Universal Service Fund (USF)

Operating Manual

April 2019

TABLE OF CONTENTS

Definitions & Abbreviations

Bidder – is a Licensee of communications service that offers to perform network installation and universal service provision at a certain cost, responding to a request for proposal (RFP) from the USF. Bidder also includes other entities that bid for ICT training and capacity building projects, or other universal service related projects.

Board - means the Board of Trustees established by the Ministry with the agreement of Union Government, to oversee the Universal Service programs and to disburse the fund coherently and transparently.

Civil society – the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens, referred to as the "third sector" of society, distinct from government and business.

Commercial viability–A commercially viable telecom service does not need any subsidies; it provides a sufficient rate of return to the Operator.

Department - shall mean the Posts and Telecommunications Department

Fund - shall mean the Universal Service Fund established by the consent of the Union Government, a legal and institutional structure to collect the Universal Service levy from operators, and implement and finance the Universal Service objective of the Government of Myanmar.

GIS – Geographic Information System - is a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographic data.

ICT– Information and Communications Technology

Ministry - means the Ministry of Transport and Communications

Notification to establish the Myanmar USF –The legal instrument that established the USF in Myanmar.

Regulator – The Regulator is the Post and Telecommunications Department (PTD) under the Ministry, and, once established, later the Myanmar Communications Commission (MCC). The relevant responsibilities of the PTD in regards to the USF shall be transferred to the MCC once it is established in the near future.

Smart subsidy - the financial subsidy to be paid to a Contractor from the Fund, as a result of the Contractor winning a competitive tender for the subsidy, which taken together with the Contractor's own funds, will provide an incentive for the Contractor to carry out Projects which the Contractor had not otherwise intended to carry out, either in the timescales envisaged by the tender documents or at all.

Stakeholder - A stakeholder of the USF is a party that has an interest in and/ or is affected by the USF. This includes the telecommunications industry, the government, civil society, consumers, beneficiaries, and potential bidders for non-telecom services (e.g., capacity building).

Universal Service - the policy goal that every person in the Republic can access, and use, important communications services, at the same or similar quality standards, wherever that person is located in the Republic and at an affordable price and regardless of that person's gender, ethnicity or religion, income, and whether able bodied or disabled. As Universal Service is an evolving concept, and the market develops and new services emerge, Universal Services need to be defined and updated from time to time by the Regulator.

Universal Service Programmes - projects determined by the Trustees and approved by the Ministry, to assist the achievement of Universal Service that are partly financed by the Fund.

1.   INTRODUCTION

1.1.   The Telecommunications Law (2013) Chapter XV, Section 53 provides that the Ministry of Transport and Communications (MOTC) is entitled to direct the Posts and Telecommunications Department (PTD) to promote universal service in Myanmar by encouraging the expansion of the telecommunications infrastructure and telecommunications services in the underserved parts of the country. To this end, Section 54 of the Act gives MOTC the responsibility to establish and supervise a Universal Service Fund, which PTD shall utilise to supervise the implementation of universal service programs.

1.2.   In line with the Act therefore, the MOTC will establish a Universal Service Fund (USF or the Fund), which shall be overseen by the USF Board of Trustees (USF Board) and managed by the Regulator on behalf of the USF Board.

1.3.   PTD also has set universal service obligations (USOs) on the nationwide telecommunications licensees (NTLs), whose licenses require them to pay a levy of 2% of their relevant revenue annually to the USF, for the purpose of funding the universal service programs.

1.4.   The purpose of the USF is exclusively for the implementation of universal service programs in order to promote social and economic development, focusing on unserved or underserved areas and disadvantaged communities that cannot be served by commercial service providers, at least for some time to come.

1.5.   MOTC has developed a five year Universal Service Strategy (2019-2023) which describes key programs, and guides the development and implementation of specific projects to assist in achieving universal service, as well as required capacity development to promote wide telecom service usage across the whole population of Myanmar. And, the USF is an institutional and funding instrument designed to achieve key objectives of the Universal Service Strategy and to collect USF contributions from Licensees.

1.6.   The Fund will be utilized to offer subsidies and financial incentives to attract communications service providers to expand infrastructure and services in underserved areas. It also offers grants and awards to eligible organisations to assist with required capacity development.

1.7.   This Operating Manual is a practical document which guides the USF Board, the Regulator and its USF Management Unit in their duties and obligations, and on how to implement the five-year USF strategy. Fig.1 shows a communication diagram that briefly describes the functions and relationships among the Ministry, Board of Trustees and the Management Team within PTD. This Operating Manual also provides guidelines and operating principles for how the USF will be managed and administered, and the funding of communications development projects by the USF.

Communications tree: USF Board of Trustees

Ministry has important approval powers and USF Board reports to MOTC.

Relationship between the USF Board and the Regulator is one of mutual co-operation and interdependence. The DG of PTD is also a Trustee of the USF.

USF Director reports to the USF Board of Trustees, after first internally reporting to the DG of PTD/ later MCRC. If there are different views and approaches, those will be shared with USF Board for their discussion and input.

USF team develops drafts of USF strategy & projects, and implements approved USF strategy & projects.

MOTC

USF BOARD OF TRUSTEES

PTD/MCRC

Director Universal Service

USF Management team
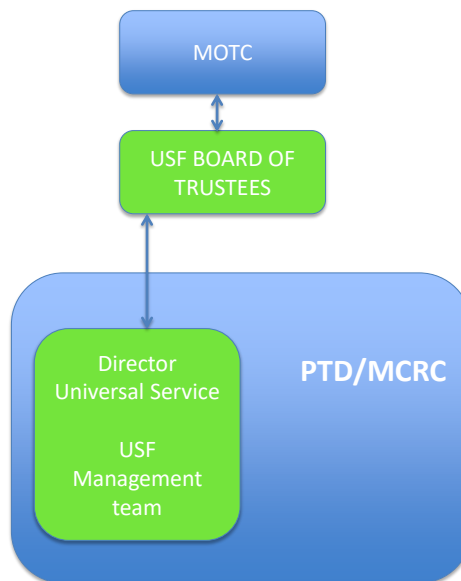
Figure 1: *USF Board of Trustees communications tree*

1.8. The medium term USF strategy describes what to implement to achieve the universal service objectives, while the Operating Manual provides guidance in regards to how to implement, as well as how to develop the next USF strategy. The USF strategy in turn was and is to be guided by general national policies and plans, as well as specific communications sector policies, and their objectives. The legal background is the Telecommunications Law (2013), applicable enabling regulations, and the Notification to establish the Universal Service Fund (USF) of Myanmar.

