

Terms of Reference

Legal, Institutional and Policy Analysis to amend / update the: (i) Tamil Nadu Slum Clearance Board (TNSCB) Act, the Tamil Nadu Housing Board (TNHB) Act, and (iii) the Tamil Nadu Apartment Ownership Act.

A. Introduction.

1. The Government of Tamil Nadu (GoTN) adopted the new Tamil Nadu Affordable Urban Housing and Habitat Policy (TNAUHHP) on March 18, 2020, with the main objective to increase access to housing particularly for the most vulnerable. The new Policy sets three guiding principles: (i) inclusion, (ii) sustainability, and (iii) transparency and participation, and articulates the sector's main focus areas on shifts in policy and institutions, regulations, and programs. The principle of inclusion focuses on the shift of the role of state from a 'provider' to an 'enabler', bringing in the spirit of partnership with private sector and civil society. This partnership will prioritize housing solutions to the poorer segments of the population, where the design of progressive programs considers targeting and social equity, adopting gender-sensitive and inclusive approach to address the special needs of different stakeholders. The principle of sustainability focuses on guiding the housing programs to incorporate sustainability principles that promote green, energy-efficient, disaster resilient and eco-friendly developments. The principle of transparency and participation focuses on creating market conditions that will incentivize other players to participate in the provision of affordable housing.

2. The Housing and Urban Development (HUDD) Department, GoTN, is aiming to deepen the transformation in the sector and strengthening capacities to implement the TNAUHHP by: (i) harmonizing and updating the legislative framework of housing institutions to align them with the Policy objectives; (ii) introducing differentiated programs with clear and transparent eligibility criteria that take into account household affordability; (iii) ensuring and improving habitability and access to services for all new housing units; and (iv) enhancing the availability of housing sector information, and monitoring and performance of housing sector.

3. Towards achieving this transformative agenda, HUDD is seeking a review of the parent regulations of the foremost housing institutions in the state – Tamil Nadu Housing Board (TNHB) and Tamil Nadu Slum Clearance Board (TNSCB) for ensuring that the legislative framework is better aligned with the TNAUHHP. In addition, HUDD is seeking advice on revision of the Tamil Nadu Apartment Ownership Act, 1994, to align it with the Policy. Given the new policy's focus such as (not limited to) role of the private sector, protection to home buyers, housing finance and enabling regulatory environment for the rental market, this review is crucial so that bring these legal instruments in line with the new state policy.

4. The roles and functions of TNSCB and TNHB are guided by the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 and the Tamil Nadu Housing Board Act, 1961, respectively. The adoption of the TNAUHHP requires an update of the legislative framework for key housing institutions to better align with new policy directives.

5. The Tamil Nadu Apartment Ownership Act was introduced in 1994 by the GoTN to regulate promotion, construction and transfer of ownership of residential apartments. It has the objective to clarify roles and responsibilities among home owners and owners' associations and to improve operation and maintenance in multistoried apartments. More than two decades later, many provisions of this legislation are yet to be implemented, while numerous challenges in benefiting from the provisions of the Act have emerged. For instance, the old legislation does not cover which party is

expected to represent the interest and protect the rights of property owners, including maintenance of common areas, enforcement of society regulations on common services, mechanism to represent the interest of the owners in legal cases. The updated new Act will address key deficiencies identified in the 1994 Act.

6. In the light of the TNAUHHP, the three prevailing Acts - Tamil Nadu State Housing Board Act, 1961; Tamil Nadu Apartment Ownership Act, 1994; and Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 – will have to be reviewed in order to determine whether amendments are required.

7. This scope of work intended for a consultancy to provide inputs to the necessary updates of the three referred acts.

B. Objective and Scope of Work

8. **Objective.** The objective of this consultancy is to obtain the necessary analytical inputs to ensure full alignment between the provisions of the TNAUHHP and the Tamil Nadu Slum Clearance Board Act, the Tamil Nadu Housing Board Act, and the Tamil Nadu Apartment Ownership Act.

9. **Scope.** The consultant will need to become familiar with the TNAUHHP and the three referred Acts and their respective background studies in order to understand the new directions, policy and institutional implications derived therein. Following are the tasks expected to be addressed during the consultancy:

- a. Examine the judgments in the context of the three Acts, in order to deepen the understanding on the interpretations pertaining to their implementation with specific focus on:
 - highlighting issues identified by various stakeholders during implementation of the respective Acts
 - distinguishing the issues in terms of causes (structural, operational, technical, financial), and focus on structural problems, i.e., roles and mandates and instruments/programs
- b. Identify for each of the Institutions supported by the Acts their respective:
 - Mandate / Objective and the respective attributions granted by the current Acts.
 - Target Beneficiary Population
 - Governance Structure, including Board's composition, selection, reporting and monitoring and evaluation of the institution's results both internally and externally.
 - Institutional Set-up of the TNSCB and TNHB, including departments, roles, responsibilities, and interaction between areas and with other government agencies needed to fulfill their respective mandates.
 - Interactions with external stakeholders.
 - Main Instruments or Programs used to execute their functions (credits, improvement loans, construction and delivery of units, relocation, compensation, inspections, land acquisition, among others)
 - Resources used to execute their functions including staff and budget.
 - Grievance management and complaint redressal systems.
- c. Conduct a thorough analysis of the ability of each institution to meet the objectives and principles of the Housing Policy for each of the items in (b).
- d. Conduct a thorough analysis of provisions that are included in the TNAUHHP that are not covered in the Acts or other ordinances and that the consultant recommends integrating/incorporating into the Acts.

