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Part II
Statutory Notifications (S.R.O)

Statutory Notifications containing Rules and Orders issued by all Ministries
and Divisions of the Government of Pakistan and their Attached and Subordinate
Offices and the Supreme Court of Pakistan

GOVERNMENT OF PAKISTAN

MINISTRY OF INFORMATION TECHNOLOGY

(Information Technology and Telecommunication Division)

NOTIFICATION

Islamabad, the 1st November, 2006

(Amendments incorporated till 30th June, 2021)

S. R. O. 1132 (I)/2006.— In exercise of the powers conferred by clause (ab) of Sub Section (2) of section 57 of the Pakistan Telecommunication (Re-organization) Act 1996, XVII of 1996 read with Section 33-A thereof, the Federal Government is pleased to make the following rules for administering and managing the Universal Service Fund, namely:—

CHAPTER I

PRELIMINARY

- 1. Short title and commencement.**— (1) These rules may be called the Universal Service Fund Rules, 2006.
- (2) They shall come into force at once.

- 2. Definitions.**— (1) In these rules, unless there is anything repugnant in the subject or context,—
- (i) “Act” means Pakistan Telecommunication (Re-organization) Act 1996 (XVII of 1996);
 - (ii) “AP Rules” means the Access Promotion Rules 2004;
 - (iii) “Auditor General” means Auditor-General of Pakistan appointed under Article 168 of the Constitution of the Islamic Republic of Pakistan;
 - (iv) “Board” means the Board of Directors of the USF company;
 - (v) “CEO” means the Chief Executive Officer of the USF company;
 - (vi) “Chairman” means the Chairman of the Board;
 - (vii) “contractor” means the successful bidder who has been awarded contract for a lot or project or special project;
 - (viii) “Controller General of Accounts” means the Controller General of Accounts appointed under the Controller General of Accounts (Appointment, Functions and Powers) Ordinance, 2001, (XXIV of 2001);
 - (ix) “electronic services” mean services provided through electronic means;
 - (x) “essential facility” means a facility associated with a telecommunication system or telecommunication service that is supplied exclusively or predominantly by a single or a limited number of operators, and that cannot reasonably be substituted by other operator for economic or technical reasons;
 - (xi) “flat subsidy” means the reserve price for any lot or project announced for the purpose of auction and given to single licensee registered for auction;
 - [(xii) “Fund accounts” means the non-lapsable public account opened by the Federal Government for credit of the Fund;]¹
 - (xiii) “Fund” means Universal Service Fund established under section-33A of the Act;
 - (xiv) “Fund income” means income received by the Fund or generated from the Fund and may include grants from international bodies, public and private sector mentioned in sub Section (4) of Section 33A of the Act;
 - (xv) “infrastructure” means the infrastructure necessary for providing, telecommunication services and includes earth station, satellite hub, optic fibre cables, radio communications links, switching facilities, transmission systems, submarine cable, antenna, towers, mast, poles, ducts, pits, right of way, electrical power, air conditioning, space in exchange/room and such other infrastructure as the Authority may prescribe by Regulation;

¹ New clause (xii) inserted after clause (xi) vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015.

- (xv) “licensee” means for the purpose of these rules, the grantee or holder of a license issued, renewed or validated by the Authority and is a USF contributor;
- (xvi) “lot” means a geographical area identified for the grant of funding from the Fund and shall not be smaller than a village or larger than a telecom region created by the Authority;
- (xvii) “Ordinance” means the Companies Ordinance, 1984 (XLVII of 1984); (Companies Act 2017)
- (xviii) “procedural manual” means a manual containing detailed procedures for the functioning of the USF company and the Fund approved by the Board;
- (xix) [“project” means a plan prepared for a lot before the auction describing the telecommunication system and telecommunication services required to be provided in the lot, and any applicable reserve price for the auction;]²
- (xx) [“reserve price” means a maximum subsidy value calculated for a particular project or special project;]³
- (xxi) [“special project” means any plan prepared before auction or other grant of contract, not defined by lot, describing the telecommunication services, telecommunication systems or electronic services required to be provided in the unserved or underserved areas, any required bidder qualifications and any applicable reserve price;]⁴
- (xxii) “universal service” means provision or coverage of telecommunication service including at least voice and data to the whole population of Pakistan;
- (xxiii) “unserved area” means a lot having no coverage or provision of any telecommunication service;
- (xxiv) “underserved area” means a lot not having adequate coverage or provision of voice and data telecommunication services as determined by the Federal Government from time to time, except in some parts of it;

² Clause (xix) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier clause (xix) read as follows:

“(xix) “project” means a plan prepared for a lot before the auction mentioning adequate detail of the telecommunication system and telecommunication service required to be provided in the lot with a reserve price for auction calculated on the basis of net capital cost;”

³ Clause (xx) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier clause (xx) read as follows:

“(xx) “PSEB” means Pakistan Software Export Board (Guarantee) Limited;”

⁴ Clause (xxi) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier clause (xxi) read as follows:

“(xxi) “special project” means any plan prepared before grant of contract, independent of a lot, and prepared in a suitable manner mentioning adequate detail of the telecommunication services, telecommunication systems or electronic services required to be provided to large public in the unserved and underserved areas with a reserve price;”

- (xxv) “USF company” means a company limited by guarantee to be constituted under the Ordinance by the Federal Government to perform such duties and functions as may be assigned to it under these rules;
- (xxvi) [“USF contribution” means contribution made by a licensee to the Fund in accordance with sub-rule (2) of rule 4 and applicable license conditions;]⁵ and
- (xxvii) “USF Contributor” means a licensee making USF contribution, as per its license.
- (2) The words and expressions used herein but not defined shall have the same meaning as are assigned to them in the Act and the Access Promotion Rules 2004.