2.   OBJECTIVES OF THE USF

2.1.   Introduction

2.1.1. Universal service to communications services means that every inhabitant of a country has access to communication services, regardless of where they live, their gender, ethnicity or religion, and their income and ability. This Operating Manual is a guide on how to achieve this objective, but also shows some small remaining limits.

2.1.2. Key dimensions of Universal Service in Myanmar encompass Availability, Accessibility, Affordability and Ability (Capacity) as per the Universal Service Strategy.

2.1.3. A minimum set of telecom services is defined as universal service, both for voice services and broadband Internet, which all people should be able to use. This also means that these defined telecom services must be affordable. The Universal Service Strategy (2019-2023) has defined services that are to be considered as universal service in Myanmar and created its specific targets based on that definition (Chapter 2).

2.1.4. The Universal Service concept is evolving, based on international experience and communications technology trends as well as the development of the ICT usage in the country. Thus, the Regulator has the duty to review and revise the scope (definition) of Universal Service from time to time.

2.2.   Main objective of Universal Service for Myanmar

2.2.1. The Universal Service Fund (USF) of Myanmar has the main objective to ensure that all people in Myanmar have access to and are able to use telecommunications services. This focuses in particular on people living in rural and remote parts of the country, as well as poorer households country-wide, and persons with disabilities.

2.3.   Operational and program objectives

2.3.1. The USF shall ensure that programmes are designed and implemented in order to achieve Universal Service, and that the monies that are collected from Communications Licensees and others shall be placed in the Fund and shall be disbursed for the purposes set out.

2.3.2. In particular, the Universal Service monies shall be used to support the following types of programmes and projects, in line with the Scope of Universal Service, as follows:

(a)   Constructing infrastructure for telecommunications including installing fiber and radio communications as necessary for Universal Service programs;

(b)   Providing capacity building training, supporting the broadband Constructing infrastructure for telecommunications including installing fiber and radio communications as necessary for Universal Service programs; connectivity to schools and ICT training, digital literacy training for the centres and other civil organizations and broadband connectivity support when it is necessary;

(c)   Universal services to the public who are in underserved areas where the market cannot reach easily and the network coverage is difficult to use;

(d)   Carrying out application and content development, especially for ethnic minorities, persons with disabilities and poor persons less well served by the market;

(e)   Doing necessary research and data collection in support of the objectives of Universal Services and for the public interest;

(f)   Implementing the programs that can support availability, accessibility, affordability and ability,

(g)   Carrying out other activities relating to Universal Services.

3.   KEY PRINCIPLESIN THE UTILIZATION OF THE USF

3.1.   Market efficiency and targeted interventions

3.1.1. The US strategy is implemented within a multi-player, commercial marketplace, in accordance with the broader policy objectives of the Government. The Government of Myanmar (GOM) continues to be committed to foster efficient market operation, a fair competitive environment and overall sector expansion, and to remove other barriers to the operation of an efficient market.

3.1.2. Targeted interventions and financial aid from the USF will only be used as a means to provide support in areas and for user groups where efficient market forces alone cannot provide the desired services. The Fund is to develop market-oriented programs, and subsidise projects that will be mostly implemented by operators and service providers. This also means that USF funding will not be used in an environment where a lack of sector reform still is responsible for very costly services.Key reform measures need to be implemented first before substantial USF funding can be used.

3.2.   Smart subsidies and sustainability

3.2.1. The USF shall use the smart subsidy approach as much as possible. Smart subsidies refer to subsidies for rural and high cost areas, low-income population groups, capacity building efforts and service targets which will not be reached by the market alone, even in an efficient market, or at least not for a long time to come. Targeted financial intervention is required beyond normal regulatory measures and incentives to provide services to these population groups and areas.

3.2.2. This smart subsidy is designed not to distort the market, and encourages cost minimization and growth of the market. Typically, it is only a part of required capital for the project, for example 25-75%, and helps to "kick start" a project or service, and leverages additional operator and service provider investment. The ultimate objective of giving a smart subsidy is that the project becomes commercially viable, whereas without the subsidy operators and service providers might have been reluctant to invest. Using the smart subsidy approach, services will thus be commercially viable in the medium term without further, ongoing financial support.

3.2.3. Also for project types where commercial viability is not possible or cannot be implemented by the industry, the USF is to consider and ensure long-term sustainability of projects.

3.3.   **Competitive tendering for smart subsidies**

3.3.1. The mechanism to select an operator or service provider to receive a smart subsidy and provide defined services is usually that of a public, transparent and competitive tender.

3.3.2. The USF is to use a competitive tendering approach for the least amount of subsidy requested for service provision from qualified bidders. Bidders will submit a technical proposal and a financial proposal. Both proposals are opened together. The technical proposal will determine whether the bidder fulfils the requirements needed to provide the USF services. Then, only among these qualified bidders, the bidder with the lowest request for subsidy is awarded the project.

3.3.3. Winning bidders will sign a time-bound service agreement to offer telecom services in the areas covered in the bidding process with only one-time financial subsidy. The operator, like the rest of its telecom network, will own, operate and maintain the network built under this bidding process. It also has the right to lease certain parts of the network (e.g., towers or fibre).

3.4.   **Open access**

3.4.1. While competitive tendering will be used, especially for major network expansion and broadband capacity upgrades, this shall not lead to exclusivity for the winning operator or service provider. Any service provider that receives subsidies from the USF for a particular network expansion project shall be mandated to provide open access to its network according to existing commercial terms within the industry, or as per applicable infrastructure sharing regulation.