- e. Analysis of possible areas where amendments (including additions, deletions or changes) to the three Acts are required, including analysis of alternatives and recommended prioritization (short, medium and long term).
- f. Provide a legal and institutional justification for each of the proposed amendments. The amendments could be in the form of additions, deletions and modifications from the three Acts.
- g. To consult selected stakeholders both within the GoTN, the legal fraternity, and external stakeholders on the proposed amendments, and to document their advice.
- h. To revise the proposed narrative in the context of the stakeholder discussions and prepare a draft report.
- i. To identify institutional options that could maximize efficiency of operationalization of the new Acts.
- j. To share the findings of the draft report with HUDD, TNSCB, TNHB and other organizations/ stakeholders invited by them.
- k. Submission of interim report.
- l. To consider the feedback obtained from the GoTN officials and finalize the report.

C. Consultant Requirements

10. The tasks involved in this consultancy require a multidisciplinary team. A suggestive team composition is in Table 1; bidders can suggest alternate team composition and time inputs to meet the objectives of this consultancy.

Table 1: Suggested Team Composition and Time Inputs

S.No.	Position	Minimum Education Qualifications	Suggested Time Inputs
1.	Team Leader and Legal Expert	Bachelor of Law with post-graduation in	3 person-months, intermittent
2.	Legal Analyst	Bachelor of Law	5 person-months, intermittent
3.	Housing and Land Specialist	Postgraduate in planning, business administration or relevant field	1.5 person-months, intermittent.
4.	Institutional Specialist	Postgraduate in relevant field	3 person-months, intermittent.
5.	Financial Specialist	Postgraduate in relevant field	1 person-month, intermittent.
6.	Social Specialist	Postgraduate in relevant field	1 person-month, intermittent.
7.	Environment Specialist	Postgraduate in relevant field	1 person-month, intermittent.

- a. Team Leader and Legal Expert: an experienced legal specialist with a proven track record on legal and institutional analysis demonstrating at least 5 years of relevant experience and at least 15 years of overall experience. S/he will provide team leadership inputs and lead all formal engagements with GoTN.
- b. Legal Analyst (5 person-months): should demonstrate at least 3 years of relevant experience of working on review/recommendations for strengthening of state regulations with at least 8 years of legal experience. Prior experience of drafting state regulations is desirable as is experience of working with GoTN. S/he will be expected to anchor the study and coordinate consultations with identified external stakeholders on a regular basis. Knowledge of local language is desirable.
- c. Housing and Land Specialist (1.5 person-months): should demonstrate at least 12 years of experience of working in the urban land and housing space. The Specialist should demonstrate

experience of working with national/parastatal public housing institutions towards improving their institutional efficiencies. Prior experience of working with TNSCB, TNHB or HUDD is desirable.

- d.** Institutional Specialist (3 person-months): should demonstrate experience of working on institutional/organizational and human resources capacity assessment. S/he should demonstrate experience of developing strategies for institutional and organizational change with at least 8 years of experience of working with state/national-level public agencies on these areas. Past experience of working with state housing boards or slum clearance agencies or other agencies involved in housing delivery is desirable.
- e.** Financial Specialist (1 Person-month) : Should demonstrate atleast 10 years of experience working on review/ recommendations for strengthening of State regulations for formulating, improvising revenue collection under various heads, exploring new avenues for revenue generation etc., on long term basis.
- f.** Social Specialist (1 Person-month): Should demonstrate 10 years of experience of working with Government / NGO dealing with underprivileged for improving, forming new guidelines to deal with interaction with local public, leaders, formation of Self-help group, formation of local welfare association for operation and maintenance of schemes etc.,
- g.** Environment Specialist (1 Person-month): Should demonstrate 10 years of experience of working with Government / Housing Societies dealing with operation and maintenance of societies for improving, forming new guidelines to deal with improving Air, Noise and Water quality, Solid Waste Disposal, Sewage Generation and Disposal etc.,

D. Timeframe and Expected Deliverables

11. The Consultant will be expected to complete the assignment within six calendar months with the following deliverables:
- a. Inception report – within two weeks of mobilization including a list of key stakeholders for regular consultations over the Project period.
 - b. PowerPoint Slide Deck showcasing Interim Assessment and Outline of Key Recommendations – within 1.5 months of mobilization to be made to GoTN and organizations invited by them.
 - c. Draft report and a PowerPoint Slide Deck highlighting the key findings and recommendations – within 4 months of mobilization (the team will make PowerPoint presentations to GoTN and other stakeholders identified for purpose of consultations).
 - d. Final report – within 6 months of mobilization (including the feedback received by the relevant government authorities)

E. Data, Services and Facilities to be provided by the Client

12. The client (TNSCB) on behalf of HUDD, GoTN will provide the required documents, data and information that is available with TNSCB/TNHB/HUDD, and within their reach.

13. The TNSCB Project Management Unit (PMU) will coordinate with the consultant's team on day-to-day basis, and confirm the list of stakeholders that the consultants would like to/should consult for the purpose of successful execution of this consultancy. The Consultant is expected to organize at least two workshops/round table discussions on the initial and draft final recommendations. The cost for organization of this workshop will be borne by the Consultant.

F. Associations and Joint Venture

14. Firms can apply for this consultancy in association or in Joint Venture (JV) with other firms to enhance their capabilities, if required. In either case, the lead firm should be clearly identified. In case of an Association between firms, experience of the lead firm will be given 70% weightage during evaluation of EOIs, while in case of a JV it will be in proportion of the number of JV partners. Evaluation of EOIs will be based on criteria including institution's core competencies, experience of undertaking similar assignments and working with similar clients, skills and experience of in-house staff who have worked on similar assignments (who are available for this assignment), and the proposed team. The minimum turnover of the lead firm should be Rs.50 lakh annually for the last three financial years.