CHAPTER II

MANAGEMENT AND CONTROL OF FUND

3. Management and control of Fund.— (1) The Federal Government shall have the possession, management and control of the Fund, its income, undertakings, properties and assets.

[(2) “The Fund and all accretions thereto from time to time shall be kept in the Fund account of the Federal Government maintained with the Federal Treasury Office, Islamabad, and release from the Fund shall be made in accordance with these rules.”; and]⁶

(3) The USF contributions shall be credited directly to the Fund account by the licensees or in any manner as the Federal Government may determine [pursuant to rule 5]⁷.

(4) [Omitted]⁸

⁵ Clause (xxvi) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier clause (xxvi) read as follows:

“(xxvi) “USF contribution” means contribution made by a licensee to the Fund at a percentage mentioned in rule 4; and”

⁶ Sub-rule (2) substituted vide S.R.O. No. 597(I) /2015 dated 23rd June, 2015. Earlier the substitution in sub-rule (2) was made through S.R.O. No. 49(KE)/2013 dated 3rd August, 2013 which remained effective till 23rd June, 2015. The said substituted sub-rule (2) read as follows:

“(2) The USF shall be kept in the Federal Consolidated Fund and the Ministry of Finance shall release funds of the USF, in accordance with the procedure laid down in these Rules, through budgetary mechanism.”

After the promulgation of Universal Service Fund Rules, 2006, original sub-rule (2) remained effective till substitution in sub-rule (2) made vide S.R.O. No. 49(KE)/2013 dated 3rd August, 2013. Original sub-rule (2) read as follows:

“(2) The Fund and all accretions thereto from time to time shall be held in a bank account opened and maintained in the name of the Federal Government with scheduled bank as the Federal Government may from time to time, determine;”

⁷ The words “pursuant to rule 5” after the words, “Federal Government may determine” inserted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007.

⁸ Sub-Rule (4) omitted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007.

[(5) There shall be a Policy Committee who shall be responsible for management and administration of the Fund. The Policy Committee shall comprise the following, namely:—;

(a)	Minister Incharge for IT	Chairperson
(b)	Secretary, IT & Telecom Division, Government of Pakistan	Member
(c)	Secretary, Finance Division, Government of Pakistan	Member
(d)	Member (Telecom), Federal Ministry o IT	Member
(e)	Additional Secretary, Cabinet Division, Government of Pakistan	Member
(f)	Joint Secretary (Development), Federal Ministry of IT	Member
(g)	Chief Finance & Accounts Officer, Federal Ministry of IT	Member ⁹
(h)	Senior Officer of the Fund Secretariat	Secretary ¹⁰

(5A) A senior officer of the Fund Secretariat as per sub-rule (6A) shall perform the function of the Secretary to the Policy Committee.¹¹

[(6) The Committee shall administer, control and manage the Fund as well as its account and shall ensure that—

- (a) proper books of accounts for the Fund are maintained;
- (b) custody of the account books, cheque books, securities and other documents and papers pertaining to the Fund and the Fund Account are secured;
- (c) correct disbursements of the budgetary allocations are made;
- (d) one or more signatories to the Fund Account are nominated;
- (e) all matters are addressed related to the audit of the Fund;
- (f) make quarterly releases to the USF Company as per the approved budget of USF Company not later than fourteen days before the commencement of each quarter;
- (g) overview and approve assessment for availing grants, endowments from Governments, donors and other agencies;
- (h) necessary co-ordination with relevant licensees and the Authority on matter related to contributions to the Fund; and
- (i) decisions of the Committee in regard to the Fund rollout shall be fair and transparent.]¹²

⁹ In sub-rule (5) after clause (g), clause (h) inserted vide S.R.O. No. 45(I)/2021 dated 15th January, 2021.

¹⁰ In sub-rule (5) after clause (g), clause (h) inserted vide S.R.O. No. 45(I)/2021 dated 15th January, 2021.

¹¹ After sub-rule (5), new sub-rule (5 A), added vide S.R.O. No. 45(I)/2021 dated 15th January, 2021.

¹² Sub-Rule (6) substituted vide S.R.O. No. 597(I) /2015 dated 23rd June, 2015. Earlier sub-rule (6) was inserted through S.R.O. No. 567(I)/2007 dated 9th June, 2007 and remained effective till 23rd June, 2015. Earlier sub-rule (6) read as follows:

(6A) There shall be a Fund Secretariat to manage the financial & audit affairs of the USF. This Secretariat shall perform all the functions on behalf of Policy Committee as per sub-rule 6. The Fund Secretariat shall be regulated in the manner as may be determined by the Policy Committee; and¹³

[(7) As soon as the annual budget of the USF Company is approved by its Board, the same shall be submitted to the Policy Committee for approval.

(8) The Fund shall be maintained in a non-lapsable public account at Federal Treasury Office, Islamabad to be maintained and operated by the Ministry of IT in accordance with these rules.]¹⁴

4. The Fund.— (1) The Fund shall consist of the amounts, grants and contributions provided in sub-section (4) of section 33A of the Act and includes proceeds of the Funds.

(2) Every licensee having a license containing provision regarding USF contribution issued, renewed or validated, shall contribute 1.5%, from date of grant of such license, of its annual gross revenues for the most recently completed financial year of the licensed services minus inter-operator and related Authority and Frequency Allocation Board mandated payments.

(3) The Federal Government may at any time reduce the percentage of the USF contribution but shall not increase it beyond 1.5% without consent of USF contributors.

(4) [Omitted]¹⁵

5. Collection of USF contribution.— (1) The Federal Government may require licensees directly to deposit USF contributions, within the period prescribed in their licences or may require them to deposit USF contribution on quarterly basis during the running financial year on estimated annual gross revenues subject to adjustments at the end of the financial year, and APC for USF in accordance with AP Rules or direct Authority to collect and remit USF contribution and APC for USF to the Fund's designated account without any deduction within one month of receipt.

