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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
**MINISTRY OF INFORMATION TECHNOLOGY AND
TELECOMMUNICATION**

NOTIFICATION

Islamabad, the 22nd February, 2023

S. R. O. 225(I)/2023.—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), the Federal Government is pleased to direct that the following further amendments shall be made in the Universal Service Fund Rules, 2006, namely:—

In the aforesaid Rules,—

- (1) in rule 2, in sub-rule (1),—
 - (a) clause (xi) shall be omitted;
 - (b) in clause (xv), before word “license”, the words “telecommunication services” shall be inserted;

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- (c) for clause (xvi), the following shall be substituted, namely:—
- “(xvi) “lot” means a geographical area identified for the grant of funding from the Fund as designed and approved by USF Board which shall not be smaller than a village;”;
- (d) after clause (xvi), substituted as aforesaid, the following new clause shall be inserted, namely:-
- (xvia) “division concerned” means the division to which business of Universal Service Fund Rules stands allocated;”;
- (e) in clause (xviii), for the word “company”, the word “Company” shall be substituted;
- (f) in clause (xix), the expression, “and any applicable reserve price for the auction” shall be omitted;
- (g) clause (xx) shall be omitted;
- (h) for clause (xxi), the following shall be substituted, namely: -
- “(xxi) “special project” means any project, other than lots, approved by USF Board and assigned to USF Company for award of contract, not defined as lot, describing the telecommunication services, telecommunication systems or electronic services required to be provided in the un-served or under-served areas, as required in bidder information package;”;
- (i) after clause (xxi), amended as aforesaid, the following new clause shall be inserted, namely:-
- “(xxia) “subsidy” means the grant disbursed to the contractor, in accordance with the subsidy payment terms of the contract, for the purposes of implementation of orders of the Federal Government in terms of the contract between the USF and the contractor;”;
- (j) in clause (xxii), the words “ to the whole population” shall be omitted;
- (k) for clause (xxiv), the following shall be substituted, namely:-

“(xxiv) “under-served area” means a lot not having adequate coverage or provision of specific telecommunication services as determined by the USF Board from time to time, except in some parts of it;” and

(1) for clause (xxv), the following shall be substituted, namely:-

(xxv) “USF Company” means a Company established under section 42 of the Companies Act, 2017;

(2) in rule 3,—

(a) for sub-rule (5), clause (h) shall be omitted—

(b) in sub-rule (6), in clause (f), for semi-colon at the end, a colon shall be substituted and thereafter the following provisos shall be added, namely:—

“Provided that any income and receipt generated from the grants by the USF Company shall be the Fund income as defined in these rules and shall be adjusted against future release of grants to the USF Company:

Provided further that the net quarterly releases to the USF Company from the Fund other than to meet the administrative budget of the USF Company shall form part of the Fund balance maintained by the USF Company for disbursement of subsidy payments and shall not be deemed to be income or expenditure of the USF Company;”; and

(c) for sub-rule (8), the following shall be substituted, namely: -

“(8) The Fund shall be governed as per procedure notified by the finance division from time to time” shall be substituted;

(3) in rule 4, in sub-rule (2), for the expression “containing provision regarding USF contribution issued, renewed or validated”, the words “of telecommunication services duly issued from Authority” shall be substituted;

(4) in rule 6, in sub-rule (1), for clause (a), the following shall be substituted, namely:—

“(a) provisioning of telecommunication services, telecommunication systems or electronic services for use in un-served, under-served, rural and remote areas of Pakistan;”;

- (5) in rule 11,—
- (a) for sub-rules (1) and (2) the following shall be substituted, namely:—
- (1) The Board shall comprise the following members, namely:-

S. No.	Membership	Status
(1)	(2)	(3)
1.	Secretary of the division concerned	<i>Chairperson</i>
2.	Legal Expert	<i>Member/Independent Director</i>
3.	Member Telecom	<i>Member/Director</i>
4.	Chairman of the Authority	<i>Member/Director</i>
5.	Nominee of fixed-line licensees	<i>Member/Director</i>
6.	Nominee of mobile-cellular licensees	<i>Member/Director</i>
7.	Financial Expert	<i>Member/Independent Director</i>
8.	Telecom or Information and Communication Technology Expert	<i>Member/Independent Director</i>
9.	Chief Executive Officer of USF Company	<i>Member/Director</i>