3.5.   **The true access gap**

3.5.1. The true access gap comprises areas or communications targets that are beyond any commercial viability, even in instances where smart subsidies are given. In Myanmar, this may apply to only the last 1% of population. Commercial operators or service providers serving these areas would need ongoing financial support, possibly in the form of operating subsidies. It is a policy decision and one of available financial resources, to what extent to subsidise ongoing service provision to areas, institutions such as schools, and population groups that are beyond the limits of the smart subsidy zone. The USF is to carefully decide if and what assistance can be given for the "true access gap" – considering that these projects will require ongoing subsidies.

3.6.   **Creating maximum socio-economic impact**

3.6.1. The USF must aim to design and implement projects with a high socio-economic impact and value, including in the area of capacity development. This includes considerations of how many people can be impacted, and the

quality and lasting effects of that impact. The USF shall aim to maximise its resources to provide high quality impact and benefits to as many underserved people as possible.

3.7. **Technology neutral**

3.7.1. The USF mechanism is to enable the most effective, efficient and appropriate technologies to be implemented for Universal Access and Universal Service. By ensuring a technology neutral approach in the competitive tendering process, the USF will allow the operators to choose the most cost-effective and appropriate technology to provide communications services.

3.8. **Transparency and stakeholder consultation**

3.8.1. The USF will be operating in an open and transparent manner by inviting stakeholders input into strategy, program and project development; publishing, as a minimum, annual reports that provide details of funds collected, funds disbursed, to which operator or service provider projects are awarded and how much funds they receive, key terms and conditions of their service agreement, status and achievements of project implementation and service provision, successes and problems encountered; and distributing the funds of the USF in an open, fair and transparent manner.

4.   GOVERNANCE, MANAGEMENT & ADMINISTRATION

4.1.   Introduction

4.1.1. The USF shall develop and implement strategies, programs and project that further the universal service objectives.

4.1.2. This involves the following key actors which detailed roles and functions are described in this section, as follows:

(a)   The Ministry;

(b)   The USF Board of Trustees; and

(c)   The Regulator

4.2.   Role and functions of the Ministry

4.2.1. The MOTC, pursuant to Chapter XV of the Telecommunications Law2013, is to supervise the Universal Service Fund. This includes the following supervisory duties:

(a)   setting high-level Universal Service policy goals;

(b)   reviewing and approving the medium-term Universal Service Strategy after consultation with the Regulator, and other stakeholders;

(c)   receiving, reviewing and approving the operational annual budgets for the Fund;

(d)   transferring the annual budget from the USF account under the Ministry to the particular account of the Board of Trustees in order to carry out the activities set out in the budget estimate after annual budget is reviewed and approved;

(e)   receiving, reviewing and approval of annual USF reports; and

(f)   receiving, reviewing and approval of audited annual USF accounts.

4.3.   The Role and functions of the Board of Trustee for USF

4.3.1. The Fund will be directed and administered through a Board of Trustees.

4.3.2. A five (5) member USF Board of Trustees, shall be appointed by the Ministry, with the agreement of the government, and shall include the following members:

(a)   A representative nominated by the Ministry of Transport and Communications as Chairman;

(b)   The Director General of the Posts and Telecommunications Department (PTD) (later the Representative from Myanmar Communications Commission);

(c)   One representative nominated by the nationwide telecommunications Licensees. He/she shall have no direct affiliation with any of the licence holders;

(d)   One representative nominated by the Ministry of Finance and Planning;

(e)   One representative nominated by the Consumer Protection Department, the Ministry of Commerce;

4.3.3. The Board may be re-constituted by Ministry of Transport and Communications (MOTC) if necessary.

4.3.4. The term of the Board is five years.

4.3.5. The USF Board may develop rules for its meetings and proceedings as required, in addition to the Notification to establish the USF.

4.3.6. Board Members shall at all times disclose in writing any potential conflict of interest, whether direct or indirect, in the proposal. Such conflict of interest must be expressly declared. Such declaration shall be recorded in the USF Board and such member shall not participate in any right to make decision, activities and discussion of the Board relating to the proposal.

4.3.7. Main function of the USF Board of Trustees is to maintain the integrity of the USF and credibility among key stakeholders (industry, government, civil society). This means being seen as autonomous, and not beholden to any one stakeholder. Their objective is to further the achievement of Universal Service in Myanmar, and create positive impacts for all of the stakeholders, especially the people requiring universal service.

4.3.8. Without limiting the extent of the Board's powers necessary to fulfil the objectives of the USF, the Board's primary responsibilities shall include:

(a)   To supervise the utilization of the Fund effectively and properly for the matters relating to Universal Service;

(b)   To supervise the implementation of Universal Service programs in a timely manner;

(c)   To ensure that the following Universal Service Fund activities are carried out in a transparent manner: Detailed project design, project tendering, evaluation and selection, project implementation and monitoring;

(d)   To conduct the required approval processes by the decisions of the Board of Trustees;

(e)   To publish annual reports providing a detailed account of main USF activities, collections and disbursements in order to ensure transparency;

(f)   To allocate and collect the fund efficiently and execute the program in a considered manner;

(g)   To hold the Board of Trustees meetings in accordance with the procedures,

(h) To open a specific USF bank account in the name of the Board of Trustees for the annual operational budget and its proper use;

(i) To estimate the necessary annual cost and expenses in order to carry out the following activities: implementing the programs, managing and operating the Fund, Listing the on-going programs, and monitoring and evaluation.

(j) To prepare and submit the annual budget, to obtain the approval of the Ministry;

(k) To ensure sufficient annual budget allocation and not to overspend;

(l) To ensure to utilize the fund within the approved budget and if the Board have to use additional funds, the approval from the Ministry shall be granted. To approve and ensure the appointment and termination of the necessary experts, necessary consultants and consultant groups, accountants and other necessary staffs for the USF, its subsides and fund disbursement;

4.3.9   Additional operational duties and powers of the Board shall include:

(a) The Board of Trustees shall submit the annual report of the USF activities together with the copy of annual audited USF financial account of the Board of Trustee to the Ministry;

(b) High-level guidance to the USF Management Unit of the Regulator, on the development of the Universal Service strategy and its programs, for approval by the Ministry.