(2) [Omitted]¹⁶

“(6) In the course of managing the Fund, the Federal Government may determine, make, monitor and liquidate investments and make re-investments of surplus sums standing to the credit of the Fund account.”

¹³ After sub-rule (6), sub-rule (6A), inserted vide S.R.O. No. 45(I)/2021 dated 15th January, 2021.

¹⁴ Sub-Rule (7) and Sub-Rule (8) inserted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015.

¹⁵ Sub-Rule (4) omitted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015. Earlier sub-rule (4) read as follows:

“(4) For the purpose of these rules the sale proceeds from the auction of the right to use radio spectrum as provided in sub-section (4) of section 33A of the Act shall include the remaining installments of such sale proceeds yet to be paid by licensees and the renewal fee to be paid by remaining mobile cellular licensees benchmarked on the basis of auction price of the two mobile cellular licenses in the year 2004 for renewal of their licensee after the said auction.”

¹⁶ Sub-Rule (2) omitted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:

“(2) The prescribed contribution shall be credited directly to the USF Account by the relevant licensees.”

(3) [The Authority shall monitor and enforce the obligations of the USF contributors to make the prescribed contributions in a timely and proper manner. In case the Authority collects any prescribed contribution directly from the USF contributors then the Authority will transfer that amount directly to the Fund’s designated account within one month of the receipt of that money.]¹⁷

(4) The Authority will make regulations in consultation with the Federal Government to prescribe procedure for collection and remittance of USF contribution and APC for USF.

6. Utilization of Fund.— (1) The amount credited to the Fund shall be utilized for:

- (a) Provisioning of telecommunication services, telecommunication systems or electronic services for use in unserved and underserved areas of Pakistan;
- (b) Meeting administrative budget of the USF company including salaries of the employees; and
- (c) any other act as approved by the Federal Government, but not inconsistent with the Act and these rules.

7. [Omitted]¹⁸

8. Operation of Fund.— [(1) *Omitted*]¹⁹

(1) The account of the Fund shall be prepared and maintained in accordance with the guidelines laid down by the Controller General of Accounts under Clause (d) of section 5 of the Controller General of Accounts (Appointment, Function and Power) Ordinance, 2001 (XXIV of 2001) and shall be audited each year by the Auditor General of Pakistan;

(2) The books of accounts of the Fund shall be kept at the Information Technology and Telecommunication Division or at such other place as the Federal Government deems appropriate, and shall always be open for inspection by the members of the Board and licensees.

¹⁷ Sub-Rule (3) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (3) read as follows:

“(3) The Authority shall monitor and enforce the obligations of the relevant licenses to make the prescribed contributions in a timely and proper manner in case the Authority collects any prescribed contribution directly from the licensees then the Authority will channelize that amount directly to the Fund’s designated account within one month of receipt of that money.”

¹⁸ Rule (7) omitted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015. Earlier Rule (7) read as follows:

“7. **Investment.** — the amounts from the Fund shall be invested only in Government risk free financial securities or schemes.”

¹⁹ Sub-Rule (1) was omitted vide S.R.O. No. 49(KE)/2013 dated 3rd August, 2013 and subsequent sub-rules renumbered as sub-rule (1) and sub-rule (2), respectively. Earlier sub-rule (1) read as follows:

“(1) The accounts of the Fund shall be operated by the Secretary Information Technology or his nominee.”

[(3) The accounts of the Fund shall be operated by the Secretary, Information Technology or his nominee.]²⁰

9. [Audit.]— The accounts of the Fund shall be audited annually by a chartered accountant as defined in the Chartered Accountants Ordinance, 1961 (X of 1961) and also by the Auditor General of Pakistan.]²¹,
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CHAPTER III

USF COMPANY

10. Creation of USF company.— (1) The Federal Government shall within sixty days of the commencement of these rules cause incorporation of a USF company limited by guarantee in accordance with the Ordinance. The Federal Government may within seven days of such incorporation transfer an amount of fifty million rupees in the account of USF Company to enable it to meet its initial needs and capital expenditure.

(2) The Secretary, Information Technology, and two officers of the Federal Government nominated by the Secretary shall subscribe their names to the memorandum and articles of association of the company.

11. Composition of the Board.— (1) The Board shall consist of the following, namely:—

- | | | |
|-----|---|--------------------------------------|
| (a) | [Secretary of the Division concerned with Information Technology and Telecommunication; | <i>Chairman</i> |
| (b) | Executive Director, National Information Technology Board; | <i>Vice-Chairman</i>] ²³ |
| (c) | Member Telecom, Ministry of Information Technology; | <i>Member</i> |
| (d) | Chairman of the Authority; | <i>Member</i> |
| (e) | Nominee of fixed-line licensees; | <i>Member</i> |
| (f) | Nominee of mobile cellular licensees; | <i>Member</i> |
| (g) | Nominee of data licensees; | <i>Member</i> |

²⁰ Sub-Rule (3) inserted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015.

²¹ Rule (9) substituted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015. Earlier Rule (9) read as follows:

“**9. Audit.**— The accounts of Fund shall be audited bi-annually by a Chartered Accountant as defined in the Chartered Accountants Ordinance 1961 (X of 1961), and annually by the Auditor-General of Pakistan.”

