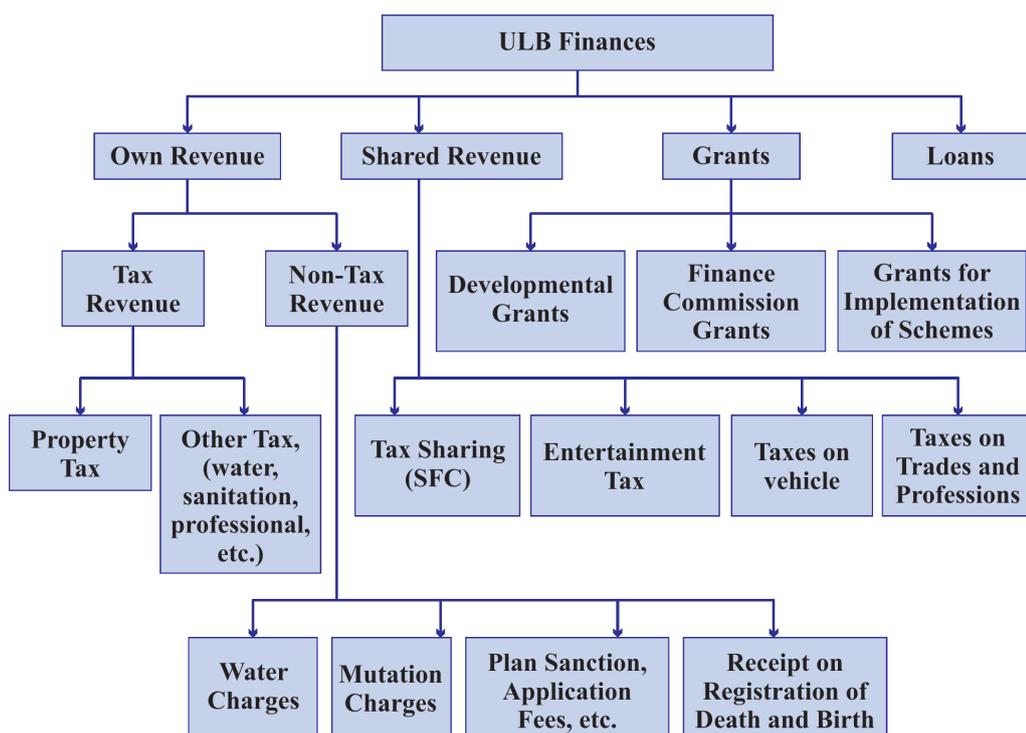
3.13 Financial Reporting Issues

3.13.1 Source of Funds

The finances of ULBs comprise of receipts from own sources, grants and assistance from Government of India (GoI)/State Government and loans raised from financial institution/nationalised banks. The ULBs do not have a large independent tax domain. Compared to PRIs, who do not have any worthwhile own source of revenue, ULBs do have an identifiable and visible source of revenue like the property tax. The property tax on land and buildings is the mainstay of ULB's own revenue. The property tax in the State is collected by the ULBs on Area Based System. The own non-tax revenue of ULBs comprises of fee for sanction of plans/mutations, water charges, *etc.*

Grants and assistance released by the State Government/GoI as well as loans raised from financial institutions are utilised for developmental activities and execution of various schemes. Flow chart of finances of ULBs is shown below:

⁷ Ahmedabad, Rajkot, Surat and Vadodara



3.13.2 Revenue and Expenditure of ULBs

The details of receipts and expenditure of ULBs are shown in **Table 2** as follows–

Table 2: Receipts and expenditure of ULBs

(₹ in crore)

	2012-13	2013-14	2014-15	2015-16	2016-17
Opening Balance⁸	10,631.16	13,451.79	13,262.17	11,447.18	11,411.11
Receipts					
Grants-in-aid	5,287.16	6,110.70	5,851.59	8,026.63	9,028.19
Own Revenue	5,124.98	4,767.16	5,311.23	5,796.45	6,400.19
Finance Commission grants	191.40	219.12	203.04	614.91	1,102.14
Total Receipts	10,603.54	11,096.98	11,365.86	14,437.99	16,530.52
Total Funds available	21,234.70	24,548.77	24,628.03	25,885.17	27,941.63
Expenditure					
Roads, Drains, Culverts	2,317.00	2,893.60	2,538.45	2,672.65	4,729.65
Public Health and sanitation	430.52	503.60	502.16	582.38	2,257.95
Water Supply	1,285.90	1,132.20	1,061.64	1,322.88	1,038.85
Pay and Allowances	2,332.55	2,440.30	2,773.06	3,002.27	2,888.29
Loan repayment	214.53	121.40	171.68	173.58	69.80
Others	1,202.41	4,195.50	6,133.86	6,720.30	3,019.07
Total Expenditure	7,782.91 (37)	11,286.60 (46)	13,180.85 (54)	14,474.06 (56)	14,003.61 (50)
Closing Balance	13,451.79	13,262.17	11,447.18	11,411.11	13,938.02

(Source: Information provided by the Gujarat Municipal Finance Board)

⁸ Opening Balance and Closing Balance has been arrived at by audit.