- (2) The Secretary of the USF Company shall act as secretary of the Board.
- (3) The independent directors shall be appointed under the Companies (Manner and Selection of Independent Directors) Regulation, 2018.
- (6) in rule 12,—
- (a) in sub-rule (1), for the words “and consumer groups”, the words “and independent directors” shall be substituted; and
- (b) sub-rule (2) shall be omitted;
- (7) in rule 15, in sub-rule (2),—
- (a) in clause (c), the words “annual and half yearly” shall be omitted;
- (b) for clause (g), the following shall be substituted, namely: -
- “(g) allocate and approve annual budget of the USF Company for onward submission to USF Policy Committee along-with the

schedule of quarterly release of grants and provide guidelines for financial controls;”;

- (c) clause (h) shall be omitted; and
- (d) in clause (p), for the words “Federal Government and the Authority”, the words “division concerned” shall be substituted;
- (8) for rule 16, the following shall be substituted, namely:—

“16. Budget.—(1) The Board shall in respect of each financial year review and approve USF Company’s budget. The Fund management shall prepare budget of the Fund. Both the budgets shall be submitted to the Policy Committee for approval. Copy of the budget document shall be shared with finance division:

Provided that the annual establishment charges of the USF Company shall not exceed five percent of its development and program budget for that financial year:

Provided further that division concerned may be approached for approval of additional operational budget for USF Company on need basis during a financial year”;

(9) in rule 17, in sub-rule (2), for the word “Company”, the words “USF Company” shall be substituted and the words “and shall be audited annually in accordance with the provisions of the said ordinance” shall be omitted;

(10) in rule 22,—

- (a) For clause (i), the words “to ensure that the annual establishment charges shall remain in limit and manner as provided in rule 16 of these rules” shall be substituted;
- (b) in clause (n), the words “annual and half yearly” shall be omitted; and
- (c) in clause (q), the word “excluding” shall be omitted;

(11) for rule 23, the following shall be substituted, namely:—

“23. Preparation of projects.—(1) A Committee established by CEO of the USF Company shall prepare a project plan for each project which shall include a clear and complete description of the lots, all applicable service requirements, specifications and standards, any

applicable service implementation timetable and any special commercial terms.

(2) A Committee established by CEO of the USF Company 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.

(3) USF Company 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 USF Company.

(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.”;

(12) in rule 24,—

- (a) in sub-rule (2), for the word “region”, the word “lot” shall be substituted;
- (b) sub-rule (3) shall be omitted;
- (c) in sub-rule (4), for the expression “at least thirty days 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”, the expression “in accordance with the Public Procurement Rules, 2004” shall be substituted;
- (d) in sub-rule (6A), the words “Where the project is to be auctioned with a reserve price, bidders shall be asked to offer subsidy bids lower than the reserve price” shall be omitted;
- (e) sub-rule (8) shall be omitted;
- (f) for sub-rule (9), the following shall be substituted, namely:—

“(9) The bid bond of the bidders shall be released as per Public Procurement Regulatory Authority rules read with bidder’s information package.” and

(g) in sub-rule (11), the words “at an identified reserve price which shall be” shall be omitted;

(13) in rule 25,—

(a) for sub-rule (1), the following shall be substituted, namely: -

“(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 leader shall be a contributor and shall hold a valid telecommunication services licence of the relevant lot.”;

(b) in sub-rule (2), for the colon at the end, the full stop shall be substituted and thereafter the proviso shall be omitted.

(14) in rule 26,—

(a) for sub-rule (1), the following shall be substituted, namely: -

“(1) Within the time specified in the bidder’s information package 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, subject to sub-rule (6) of rule 24, up to a maximum value equal to the successful bidder’s subsidy bid amount and as per the bidder’s information package.”;

(b) for sub-rule (3), the following shall be substituted, namely: -

“(3) The USF Company shall release the subsidy amounts in accordance with the subsidy payment terms of the contract using the payment method identified in the contract.”;

(15) in rule 29,—

(a) in sub-rule (1), for the words “an officer of the USF company nominated for monitoring”, the words “USF Company” shall be substituted;

- (b) in sub-rule (2), for the expression “rule 14”, the expression “rule 15” shall be substituted;
- (c) for sub-rule (3), the following shall be substituted, namely:-
- (d) for sub-rule (3), the following shall be substituted, namely:-
- “(3) If in view of the concerned officer, the performance of the contractor is not in accordance with the contract, the matter shall be referred to the CEO, who shall proceed in accordance with terms of the contract.”;
- (e) in sub-rule (4), for the expression “sub-rule (2)” the expression “sub-rule (3)” shall be substituted; and
- (16) in rule 31, in sub-rule (1), for the word “licensee”, the word “contractor” shall be substituted.

[F. No. 4-3/2022-Legal.]

NASEEM A KHAN ABBASI,
Deputy Secretary.