²² Rule (9) substituted vide S.R.O. No. 45(I)/2021 dated 15th January, 2021. Earlier Rule (9) read as follows:

“**9. [Audit.]**— The accounts of the Fund shall be audited annually by the Auditor-General of Pakistan.”]21

²³ Clauses (a) & (b) of sub-rule (1) substituted vide S.R.O. 1077(I)/2019 dated 18th September, 2019. Earlier clauses (a) & (b) of sub-rule (1) respectively read as follows:

“(a)	Minister for Information Technology;	<i>Chairman</i>
(b)	Secretary Information Technology;	<i>Vice-Chairman</i> ”

- (h) Representative of consumer groups; and *Member*
- (i) Chief Executive Officer; *Member*

(2) The Secretary of the USF Company shall also act as Secretary of the Board.

(3) The Board shall regulate its own procedures in accordance with the provisions of the Ordinance and memorandum and articles of association of the company.

(4) The Federal Government may increase the number of members of the Board at any time by following the procedure mentioned in the Ordinance, however, while doing so it shall have to keep the representation of licensees proportionate to their representation provided in [sub-rule (1)]²⁴.

12. Appointment and tenure of members.— (1) The members representing licensees and consumer groups in the Board shall be nominated by the Federal Government.

(2) The Federal Government shall nominate any registered Body having mandate to watch consumers' interest but having no interest or control of Federal, Provincial or local Governments for the provisions mentioned in sub-rule (2) of rule 10.

(3) The tenure of the members of the Board shall be in accordance with the provisions of the Ordinance.

[“(4) Representatives of the licensee nominated by the Federal Government as members of USF Board shall not be and shall become ineligible to continue as USF Board member when the;

- (a) licensee is defaulter in any payment of USF contribution;
- (b) licensee has failed to complete previously granted contract; or
- (c) licensee made a successful bid but failed to execute the contract.

(5) For the purpose of sub-rule (4), the provisions of section 183 of the Companies Ordinance, 1984 (XLVII) shall mutatis mutandis apply”];²⁵

13. Meetings.— Notwithstanding anything contained in the Ordinance, the meeting for transaction of business of the Board shall be held at least quarterly in a financial year.

14. Quorum.— Quorum for transaction of business for the Board meeting shall be as per its articles of association including at least one member representing licensees.

15. Powers of the Board.— (1) The Board shall have the full powers to efficiently administer and manage the affairs of the USF company.

(2) Without prejudice to the generality of the forgoing powers, the Board may,—

²⁴ *Sub-Rule (4) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007, the words “sub-rule (3)” substituted with the words, “sub-rule (1)”.*

²⁵ *New sub-rule (4) and sub-rule (5) inserted vide S.R.O. No. 587(I)/2010 dated 29th June, 2010.*

- (a) authorize CEO and one or more signatory to open one or more bank account of the USF company;
- (b) draw or authorize to draw amounts from the bank accounts of the USF company;
- (c) verify annual and half-yearly accounts of the USF company;
- (d) [approve investment policy and schemes for investment of the sums available with the USF Company in the Government risk free financial securities and schemes only; and]²⁶
- (e) evolve policies for operation and working of the USF company and incorporate these in the procedure manual;
- (f) prepare and approve procedural manual for effective working of the USF company;
- (g) approve annual budget of the Fund, request Federal Government for quarterly releases from the annual budget of the Fund and provide guidelines for financial controls;
- (h) allocate and approve budget for the USF company;
- (i) create committees of the Board and approve their charters;
- (j) create an advisory council for seeking guidance and approve its membership and term of reference;
- (k) propose changes in the USF policy of the Federal Government;
- (l) delegate such of its powers and functions to the Chairman, committee of the Board or CEO, as it may consider necessary for the efficient working of the USF company;
- (m) identify and lay-down criteria for selection and creation of lots [and special projects]²⁷ and determine suitability of projects for allocation of funds;
- (n) set goals for provision of universal service;
- (o) oversee, examine, evaluate, approve or review projects;
- (p) request the Federal Government and the Authority to lend support staff or officers, as the case may be, on deputation;

²⁶ Clause (d) of sub-rule (2) substituted vide S.R.O. No. 597(I)/2015 dated 23rd June, 2015. Earlier clause (d) of sub-rule (2) read as follows:

“(d) approve investment policy and schemes for investment of the Fund in the Government risk free financial securities and schemes only;”

²⁷ Clause (m) of sub-rule (2) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007, after the word “lots” the words, “and special projects” inserted.

- (q) appoint employees of the USF company and set their salaries and terms and conditions of the employment;
- (r) engage and remove consultants and advisors as may be determined;
- (s) fix extra remuneration & benefit for the deputationist;
- (t) ensure transparency and accountability in the processes;
- (u) assist Federal Government in preparing annual statutory reports;
- (v) commission independent audits and publish such audit reports;
- (w) request the Authority to furnish details about amounts received from licensees for Fund for any specific period; and
- (x) perform such other functions as the Federal Government may, from time to time, assign to it not inconsistent with the provisions of the Act and these rules.

[(3) Neither members of the Board nor their spouse, descendants or relatives, or any business, undertaking, company, corporation, partnership, or enterprise in which they, their spouse, descendants or relatives are employees, directors, partners or shareholders or have any financial, ownership, management or participation interest, whether directly or indirectly, shall be an applicant for a project or recipient of grant or funds by the company other than after a full-disclosure of such interest and subject to their abstention from voting at any meeting of the Board at which the application for the project or grant of funds or any other matter pertaining to such projects and grants is considered or voted upon.]²⁸

16. Budget.— (1) The Board shall, in respect of each financial year, prepare and approve its budget. The Board shall also prepare budget of the Fund and submit it for approval of the Federal Government.

(2) Both the budget statements shall specifically state the estimated receipts and expenditure and the sums which are likely to be required by the Fund from the Federal Government and by the USF company from the Fund for each financial year:

Provided that the annual budget of the USF Company shall not exceed five percent of the total annual budget of the Fund for that financial year.