(c) Approval of all decisions in regards to awarding contracts and subsidies for USF projects;

(d) Review and approve actions determined or advised by the USF Management Unit as necessary to be undertaken to redress projection non performing against the contractual obligations, license conditions and service agreements. Such actions shall be taken in collaboration with the Regulator and may be passed on for action in accordance with its regulatory function;

(e) Regular approval of quarterly reports on USF operations and direct disbursements on projects;

(f) Appointment of an independent annual audit of Fund activities and ensure the audit is complete within three months of each financial year;

(g) Ensuring unbiased decisions and strategy development based on approved data analysis and methodology, and approved USF scope and strategy;

(h) Ensuring stakeholder (industry, government, civils society) consultation whenever needed.

4.3.10 Meetings, Quorum and Decisions of the Board members shall be as follow;

(a) The Board shall have regular meetings, at least once in every quarter of the year. The USF Board can increase the frequency of meetings if and when required, as well as schedule extraordinary sessions.

(b) Trustees shall be expected to attend regularly meetings of the Board and keep informed on the operations of the Trust.

(c) Meetings of the USF Board shall require that all members be duly notified of regular and extra-ordinary meetings ahead of time. At least 14 days' notice should be given, unless all members consent to shorter notice.

(d) All USF Board meetings shall require a quorum of at least three (3) members to be present, including the Chair or a member of the Board who is authorized by the Chair in writing.

(e) Decisions shall require a simple majority of voting members present.

(f) Meeting minutes shall be produced for every meeting and it shall be approved at the following meeting.

(g) The minutes of the meeting shall be retained for at least six years.

4.3.11 The USF Board may establish Standing or Ad-Hoc committees to assist in the exercising of its functions. These committees can include persons other than the USF Board members who are deemed able to assist the USF Board to carry out its functions.

4.3.12 Remuneration, Fees and Expenses for the Board of trustee are as follow;

(a) The Trustees shall not receive any remuneration for the performance of their duties, but shall receive any monies as may be necessary for the performance of the business function of the USF, including, without limiting the generality of the foregoing, sitting allowances, travelling allowances and subsistence allowances in accordance with market rates as published from time to time.

(b) Expenses incurred in the course of Board Members' responsibilities on USF business, such as travel, accommodation and meals outside of the Members' place of normal residence, may be paid in advance or reimbursed.

4.4. **Role and functions of the Regulator**

4.4.1. The relationship between the USF Board and the Regulator is one of mutual co-operation and interdependence. The USF Board has been given specific duties and important approval powers and reports directly to the Minister, while the Regulator has the regulatory function to ensure universal service. This co-operation and interdependence is signified through the Regulator being also a Trustee of the USF Board of Trustees.

4.4.2. The Regulator has the USF Management Unit and appoints permanent, dedicated staff to the USF Management Unit. Other staff from the Regulator

may also be directed to assist the USF Management Unit from time to time, as needed to help carry out the responsibilities of the USF.

4.4.3. The Regulator shall establish a USF Management Team with dedicated staffs.

4.4.4. The Regulator shall make its premises available to the USF Board for meetings whenever possible.

4.4.5. The key functional duties of the Regulator shall include;

(a) Develop the USF high-level strategy and USF programs every three to five years, based on a universal service gap and needs analysis and guidance from the Board of Trustees;

(b) Initiate or propose for approval any necessary studies to identify the basis for the above strategic actions;

(c) Consult with and obtain recommendations from the various stakeholders such as government departments, civil society and industry in relation to USF strategy, programs and plans;

(d) Lead the design, prioritisation and preparation of universal service projects, in line with the Universal Service Strategy approved by the Ministry;

(e) Manage the tendering processes;

(f) Inspect and audit the project implementation and approve milestone payments according to the contracts, for payment by the Board;

(g) Oversee the timely execution of the USF Program;

(h) Develop, implement, monitor and evaluate for each program and project;

4.4.6. The main day-to-day operational responsibilities of Regulator's USF Management Unit will be as follows:

(a) Maintain an annual USF's project plan and budget requirements, in accordance with the approved USF programs;

(b) Prepare and monitor the fund's operating budget, in collaboration with the Regulator Finance Department;

(c) Manage the evaluation of tenders and report to the USF Board the results of project tenders for their approval, or supervise and collaborate with the evaluation carried out by others;

(d) Manage the selection and supervision of consultants to support project implementation;

(e) Manage any awareness raising activities associated with the universal service program, advertising and arrangements for public tender notices;

(f)   In collaboration with the Finance Department, monitor and follow-up of payment of USF levies into the Fund by contributors, and acting as the liaison for queries;

(g)   Liaise with service providers involved in USF projects;

(h)   Review quarterly reports from the Finance Department and prepare quarterly progress reports for the USF Board of Trustees;

(i)   Liaise with appointed auditors to assist with auditing the USF programs.

(j)   Ensure good communications and information flow with the USF Board of Trustees;

4.4.7. The USF Management Unit will develop and support the implementation of the universal service programs and projects. Jointly, the USF Management Unit shall possess the following skills and experience:

(a)   Strategy development/ planning

(b)   ICT market expertise & industry relations

(c)   Data research and analysis (both telecom related and socio-economic data)

(d)   GIS capabilities

(e)   Economic, financial & cost modelling

(f)   Project planning & management

(g)   Legal expertise (procurement, contracting, enforcement)

(h)   Technical/ engineering expertise for USF service specifications and management of milestone inspection and certification

(i)   Monitoring & evaluation, including consumer complaints / reporting

(j)   Finance (budgets, disbursements, accounts)

4.4.8. The Regulator may draw resources from both inside as well as from outside government into the USF Management Unit. The team needs to have a varied background and expertise, including from private industry and telecom business.

