

Special Purpose Vehicle (SPV)

The implementation of the Mission at the City level will be done by a Special Purpose Vehicle (SPV) created for the purpose. The SPV will plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate the Smart City development projects. Each smart city will have a SPV which will be headed by a full time CEO and have nominees of Central Government, State Government and ULB on its Board. The States/ULBs shall ensure that, (a) a dedicated and substantial revenue stream is made available to the SPV so as to make it self-sustainable and could evolve its own credit worthiness for raising additional resources from the market and (b) Government contribution for Smart City is used only to create infrastructure that has public benefit outcomes. The execution of projects may be done through joint ventures, subsidiaries, public-private partnership (PPP), turnkey contracts, etc suitably dovetailed with revenue streams.

The SPV will be a limited company incorporated under the Companies Act, 2013 at the city-level, in which the State/UT and the ULB will be the promoters having 50:50 equity shareholding. The private sector or financial institutions could be considered for taking equity stake in the SPV, provided the shareholding pattern of 50:50 of the State/UT and the ULB is maintained and the State/UT and the ULB together have majority shareholding and control of the SPV.

Funds provided by the Government of India in the Smart Cities Mission to the SPV will be in the form of tied grant and kept in a separate Grant Fund. These funds will be utilized only for the purposes for which the grants have been given and subject to the conditions laid down by the MoUD.

The State Government and the ULB will determine the paid up capital requirements of the SPV commensurate with the size of the project, commercial financing required and the financing modalities. To enable the building up of the equity base of the SPV and to enable ULBs to contribute their share of the equity capital, Gol grants will be permitted to be utilized as ULBs share of equity capital in the SPV, subject to the conditions given in Annexure 5 of the guidelines. Initially, to ensure a minimum capital base for the SPV, the paid up capital of the SPV should be such that the ULB's share is at least equal to Rs.100 crore with an option to increase it to the full amount of

the first instalment of Funds provided by Gol (Rs.194 crore). With a matching equity contribution by State/ULB, the initial paid up capital of the SPV will thus be Rs. 200 crore (Rs. 100 crore of Gol contribution and Rs. 100 crore of State/UT share). Since the initial Gol contribution is Rs.194 crore, along with the matching contribution of the State Government, the initial paid up capital can go up to Rs.384 crore at the option of the SPV. The paid up capital may be enhanced in the subsequent years as per project requirements, with the provision mentioned above ensuring that ULB is enabled to match its shareholding in the SPV with that of the State/UT.

The structure and functions of the SPV are given in Annexure 5 of the guidelines and the Articles of Association will contain such provisions. A model Article of Association is given in the Toolkit.

After selection of the cities in Stage II of the Challenge, the process of implementation will start with the setting up of the SPV. As already stated, it is proposed to give complete flexibility to the SPV to implement and manage the smart city project and the State/ULB will undertake measures as detailed in Annexure 5 of the guidelines for this purpose. The SPV may appoint Project Management Consultants (PMC) for designing, developing, managing and implementing area-based projects. SPVs may take assistance from any of the empanelled consulting firms in the list prepared by MoUD and the handholding agencies. For procurement of goods and services, transparent and fair procedures as prescribed under the State/ULB financial rules may be followed. Model frameworks as developed by MoUD may also be used for Smart City projects.

Structure and Functions of SPV

1. Structure of the SPV

The City level SPV will be established as a Limited Company under the Companies Act, 2013 and will be promoted by the State/UT and the ULB jointly, both having 50:50 equity shareholding. This shareholding pattern has to be maintained at all times. The private sector or financial institutions could be considered for taking equity stake in the SPV, provided the State/UT and the ULB share are equal to each other, and together the State/UT and ULB have majority shareholding and control of the SPV (e.g.

State/UT:ULB:Private sector shareholding can be in the ratio 40:40:20 or 30:30:40. Ratios such as 35:45:20 or 40:30:30 are not permitted since State/UT and ULB shares are not equal. Ratios such as 20:20:60 are also not permitted since the State/UT and the ULB together do not have majority shareholding). In addition to equity, the State/UT can provide its contribution to the Smart Cities Mission as grant to fulfil the State Government responsibility for ensuring availability of funds for the mission and for ensuring the financial sustainability of the SPV.