17. Accounts of USF company.— (1) The accounts of the USF company shall be operated jointly by the CEO and one officer of the USF company as directed by the Board.

(2) The accounts of the Company shall be maintained in accordance with the provisions of the Companies Ordinance 1984 (XLVII of 1984) and shall be audited annually in accordance with the provisions of the said ordinance.

²⁸ *New sub-rule (3) inserted vide S.R.O. No. 587(I)/2010 dated 29th June, 2010.*

(3) The books of accounts of the USF Company shall be kept at the Secretariat of the USF Company or at such other place as the Board deems appropriate, and shall always be open for inspection by the members of the Board and licensees.

18. Audit.— The accounts of the USF company shall be audited bi-annually by a Chartered Accountant as defined in the Chartered Accountants Ordinance 1961 (X of 1961).

CHAPTER IV

USF COMPANY SECRETARIAT

19. USF company Secretariat.— (1) The Board shall establish a separate and independent Secretariat for the USF company and determine its staffing structure to implement policies, procedures and processes as may be proposed by the Board.

(2) The Secretariat shall be headed by the CEO.

20. Structure and guidelines.— (1) The structure and strength of the Secretariat, qualification and job description of the employees shall be as per structure approved by the Board from time to time.

(2) The Board shall also provide detailed guidelines to the employees of the USF company regarding various functions to be performed by the USF Company and its employees in the procedural manual.

21. CEO.— (1) The Board shall have the power to appoint and remove the CEO in accordance with the provisions of the Ordinance. The Board may determine the terms and conditions including remuneration of the CEO, as it may consider appropriate.

(2) The first CEO may be interviewed, selected and appointed by the Federal Government subject to the approval of the Board and his tenure shall start from the date of approval of the Board.

22. [Omitted]²⁹ Functions of CEO.— The CEO shall have the following [Omitted]³⁰ functions subject to the approval of the Board, namely:—

- (a) to exercise all administrative and financial powers as may be delegated by the Board;
- (b) to make arrangements for convening meetings of the Board;
- (c) to ensure that the provisions of the Act, Ordinance and these rules are faithfully observed;
- (d) to take necessary action, not within his power, in situations requiring immediate action and report it to the Board, as the case may be, for *post facto* approval;
- (e) to incur contingent expenditure up to one million rupees from within the approved budget;

²⁹ Rule (22) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007, in the marginal note the words “powers and” substituted with the word “Functions”.

³⁰ Rule (22) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007, the words “powers and” omitted.

- (f) to exercise powers of controlling officer for travelling and daily allowance bills in respect of himself and employees of the USF company;
- (g) widely disseminate the purpose and objectives of the Fund;
- (h) invite proposals for projects through public advertisements;
- (i) to ensure that the annual establishment charges shall not exceed five percent of the total annual budget of Fund;
- (j) [to prepare schemes for investment of the sums available with USF Company in the government risk free financial securities and schemes only;]³¹
- (k) to purchase, sell, endorse, transfer, negotiate or otherwise deal in risk free financial securities and schemes of the Federal Government as per investment policy of the Board;
- (l) [to finally approve or reject the successful bidder in any USF auction, and to enter into contracts, agreements and arrangements and execute necessary documents;]³²
- (m) to open current, fixed, overdraft, loan, cash, credit or other accounts in local or foreign currency, jointly with another officer, with any bank within Pakistan as may be necessary and deposit it into or draw money from such accounts with the approval of the Board;
- (n) to cause the preparation and submission of annual and half-yearly accounts of the USF company within the prescribed period;
- (o) to appoint advisors, consultants, accountants, auditors and other employees of the USF company on such terms and conditions as may be approved by the Board;
- (p) to do any act that is necessary for efficient management of the USF company as required by the Board from time to time in line with the provisions of the Act, Ordinance and these rules;
- (q) for the purpose of ensuring efficient functioning of the USF company, delegate such of his above mentioned powers or functions, excluding operation of the USF company and its income, to one or more of his officers as considered necessary subject to the prior approval of the Board; and
- (r) to discharge any other function as may be authorized by the Board.

CHAPTER V

³¹ Clause (j) of Rule (22) substituted vide S.R.O. No. 597(I) /2015 dated 23rd June, 2015. Earlier clause (j) of Rule (22) read as follows:

“(j) to prepare schemes for investment of the Fund for generating income;”

³² Clause (l) of Rule (22) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier clause (l) of Rule (22) read as follows:

“(l) to enter into contracts, agreements and arrangements and execute necessary documents;”

PROJECTS AND RELEASE OF FUNDS

23. Preparation of the projects.— [(1) An officer of the USF company designated for projects shall prepare a project plan for each project which shall include a clear and complete description of the lots, all applicable service requirement, specifications and standards, any applicable service implementation timetable and any special commercial terms that would have a particular impact on financial viability or business planning. Where the project is to be auctioned with a reserve price, the project plan shall also identify the maximum subsidy amount for the lots.]³³

[(2) An officer of the USF Company designated for projects shall prepare a project plan for each special project. The project plan shall include a clear and complete description of the intended services and service areas, all applicable service requirements, specifications and standards, the applicable service implementation timetable and any special commercial terms that would have a particular impact on financial viability or business planning. Every effort shall be made to put special projects to auction, provided that if auction is not possible because of the nature of the special project then detailed reasons to that effect shall be given with detail of the mode and manner of its grant. Where the project is to be auctioned with a reserve price, the project plan shall also identify the maximum subsidy amount for the project.]³⁴

(3) The officer preparing the projects or special projects may seek assistance of any public or private entity and the residents of the lot. Any public or private entity, licensee, consumer group or any resident of *the* lot may also submit a project or special project to the officer.

(4) After preparation of the project or special project the same shall be submitted to the Board by the CEO, which, may approve the project or special project with or without modifications.