5. SOURCES OF FINANCE AND FINANCIAL MANAGEMENT

5.1 USF Bank accounts and payments

5.1.1 The USF monies shall be separated from the Government and Regulators 'budget. The Ministry shall open a separate USF bank account with the Myanmar Economic Bank (MEB) for Myanmar currency and for the foreign currency; Ministry shall open the separate USF bank account with Myanmar Foreign Trade Bank (MFTB), and transparently maintain and operate it as such.

5.1.2 The Ministry may open a saving account, purchase treasury bonds and government financial securities in order to increase the Fund.

5.1.3 Telecommunications services licensees shall pay their USF levy as stipulated directly to the designated USF bank account under the Ministry.

5.1.4 Any other payment to the Fund as per 5.2, such as donations, shall also be paid directly into the designated USF bank account under the Ministry.

5.1.5 The Board of Trustees shall open a USF Operating Budget account that shall be used for Annual operations and shall receive the annual budget from the main USF account opened by the Ministry.

5.2 USF financial sources

5.2.1 The US funds will be sourced mainly from the following:

(a) US levy on identified communications service providers, namely the holders of National Telecommunications Licences, and any other licensees which may subsequently be required to contribute to the Fund;

(b) Grants and donations received from official organizations and individuals for universal service projects;

(c) Fines and penalties imposed by 5.2.3 and 5.2.4;

(d) Investment income from accumulated funds.

5.2.2 The Licensee shall fully pay the levy on the date on which the payment is due.

5.2.3 If the licensee has failed to pay or cannot pay fully for their USF levy on the date on which the payment is due, the licensee shall pay to the regulator with 1 percent interest rate per month, for the remaining payment retroactive to the date on which the payment was due, as penalties and these penalties shall be deposited in the Universal Service Fund account.

5.2.4 If the winning bidders have failure or defaults according to their terms and conditions of the contract for the USF projects, they have to pay fines and penalties and then these fines and penalties shall be deposited in the Universal Service Fund account.

5.3   Financial rules

5.1.2. Any monies from the Fund shall not be loaned to anybody, whether against any security or otherwise.

5.1.3. Any monies from the Fund shall not borrow and shall not be pledged as security for such advances.

5.1.4. The Board shall not provide the fund as security deposit.

5.1.5. If the Fund is large enough, the Ministry may open saving account, purchase treasury bonds and government financial securities in order to increase the Fund. All received interests and benefits shall be deposited in the Universal Service Fund account.

5.4   Operational and administrative costs and expenses

5.4.1 The Board of Trustees shall prepare annual budgets for the Fund and submit it to obtain the approval of the Ministry.

5.4.2 The Board of Trustees shall execute the contracts with those who are selected in bidding in order to implement the Universal Service projects.

5.4.3 The Board of Trustees shall make payments in accordance with the Universal Service projects and approved annual budget.

5.4.4 All operational and administrative costs and expenses shall be only paid with the express approval of the USF Board. All payments and expenses shall be based on the Fund's approved Annual Operating Budget. The finances, including all payments, withdrawals or other financial transactions relating to the USF, shall satisfy requisite Financial Regulations of the Regulator.

5.4.5 The Board of Trustees shall, with the approval of the Board meeting, designate the signatories to withdraw the expenses from the Fund, and make payments.

5.4.6 Two designated trustees who are designated by the decision of the Board, including the representative of the Ministry, who is the chairman of the Board, shall sign jointly to withdraw the expenses and such withdrawal of expenses shall be reported to the Ministry.

5.4.7 The following costs and expenses shall be disbursed from the approved annual budget: meeting costs, other management costs including the expenditures of the members of the Board; remuneration, accommodation, travel allowance of external consultants, costs for outsourced research, costs for outsourced technical inspector/ group and payments to service providers and other organizations implementing Universal Service projects.

5.4.8 The USF shall keep general administrative and overhead costs, as well as specific program and project preparation costs, to a minimum. The general administrative and overhead costs, and specific program and project

preparation costs, shall be published in the annual USF report, as percentage of overall disbursement in that year.

5.4.9   The USF Board of Trustees shall not finance any permanent staff cost. It is allowed to hire local or international experts on a temporary basis to assist in specific tasks, but shall not have its own permanent staff.

5.4.10 The accounts relating to the Fund including operational budget account being opened in the name of the Board, and records of the Fund shall be audited within three months after the end of fiscal year by an independent audit firm having the certificate of the Union Auditor General's Office in accordance with the stipulations.

5.4.11 The Regulator's Finance Department shall present to the USF Board of Trustees quarterly statements of the accounts and activities of the Fund's finances.

5.4.12 The USF Management Unit shall prepare an Annual Report of all the USF's main activities. It shall include a status update of program and project implementation, its successes, but also challenges encountered. Once approved by the USF Board of Trustees, it shall be submitted to the Ministry for approval. Then, the annual USF report shall be made public, jointly with the audited account.

5.5   Distribution of funds within the communications sector

5.5.1   The distribution of USF funds should be decided according to the key criteria listed below, in consultation with the USF stakeholders which includes the main contributors to the USF.

The national telecommunications infrastructure is a priority, according to the targets for universal service, as set out in the Universal Service Strategy.

(e)   The socio-economic impact of proposed programs and projects, according to the key principle of the USF to create maximum socio-economic impact with its program. This also implies that there needs to be a strong demand for these particular communications services among areas and people which are currently underserved.

(f)   The evident needs and demand of segments in the populace for specific targeted services and training.

6   PROGRAM DEVELOPMENT

6.1   General

6.1.1   This section sets out the general methodology to identify and develop programs for USF financing in the communications sector.

6.1.2   Every three to five years or within another interval the USF Board deems appropriate, a high-level strategy shall be developed that sets out the specific universal service programs the USF shall finance over that upcoming period.

6.1.3   The second Strategy shall thus include a review of the first Universal Service Strategy, making whatever update and revisions are deemed to be necessary after the first three years of its implementation.