2. Raising and utilization of funds by the Company (SPV)

The funds given by the Central Government to the SPV will be in the shape of tied grants and kept in a separate Grant Fund. These funds will be utilized only for the purposes given in the Mission Statement and Guidelines and subject to the conditions laid down by the Central Government. The ULBs may, through the State Government, request MoUD to permit utilization of GoI grants as ULB's equity contribution to the SPV, subject to the following conditions:

- i. The State Government has made adequate contribution to the SPV out of their own funds.
- ii. The approval will be limited to the GoI grants that have already been released. Since future instalments of Smart City funds are subject to performance and are not guaranteed, the ULB will not be permitted to earmark future instalments to meet its equity contribution.
- iii. The utilization of GoI grants as equity contributions will not alter the relative shareholding of the State Government and the ULB, which will remain equal as per Mission guidelines.
- iv. It is clarified that the Government of India contribution to Smart Cities is strictly in the form of grant and the ULB is exercising its own discretion in utilizing these funds as its equity contribution to the SPV.

The SPV will also access funds from other sources such as debt, loans, user charges, taxes, surcharges, etc.

3. Board of Directors

The Board of Directors will have representatives of Central Government, State Government, ULB and Independent Directors, in addition to the CEO and Functional

Directors. Additional Directors (such as representative of parastatal) may be taken on the Board, as considered necessary. The Company and shareholders will voluntarily comply with the provision of the Companies Act 2013 with respect to induction of independent directors. Below, are given the broad terms of appointment and role of the SPV Board.

- 3.1 The Chairperson of the SPV will be the Divisional Commissioner/Collector/Municipal Commissioner/ Chief Executive of the Urban Development Authority as decided by the State Government.
- 3.2 The representative of the Central Government will be a Director on the Board of the SPV and will be appointed by the MoUD.
- 3.3 The CEO of the SPV will be appointed with the approval of the MoUD. The CEO will be appointed for a fixed term of three years and will be removed only with the prior approval of MoUD. The functions of the CEO include:
 - a. Overseeing and managing the general conduct of the day-to-day operations of the SPV subject to the supervision and control of the Board.
 - b. Entering into contracts or arrangements for and on behalf of the Company in all matters within the ordinary course of the Company's business.
 - c. To formulate and submit to the Board of Directors for approval a Human Resource Policy that will lay down procedures for creation of staff positions, qualifications of staff, recruitment procedures, compensation and termination procedures.
 - d. Recruitment and removal of the senior management of the Company and the creation of new positions in accordance with the Company's approved budget and the recruitment or increase of employees in accordance with the Human Resource Policy laid down by the Board.
 - e. Supervising the work of all employees and managers of the Company and the determination of their duties, responsibilities and authority;
- 3.4 The Independent Directors will be selected from the data bank(s) maintained by the Ministry of Corporate Affairs and preference will be given to those who have served as independent directors in the Board of Companies fulfilling Clause 49 of the listing agreement of Securities and Exchange Board of India (SEBI).

4. Delegation of powers to the SPV

4.1 One of the primary reasons for the creation of an SPV for the Smart City Mission is to ensure operational independence and autonomy in decision making and mission implementation. The Smart City Mission encourages the State Government and the ULB to adopt the following best practices to create empowered SPVs to the extent and as provided under the municipal act.

4.1.1 Delegating the rights and obligations of the municipal council with respect to the smart city project to the SPV.

4.1.2 Delegating the decision making powers available to the ULB under the municipal act/ Government rules to the Chief Executive Officer of the SPV.

4.1.3 Delegating the approval or decision making powers available to the Urban Development Department / Local Self Government department / Municipal Administration department to the Board of Directors of the SPV in which the State and ULB are represented.

4.1.4 Delegating the matters that require the approval of the State Government to the State Level High Powered Steering Committee (HPSC) for Smart Cities.

5. The key functions and responsibilities of the SPV are to:

- i. Approve and sanction the projects including their technical appraisal.
- ii. Execute the Smart City Proposal with complete operational freedom.
- iii. Take measures to comply with the requirements of MoUD with respect to the implementation of the Smart Cities programme.
- iv. Mobilize resources within timelines and take measures necessary for the mobilisation of resources.
- v. Approve and act upon the reports of a third party Review and Monitoring Agency.
- vi. Overview Capacity Building activities.
- vii. Develop and benefit from inter-linkages of academic institutions and organizations.
- viii. Ensure timely completion of projects according to set timelines.

- ix. Undertake review of activities of the Mission including budget, implementation of projects, and preparation of SCP and co-ordination with other missions / schemes and activities of various ministries.
- x. Monitor and review quality control related matters and act upon issues arising there of.
- xi. Incorporate joint ventures and subsidiaries and enter into Public Private Partnerships as may be required for the implementation of the smart cities programme
- xii. Enter into contracts, partnerships and service delivery arrangements as may be required for the implementation of the Smart Cities Mission.
- xiii. Determine and collect user charges as authorised by the ULB
- xiv. Collect taxes, surcharges etc. as authorised by the ULB

The above provisions will be included in the Articles of Association of the SPV.