24. Reverse auction for projects.— (1) The project after its approval by the Board, shall be advertised for [*Omitted*]³⁵ reverse auction.

(2) [In the reverse auction only USF contributors having a valid license for the relevant region and telecommunication service shall be eligible to participate. The CEO may disqualify any USF contributor to take part in auction if the USF contributor:—

(a) is a defaulter in the payment of USF contribution;

³³ *Sub-Rule (1) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (1) read as follows:*

“(1) An officer of the USF company designated for projects shall prepare detailed plan for each lot showing requirement of telecommunication system and telecommunication services for the lot including eligible costs and shall also prescribe a reserve price for the lot in accordance with the USF policy.”

³⁴ *Sub-Rule (2) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:*

“(2) “The officer shall prepare detailed plan for each special project showing requirement of telecommunication system, telecommunication services or electronic services including eligible costs and shall also prescribe a reserve price in accordance with the USF policy. In case of preparing a special project every effort shall be made to put it to auction, provided that if auction is not possible because of the nature of the special project then detailed reasons to that effect shall be given with detail of the mode and manner of its grant.”

³⁵ *In sub-rule (1), the word, “open” omitted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007.*

- (b) has failed to complete [any] previously granted contract; [and]
- (c) made a successful bid but failed to execute the contract:

[Provided that public sector entities and other non-licensees will be eligible to participate in special projects relating to electronic services and for special projects relating to telecommunication services or systems, if such systems or services do not require a licence from the Authority.]³⁶

(3) [The advertisement for auction shall be published at least in one English and one Urdu national daily newspaper in addition to the website of USF company. The advertisement shall include a description of the intended project or special project, a summary of the timing and process steps for the auction, including whether the auction will be open or be conducted by sealed tender, and whether or not subsidy bids will be subject to a reserve price. The advertisement will also set out instructions regarding how to register for and obtain additional information about the auction.]³⁷

(4) [The advertisement for auction shall be published at least thirty but not more than ninety days before the deadline for the submission of bids. All eligible potential bidders shall be required to register for the auction at least ten days before the deadline for the submission of bids.]³⁸

(5) The auction shall be conducted by an auction committee to be constituted by the Board having at least three employees of the USF company, headed by an officer of the USF company designated for conducting auctions.

³⁶ Sub-Rule (2) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:

“(2) In the open reverse auction only USF contributors shall be eligible to participate having valid license for the relevant region and telecommunication service. The CEO may disqualify any USF contributor to take part in auction if the USF contributor:—

- (a) is a defaulter in the payment of USF contribution;
- (b) has failed to complete previously granted contract; or
- (c) made a successful bid but failed to execute the contract:

Provided that a non-licensee can be eligible for applying and bidding for special projects relating to electronic services, if it is either a licensee or an entity registered with PSEB. The public sector entities shall be eligible for special projects relating to telecommunication services or systems, if such system or service does not require licence from the Authority.”

³⁷ Sub-Rule (3) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (3) read as follows:

“(3) The advertisement for auction shall be published at least in one English and one Urdu national daily newspaper in addition to the website of USF company, containing all terms and conditions of auction, date, time and venue of auction, not inconsistent with the Act and these rules.”

³⁸ Sub-Rule (4) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (4) read as follows:

“(4) The advertisement for auction shall be published at least ninety days before the proposed date of auction. All eligible licensees shall be required to register for the auction at least three days before the auction with an amount equal to five percent of the reserve price in the shape of demand draft in the name of the USF company.”

(6) [The USF company shall prepare a bidder's information package which will be provided to all potential bidders who register for the auction. The bidder's information package shall include additional information about the lot, project or special project, and any applicable reserve price. The bidder's information package shall also include instructions to potential bidders on how to participate in the auction, including the format of bid submissions, eligibility requirements, the amount of the performance guarantee and the other requirement of any bid.]³⁹

(6A) [Registered licencees shall submit a bid bond, in the amount identified in the bidder information package, in the form of a demand draft in the name of the USF company. Registered licencees shall be asked to submit financial bids identifying their proposed subsidy amount. Where the project is to be auctioned with a reserve price, bidders shall be asked to offer subsidy bids lower than the reserve price. The lowest subsidy bid received in the auction that meets all bid submission requirements shall be forwarded by the auction committee with its related recommendations to the CEO of the USF company for final approval.]⁴⁰

(7) [The auction committee may recommend cancellation of the auction or rejection of the lowest bid received where it determines that the auction results are not satisfactory or where it has reason to believe that all or some bidders have colluded in the auction result.]⁴¹

(8) [Where only one qualified bidder has been registered for the auction of a project for a lot then instead of holding the auction, the auction committee may offer a flat subsidy subject to approval of the Board and for the purposes of these rules the qualified bidder shall be considered the successful bidder.]⁴²

(9) [The bid bond of the unsuccessful bidder shall be returned at the end of the auction except the bid bond of the second lowest bidder. The bid bond of the successful bidder and second lowest bidder shall be returned after the execution of the contract with either of them, provided that if the successful bidder fails to submit a bank guarantee in accordance with rule 26, his bid bond shall be forfeited and offer shall be made to the second lowest bidder. The second lowest bidder shall then be considered a successful bidder for the purpose of these rules.]⁴³

³⁹ Sub-Rule (6) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (6) read as follows:

“(6) Before the start of the auction for a lot, the head of the auction committee shall inform participants about the lot, project and the reserve price. All registered licensees shall then be asked to offer their bids lower than the reserve price and the lowest bid received in the auction shall be placed, by the auction committee with the recommendations, before the CEO for approval.”

⁴⁰ New sub-rule (6A) inserted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007.