6.1.4   In order to identify and develop the USF program, the following questions must be addressed:

(a) What is the current status of universal service?

(b) Which services should be considered part of universal service?

6.1.5   While national policies may contain some guidance or targets, they are more long-term documents which can quickly become outdated. Therefore the Regulator needs to determine the answers to the above questions from time to time, and make recommendations to the USF Board. The USF Board is then to update or confirm them for each new strategic plan.

6.2   Determining the current status of US

6.2.1   In order to determine the current status of universal service, the USF shall conduct an analysis which examines the following four aspects which characterise universal service:

(a) Availability – what type and level of service is available for users, including in their residence? Do all areas in the country receive the same service without geographical discrimination? Or are there areas or population groups for whom the services are not available?

(b) Accessibility – can all people in Myanmar access the services in a non-discriminatory manner, in all places, without distinction of ethnicity, sex, religion, disability etc.?

(c) Affordability – can all people afford a reasonable amount of usage of the designated universal services allowing them to derive socio-economic benefits?

(d) Awareness and ability – are people aware of the existing benefits of communications services and applications? Do people have the knowledge, skills and capacity to use the communications services such as computers and other communications devices?

(e) The results of the situational analysis above will most likely be quantifiable in terms of population penetration, such as:

1) 95% of the population has basic mobile services available, can access the service and afford the end-user device; and

2) 45% of mobile users have the basic skills to use broadband Internet services.

6.2.2 Based on these results, realistic and feasible targets over the next three to five years can be developed.

6.2.3 The next step in the situational analysis is to consult with the industry about their expansion plans, and their view of how far the market will be able to reach to close identified gaps in universal service provision. This is to include both an analysis of the supply side – such as infrastructure and end-user devices, and the demand side, such as capacity building and relevant content.

6.2.4 Another important part of the situational analysis is to assess the status of sector reform and the regulatory environment, as the USF can only be an effective tool in a well-regulated and competitive market. If major reform steps are still outstanding or decisions on outstanding technical matters such as frequency allocations, national roaming, etc., are still outstanding, it may be advisable to adjust the USF's approach or expectations. Also, the USF is to consult with the respective industries to determine regulatory improvements that can improve universal service significantly.

6.2.5 All programs and projects of the USF must also take into consideration the current and projected security situation in the country, particularly as this relates to project schedules and implementation.

6.3   Determining Universal services (US) and feasible US targets

6.3.1 In order to set realistic and feasible targets, the scope of Universal Service needs to be defined. **Universal Service (US)** means availability of important communication services to individual households. Once the market penetration of a communications service reaches a high level in society and has demonstrated social and economic value, then that service has become important to virtually every household. This service should be included in the universal service definition.

6.3.2 As a rule of thumb, if availability, access and affordability of a specific communications service is below 50% population penetration in Myanmar, then a universal service target – having this service at the household level – is not yet realistic and feasible. If a certain service is above 75% of household penetration, then a US target is desirable and the requisite USF program should be targeted to achieve that by a specific date. If a service is between 50 to 75% of population penetration – a mixed approach might be suitable, such as furthering public access while at the same time increasing measures

that allow the service to be available at the household level. Also capacity building programs must be focused to complement the infrastructure and service targets.

6.3.3 Another key element to determine whether a service is to be addressed as a US target is the demand for that service and socio-economic benefit. It is recommended that the USF Board of Trustee studies from time to time to determine demand and socio-economic benefit, especially in cases where there is little information available, either internationally and nationally, and uncertainty prevails. Key questions to study are:

(a) Is the service in high demand by the population?

(b) What are the socio-economic consequences of not having that service for people?

(c) Is there an alternative or substitute for the service?

6.4   Developing the Universal Service program

6.4.1 Having used the general methodology above, the USF is in a position to state for the next three to five years:

(a) What are the important communication services for the entire population based on high demand and socio-economic benefits (this is the determination of the Scope of Universal Service in Myanmar for the period of the new Strategy); and

(b) What are the universal service targets based on current market analysis and penetration rates.

6.4.2 Combining successful experiences from other countries in a similar situation, and input from industry and other key stakeholders, with the results of the analysis described above, the USF is to develop a USF Program/ strategy for the next three to five years. The development and prioritization of specific projects within each program is explained in the following section 7.

6.5   Industry and stakeholder consultation

6.5.1 An important and essential step in order to develop the USF strategy and program is to consult with the industry and other relevant stakeholders. This can include

(a) at an early stage data input, views and discussions;

(b) workshops to discuss the draft USF strategy and program and solicit comments and feedback; and

(c) sharing the draft USF strategy document for written comments.

6.5.2 Taking industry and stakeholder input and comments into account and under consideration, the USF shall finalize the strategy document and make it publicly available on their web-site.

7   PROJECT DESIGN AND PRIORITISATION CRITERIA

7.1   General

7.1.1   The large majority of projects can be designed and prioritised by the USF according to the commercial viability analysis described in this section. This applies mainly to supply-side oriented projects which are aimed at communications service providers to build and operate infrastructure to supply specific services. These projects are to be commercially viable with the help of a smart subsidy from the USF. A commercial viability analysis can be used to categorise, group and prioritise individual project areas.

7.1.2   The USF may also fund other projects where commercial viability is not possible or not necessarily the aim, such as projects focussed on capacity building. The focus here is typically sustainability. While some principles from the smart subsidy approach can be derived, it requires additional criteria to help design and prioritize projects, described below.

7.1.3   There are also general key considerations for USF project design and prioritisation which need to be balanced by the USF, as follows:

  (a)   The degree of regional representation among USF projects;

  (b)   Sustainability of projects, at least for a period of time, after which it is no longer required;

  (c)   Practicality of projects: start with do-able projects and tackle more difficult projects with increased experience and capacity of all involved;

  (d)   Maximize impact of projects, e.g., higher number of people, lower subsidy (e.g., by comparing subsidy cost per person impacted);

  (e)   Based on needs and demand for communications services;

  (f)   Ensure a level-playing field and fairness by designing project tender lots which allow a larger number of operators to bid successfully; and

  (g)   Available funding, timelines and capacity to implement.