The above position indicates that -

- the total expenditure against the total available funds during 2016-17 was only 50 *per cent*;
- the recurring expenditure on Public Health and sanitation was only 16 *per cent* and on water supply was only seven *per cent* of the total expenditure during 2016-17; and
- the pay and allowances of municipal staff constituted 21 *per cent* during 2016-17.

3.13.3 Recommendations of the State Finance Commissions

Article 243 I of the Constitution made it mandatory for the State Government to constitute a State Finance Commission (SFC). The SFC was to be constituted within one year from the enactment of 73rd Constitutional Amendment and thereafter on expiry of every five years. The SFC was responsible to review the financial condition of the ULBs and to make recommendations to the Governor for devolution of funds. GoI guidelines (June 2005) stipulated that the State Government was to act within six months of SFC's recommendations. Audit findings on implementation of recommendations of the State Finance Commissions (SFCs) are discussed in **Paragraph 4.1** of this Report.

3.13.4 Unspent Grants of Thirteenth Finance Commission

On the recommendation of ThFC, GoI released ₹ 925.76 crore to the State Government during the period 2010-15 which was released to the ULBs. Out of this, the State Government could utilise only ₹ 894.64 crore, leaving unspent balance of ₹ 31.12 crore as on February 2018.

3.13.5 Fourteenth Finance Commission

The Basic Grant (BG) and Performance Grant (PG) can be assessed by all States as per criteria laid down by the Commission. The State Government is required to release the grants to ULBs within 15 days from the date of receipt of grants from GoI. The details of funds allocated and released to the State by GoI and funds released to ULBs and its utilisation by them during the period 2015-17 are shown in **Table 3** below –

Table 3: Details of funds utilised by the ULBs during 2015-17

Year	Grants received		Grants released to ULBs		Expenditure
	BG	PG	BG	PG	
2015-16	614.91	0.00	604.06	0.00	370.64
2016-17	851.45	251.29	851.45	251.29	447.63
Total	1,466.36	251.29	1,455.51	251.29	818.27

(Source: Information provided by UD&UHD)

The above table shows that the State Government had not released ₹ 10.85 crore to the ULBs though it was envisaged by the GoI for release of grant to ULBs within 15 days from the date of receipt of grant from GoI. The table also shows that the ULBs could utilise only ₹ 818.27 crore (48 *per cent*) against ₹ 1,706.80 crore received during 2015-17.

3.13.6 Maintenance of Records

As per provisions contained in Municipal Account code, each NP shall maintain basic records in prescribed format. Basic records included work register, stock register, loan register, grant register, bill register, cheque register, deposit register, assets register, *etc.* For exercising control and supervision over proper maintenance of accounts, work transactions and to prove its authenticity, the maintenance of basic records properly is essential.

Scrutiny of records of 18 NPs test-checked during 2016-17, it was observed that important basic records such as grant register (eight NPs), work register (12 NPs), dead stock register (one NP) and advance register (four NPs) were not being maintained or improperly maintained. In absence of such records, Audit could not ascertain the correctness and accuracy of the transactions. Non-maintenance of basic records also indicated weakness in the internal control mechanism and monitoring.

3.13.7 Maintenance of Accounts by ULBs

As per ThFC recommendations, an accounting framework consistent with the accounting format and codification pattern suggested in the National Municipal Accounts Manual (NMAM) was to be adopted by 2011-12. All ULBs were to thus introduce accrual based double entry accounting system as per the NMAM.

The MCs and NPs have adopted the accrual based double entry accounting system since 2006-07. NMAM envisages all States to develop State specific Municipal Accounts Manual. The draft Municipal Accounts Manual has been approved by the Government. The vetting by the Legislative and Parliamentary Affairs Department and publishing in the Government Gazette is however pending. The annual accounts for the year 2016-17 in respect of 30 NPs are yet to be finalised.

3.14 Conclusion

The Audit Report of Examiner Local Fund Accounts on Municipal Corporations (MCs) for the year 2011-12 onwards and in respect of Nagarpalikas (NPs) for the year 2013-14 onwards were yet to be placed before the State legislature. Social Audit had not been carried out for works carried out in NPs and MCs. The State Level Property Tax Board constituted in March 2011 was non-functional as the assigned functions could not be carried out by the Board. Utilisation Certificates aggregating to ₹ 870.23 crore due in respect of grants paid upto March 2016 were outstanding. The total expenditure against the total available funds during the period 2016-17 was only 50 *per cent*. As of February 2018, an unspent grant amounting to ₹ 31.12 crore of Thirteenth Finance Commission (ThFC) was lying with the NPs and MCs. Non-maintenance of basic records were noticed in test-checked NPs. State's Municipal Accounts Manual has also not been finalized as yet.