⁴¹ Sub-Rule (7) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (7) read as follows:

“(7) The auction committee may recommend cancellation of auction or rejection of the lowest bid received on the ground that all or some bidders have made a cartel, which may or has resulted in a high bid.”

⁴² Sub-Rule (8) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (8) read as follows:

“(8) Where one qualified bidder has been registered for the auction of a lot of project then instead of holding auction, he would be offered flat subsidy subject to approval of the Board and for the purposes of these rules he shall be considered as successful bidder.”

⁴³ Sub-Rule (9) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (9) read as follows:

(10) The CEO may accept or reject the bid received from the successful bidder in the auction. In case of rejection, [the CEO shall]⁴⁴ give reasons for such rejection.

(11) [If a lot receives no acceptable bid in three consecutive auctions then the CEO may either recommend to the Board that the project be offered at an identified reserve price which shall be lower than any previously received subsidy bid to any licensee including a non-USF contributing licensee, or may submit a revised project to the Board for approval.]⁴⁵

(12) [No single licensee may accumulate more than fifty per cent of the total amount of USF subsidies awarded by the USF company in multiple auctions. The period relating to a licensee's accumulation and proportion of USF subsidy amounts will be defined in guidelines or statements of auction procedures to be issued by the USF company from time to time.]⁴⁶

25. Consortium.— (1) Consortium may be allowed to bid for projects and lot with a leader executing contract and accepting responsibility on behalf of all members of the consortium. The Consortium shall not consist of more than one licensee having similar type of license.

(2) For the purposes of these rules leader of the consortium shall be considered as bidder representing the consortium while giving details of the consortium members required by the auction committee. Other members of the consortium may enter into contractual arrangements with their leader before or after auction but the leader of the Consortium, if successful in auction, shall not be allowed to change the composition of the consortium during the validity of the contract without prior permission in writing of the CEO:

Provided that a non-contributing licensee having license to provide voice shall not be allowed to become part of a consortium but a non-contributing non-voice licensee or a non-licensee may be part of the consortium.

(3) The consortium arrangement shall not absolve its leader as contractor from its obligations under the contract.

“(9) The demand draft of the unsuccessful bidder shall be returned at the end of the auction except the demand draft of the second lowest bidder. The demand draft of the successful bidder and second lowest bidder shall be returned after the execution of the contract with either of them, provided that if the successful bidder fails to submit bank guarantee within stipulated period, his demand draft shall be forfeited and offer shall be made to the second lowest bidder. The second lowest bidder shall then be considered a successful bidder for the purpose of these rules.”

⁴⁴ Sub-Rule (10) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007, the words, “he shall to” substituted with the words, “the CEO shall”.

⁴⁵ Sub-Rule (11) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (11) read as follows:

“(11) If a lot receives no bid in three consecutive auctions then the CEO may offer the project with the same reserve price to any licensee including non USF contributing licensee or may submit revised project to the Board for approval.”

⁴⁶ Sub-Rule (12) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (12) read as follows:

“(12) No licensee shall be allowed to win auctions for more than fifty per cent of the total lots in a telecommunication region created by the Authority.”

(4) The leader of the consortium, before registering for the auction, shall make sure that the members of the consortium collectively have the capability to provide required telecommunication system and services for the lot and project.

26. Award of contract.— (1) [Within ten days of the approval of the bid, the successful bidder shall be required to submit a further bank guarantee to secure proper performance of the contract. The amount of the performance guarantee shall be defined in the bidder’s information package developed pursuant to sub-rule (6) of rule 24, up to a maximum value equal to the successful bidder’s subsidy bid amount, and shall remain in place for the duration of subsidy payments pursuant to sub-rule (3).]⁴⁷

(2) [After the submission of the appropriate bank guarantee, as provided in sub-rule (1), the successful bidder shall be required to execute the contract for the project or special project and commence work to complete service roll-out in accordance with the roll-out period identified in the contract. Any extension of the roll-out period shall require fresh approval of the Board.]⁴⁸

(3) [The officer of the USF company designated for disbursements shall release the subsidy amounts in accordance with the subsidy payment terms of the contract using the payment method identified in the contract. No tax shall be deducted on such disbursement or release unless required by law for the time being in force. In case of release in installments, the contract shall clearly mention the dates of further releases.]⁴⁹

(4) In addition to any other information relating to the lot and project required by the USF company, the contractor shall submit to the CEO, quarterly and annual progress reports [and shall comply with any other information requirements included in the contract.]⁵⁰

(5) After completion of the project, the Contractor shall submit final report with evidence of completion of the project. The periodical as well as the final reports will be evaluated by the officer of USF company designated for monitoring.

⁴⁷ Sub-Rule (1) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (1) read as follows:

“(1) After the approval of the bid the successful bidder shall be required to submit bank guarantee equal to his bid amount within ten days of the approval of the bid in case the contract has roll-out obligations for three years and to submit bank guarantee equal to the instalment of his bid amount to be released by USF company within ten days of the approval of the bid in case the contract has roll-out obligations for five years.”

⁴⁸ Sub-Rule (2) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:

“(2) After the submission of the appropriate bank guarantee, as provided in sub-rule (1), the successful bidder shall be required to execute standard contract and start working on the project to complete roll-out in a maximum period of three or five years, as the case may be. Any extension beyond three or five years for roll-out obligations, as the case may be, shall require fresh approval of the Board.”

⁴⁹ Sub-Rule (3) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (3) read as follows:

“(3) The officer of the USF company designated for disbursements shall, within fifteen days of the execution of the contract, release appropriate amount mentioned in the contract to the contractor through cross cheque. No tax shall be deducted on such disbursement or release unless required by law for the time being in force. In case of release in installments, the contract shall clearly mention the dates of further releases.”

⁵⁰ Sub-Rule (4) amended vide S.R.O. No. 567(I)/2007 dated 9th June, 2007 for insertion of the words, “and shall comply with any other information requirements included in the contract.” after the word “reports”.