7.2   Smart subsidy commercial viability analysis and prioritisation

7.2.1   The smart subsidy is the amount of money required by a communications service provider to bring loss-making services to an acceptable rate of return over the long term.

7.2.2   The USF initially estimates the 5 year revenues and costs, and the "financial gap" of providing a particular communications service. The estimate should be on the generous side. It will be used as the maximum allowable subsidy in the bidding process. Bidders will make their own estimate, at or below the maximum allowable subsidy. The competitive process will ensure there is no overcharging of the USF.

7.2.3   The USF uses a subsidy and financial viability model that assesses the commercial viability of providing communications services to unserved or underserved areas. It estimates the financial gaps and the subsidies required for commercial operators to take on providing the service. The following includes typical inputs to the model:

(a)   Population numbers and their demand/ projected expenditures on communications services. This is to model expected revenues from populace, institutions and businesses for the particular communication services in each underserved area;

(b)   Per capita and household incomes to cross-check reasonable communications expenditure as a percentage of income;

(c)   Geographic areas– townships and village tracts that remain unserved or underserved;

(d)   Infrastructure and service supply costs – the costs for supplying extension of the existing infrastructure and service provision into unserved or the underserved areas of the country. These costs also include operating costs. Costs will be based on the most economic technical solution.

7.2.4   The output of the subsidy and financial viability model is a **viability rating** as a percentage of commercial viability for each project or project area. For example: assuming to serve a township requires a USD 1,000,000 investment to provide service and the one-time subsidy required to make this investment viable over a 5 year time horizon is USD 200,000, this area is _80% viable_. The service provider is expected to invest USD 800,000 and the USF subsidy is USD 200,000. The viability rating is the proportion of the estimated commercially viable revenue that the model calculates as the _financial gap_ compared to the overall investment needed for viability, considering both the Capex requirement and Opex costs. The table below shows a typical categorization of viability ratings, highlighting in blue what type of projects the USF can best target.

Category	Viability Factor	Project Description and Priority Implication
1	>100%	Definitely commercially viable and will be served by existing service providers soon; no subsidy required.
2	76-100%	Project is close to viable. Not yet specifically targeted by existing service providers, but could be targeted commercially soon without financial incentive. Predicted subsidy less than 25% of Capex. USF Program could accelerate investment, but there is a risk that it will be served soon anyway.

Category	Viability Factor	Project Description and Priority Implication
3	51-75%	Commercially unviable without a subsidy in the range of 25-50% of overall investment. Good target for USF Program.
4	26-50%	Unviable and very unlikely to be served without subsidy in the range 50-75% of overall investment. Should be targeted for USF Program subsidy
5	0-25%	Definitely unviable without major subsidy, e.g., requiring more than 75% of overall investment. Also may require an ongoing operating cost subsidy. Could only be targeted later when market has expanded, or possibly part of true access gap that cannot be reached in a sustainable manner.

7.2.5   In accordance with USF's objective of leveraging industry participation and supporting sustainable development of services, while minimising the amount of subsidy needed, the USF should focus on projects/localities with a viability between 25% to 75% - i.e., categories 3 and 4, highlighted in blue,

7.2.6   Some localities in Category 5 may be considered as eligible for smart subsidy if "mixed" with more viable localities in Categories 2 and 3, and accepted by service providers as part of a regional tender lot. The USF shall optimise the possibility of including all regions and communities in the universal service program.

7.2.7   The USF shall also maintain a dialogue with the operators to ensure that technological solutions which make the most sense, especially for small population and geographically remote areas, are allowed and encouraged. This may include satellite versus terrestrial expectations, the degree of co-location and infrastructure sharing demanded or, otherwise, the potential approach to national roaming or RAN sharing to achieve commercial viability.

7.3   Sustainable project design and prioritisation

7.3.1   For other projects, where the smart subsidy commercial viability analysis is not possible or appropriate (such as pilot projects, capacity building projects), the general key considerations listed under 7.1.3, and the additional considerations listed below shall be used to guide the design and prioritisation of USF projects.

7.3.2   The readiness of the beneficiary of a USF subsidy, such as digital learning centre, school, training or other institution, is important. This refers to the

capacity to take advantage of the provided communications services, as well as the capacity to maintain and secure any provided equipment.

7.3.3   Projects thus need to be designed in a holistic way that demand and ensure readiness from beneficiaries and project partners. This may mean that the project includes additional flanking measures that support the success and impact of the project.

7.3.4   Sufficient processes or structures need to be put in place to ensure good communication with and support from project partners and beneficiaries.

7.4   Industry and stakeholder consultation

7.4.1   Similarly to engaging the industry and stakeholders during USF program development, success in project implementation is increased by engaging the industry and other relevant stakeholders during individual USF project design.

7.4.2   The USF shall share its draft project design through a workshop or other effective means. This shall include commercial viability analysis, draft bidding documents and the service agreement, where applicable, or other relevant project terms and conditions. The project design then gets finalised using helpful and relevant feedback.

8   TENDERING PROCEDURES AND SELECTION

8.1   Tendering process shall be carried out consistent with objectives and principles of the Government Tender Directive No.1/2017 or its successor thereto. Any complaints resulting from the tender process will be resolved as per the requirements of the Tender Directives or successor thereto

8.1   Program 1 - General requirement for Infrastructure Projects

8.1.1   The selection measures to distribute USF subsidies and achieve US to communication services in unserved and underserved communities under Program 1 (Infrastructure Projects) will be the following:

(a)   Successive rounds of single-stage competitive tenders among nationwide telecommunications licences for smart subsidies to deliver services in the target communities that do not have services to date;

(b)   The USF may also use other procurement methods based on procurement rules and allowable practices of the Regulator, in case the above methods are not considered appropriate or feasible. However, those shall be the exception, and still adhere to the principles of transparency, fairness and stakeholder consultation.