(6) [All the assets procured by the contractor for the implementation of the project from the subsidy amount shall be subject to lien exercisable by the Federal Government in accordance with sub-rule (3) of rule 29 and terms of the contract and the contractor shall execute documents to substantiate the lien or support its enforceability.]⁵¹

27. Infrastructure and essential facilities sharing.— [(1) Every contractor shall share the infrastructure and essential facilities developed through USF funding with at least one requesting USF contributor on a first come first served basis at rates based on reasonable cost. For greater certainty, the obligation to share infrastructure shall include access to network elements and associated facilities which may involve the connection of equipment, access to the local loop and facilities and services necessary to provide services over the local loop, and access to physical structures including buildings, ducts, masts, equipment enclosures and similar facilities.]⁵²

[(2) The contractor shall not refuse to share the infrastructure and essential facilities developed through USF funding unless such sharing is not technically feasible.]⁵³

28. Tariff.— [(1) No contractor shall charge a higher tariff in the lot than its national or regional tariff for the same or equivalent services.]⁵⁴

(2) [The Federal Government may require the Authority to introduce an upper limit of tariff for the telecommunication services provided in the lot, including where the contractor does not have a significant market power.]⁵⁵

CHAPTER VI

MONITORING AND ENFORCEMENT

⁵¹ Sub-Rule (6) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (6) read as follows:

“(6) All the assets procured for the implementation of the project from the funded amount shall be deemed to be the property of the Federal Government.”

⁵² Sub-Rule (1) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (1) read as follows:

“(1) Every contractor shall share the infrastructure and essential facilities developed through USF funding with at least one non-significant market power USF contributor on first come first served basis on reasonable cost.”

⁵³ Sub-Rule (2) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:

“(2) The contractor shall not refuse to share the infrastructure and essential facilities developed through USF funding to any requesting licensee unless it is not technically feasible.”

⁵⁴ Sub-Rule (1) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (1) read as follows:

“(1) No contractor shall charge a higher tariff than its national or regional tariff for the services provided in the lot.”

⁵⁵ Sub-Rule (2) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier sub-rule (2) read as follows:

“(2) The Federal Government may require the Authority to introduce an upper limit of tariff for the telecommunication services provided in the lot, even if the contractor is not a significant market power.”

29. Monitoring of projects.— (1) An officer of the USF company nominated for monitoring, shall arrange for onsite and offsite monitoring of projects to make sure that the funding is being utilized in accordance with the contract.

(2) For the purpose of monitoring the officer may require the assistance of the Authority or independent consultants who may be engaged by the Board under rule 14.

(3) If in view of the officer the performance of the contractor is not in accordance with the contract, he may refer the matter to the CEO, who shall proceed in accordance with terms of the contract including issuance of notices, termination of the contract, confiscating assets of the project or en-cashing the bank guarantee.

(4) In case a contract is terminated with under sub-rule (2) the CEO can order re-auction of the project on “as is” basis at the risk and cost of the defaulting contractor.

30. Penalties.— (1) In addition to the remedies provided under the contract, the CEO may refer the matter of the defaulting contractor, through the Federal Government, to the Authority for taking action under section 23 of the Act.

(2) For the purposes of section 23 of the Act violation of contract shall be deemed to be violation of these rules.

31. Appeal.— [(1) Any licensee aggrieved by any decision or order of any employee of the USF company including the CEO may, within thirty days of the receipt of the decision or order, prefer an appeal to an Appeal Committee to be appointed by the Board in accordance with appeal procedures to be provided in the Procedure Manual.

(2) The Appeals Committee shall consist of three members of appropriate qualifications including one with technical expertise, one person with financial and commercial expertise and one with legal expertise:

Provided that members of the Board, employees of the USF Company and any person with conflict of interest in connection with subject of appeal shall not be appointed as members of the Appeals Committee.]⁵⁶

CHAPTER VI

MISCELLANEOUS

32. Data sharing.— Every licensee, whether USF contributor or not, shall provide any data or information, reasonably required by the USF company for the performance of its duties, in the form and format reasonably required by the USF company. The CEO may make such requests through the Authority, which shall provide full assistance to the USF Company and the CEO.

⁵⁶ Rule (31) substituted vide S.R.O. No. 567(I)/2007 dated 9th June, 2007. Earlier Rule (31) read as follows:

“31. Appeal.— Any licensee aggrieved by any decision or order of any employee of the USF company including CEO may within thirty days of the receipt of the decision or order, prefer an appeal to the Board in such manner and on payment of the fee mentioned in the Procedure Manual. The Board or any of its designated committee shall decide such appeal within sixty days.”

33. Logo of Fund.— The name and logo of the Fund shall be inscribed on the seal of the Fund, and shall be affixed on all contracts executed.

34. Winding up.— (1) If the Federal Government decides that the USF company and Fund have achieved their targets,—

(a) the Fund shall be denotified by the Federal Government and all money lying in the Fund shall be diverted to R&D Fund; and

(b) USF company shall be wound up in the manner prescribed for winding up in the Ordinance and all money lying with the USF company shall be transferred to R&D Fund;

(2) If R&D Fund is no longer in existence, Federal Government shall determine an alternative mechanism for transferring the funds referred to in clauses (a) and (b) of sub-rule(1).

(3) Once the process of de-notifying the Fund and winding up of USF company has started, the obligation of licensees to make USF contribution shall cease immediately.

35. Directions from the Federal Government.— (1) The Federal Government may, as and when it considers necessary, issue directives to the Board or the CEO on matters of policy, and such directives shall be implemented by the Board or the CEO, as the case may be.

[File No: F.I-101/2005- Dir (legal).]

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