8.2   Single-stage competitive tenders for smart subsidies

8.2.1   The mechanism to select an operator or service provider to receive a smart subsidy and provide defined services in a defined target area or for specific customers is a public, transparent and competitive tender.

8.2.2   This tendering process shall be used for larger network infrastructure or service provision projects providing communications services. It is targeted at operators and service providers.

8.2.3   This type of competitive tendering does not involve any weighting of evaluation points between the technical and financial proposal, but is a two-element process where a sealed proposal, containing the technical and financial elements, is submitted by bidders.

8.2.4   **First element:** the technical proposal is evaluated. Here bidders have to qualify first. The RFP specifies the qualification requirements. This includes stringent corporate and financial qualification, and substantial technical, operational and service specifications. Against these required qualifications, a simple pass or fail evaluation takes place. Only bidders that pass the technical evaluation will be considered qualified and eligible for an award.

8.2.5   The RFP also includes a maximum allowable subsidy for each area and USF project. This provides the industry with an upper cost ceiling to guide and increase cost minimization efforts and innovative use of technology.

8.2.6   **Second element:** qualified bidders have their financial proposal considered and evaluated. Among these qualified bidders, the qualified and technically compliant bidder with the lowest request for subsidy is awarded the project. The requested subsidy cannot exceed the maximum subsidy published in the RFP.

8.2.7   Winning bidders will sign a time-bound service agreement to offer telecom services in the areas covered in the bidding process with only one-time financial subsidy. The service agreement has appropriate penalties if services do not meet quality, and other requirements, that were set out in the RFP. The operator, like the rest of its telecom network, will own, operate and maintain the network built under this bidding process. It also has the right to lease certain parts of the network (e.g., towers or fibre).

8.3   Requirements for public tender

8.3.1   The USF shall develop standard RFP documents according to best practice for US projects. The RFP shall also include a draft contract, often called the service agreement.

8.3.2   The RFP is issued and notice of tender shall be advertised in at least two national newspapers with a wide circulation and on the Regulator website.

8.3.3   The public tender documents shall normally be issued with at least two months lead-time, allowing for bidders to investigate and prepare fully researched and detailed responses.

8.3.4   Public tender documents may be offered for sale to prospective bidders for the sum that would be determined by the USF Board from time to time.

8.3.5   Two to three weeks after issuing the RFP, the USF shall hold a bidders meeting, allowing registered bidders to ask questions and clarify any issues. The USF shall issue an amendment of the RFP if any changes to the RFP are considered appropriate, based on results from the bidders meeting.

8.4   Bidder requirements

8.4.1   Bidders for USF projects must generally be a holder of an existing and valid applicable licence for provision of communications services in Myanmar. This also includes the required spectrum authorization. Therefore, USF competitions for providing basic communications services are limited to a national competitive bidding process, and for Program 1 – rural coverage, only the four NTL operators are eligible.

8.4.2   Bidders must demonstrate that they have sufficient experience in providing the required communications services in Myanmar. Bidders typically are required to have been in the business of providing communications services for at least two years, either in Myanmar or other countries. If required for the projects, this shall include experience of providing infrastructure based

communications services in rural or remote areas. The USF can modify the experience requirement as appropriate to fit the specific project and situation in question.

8.5   US communication services and technology

8.5.1   The requirements of the tender documents shall be technology neutral. The RFP will specify in detail what type of communication services are to be provided, including quality of service requirements, operational requirements and required user support and awareness raising. Some technologies implicitly may not qualify as their technical capability may not meet certain service specifications (e.g., required broadband download speeds).

8.5.2   Bidders shall demonstrate that the solution offered is operationally and commercially proven. Typically, at least two operating commercial systems or networks of similar or larger size should be offered for reference purposes.

8.5.3   Bidders needing radio frequencies shall be required to secure these frequencies in advance of bidding.

8.6   Financial requirements

8.6.1   The tender documents shall require bidders to demonstrate financial stability, with adequate cash flow, debt/equity and earnings from the record of the previous two years of communications service provision. This is to ensure that they are financially able to deploy and operate the US communications services, as they only will receive a partial subsidy and are required to make additional investments themselves.

8.6.2   The USF Board may require the posting of an appropriate bid bond and a performance bond by the bidder, through a reputable bank, as security for the tendering and subsidy disbursement process.

8.7   Project award and Service Agreement

8.7.1   The service contract shall be awarded to the qualified bidder who meets all minimum service levels and corporate, financial and other requirements, and the least required subsidy.

8.7.2   Results of award shall be published in newspapers of wide circulation and website indicating the scope of work, amount of subsidy, period of the contract and name of providers who participated, their requested subsidy and reasons for rejection of their tenders, if any.

8.7.3   The winning service provider shall meet the minimum service level specified and service quality standards that are listed in the Request for Proposal (RFP) and Service Agreement.

8.7.4   Any winning service providers will be subject to applicable sector regulation.

8.7.5   When awarding any USF contracts to bidders, the USF must take care to avoid any conflicts of interest. USF Board members shall not be allowed to vote on approval of USF contract award if they represent organizations or companies that have an ownership interest in any bidder or directly represent the bidder. Options to increase transparency and avoid a conflict of interest of the USF when awarding funds include, that the evaluation of the tenders and award shall be completed at arm's length from the USF Board, such as through an third party USF procurement specialist.

8.8   Program 2 - Broadband Connectivity and ICT Training Projects-Enabling the digital future

8.8.1   The requirements for competition under this program shall comprise a procurement process that is adaptable to the kind of non-Government organisation (NGO), non-profit organisation or private training institutions that provide digital learning / training services, as well as include procurements that will involve the licensed operators.

8.8.2   For projects other than rural and basic communications service provision, such as capacity building or for special piloting projects, the USF may open a USF competition to international bidders. This is only allowed in the event that for that particular bidding process either the expertise required or level of competition required cannot be achieved alone within a national bidding process.

8.8.3   The USF will use an annual application process to solicit eligible proposals for USF subsidy for digital literacy and training projects.

8.8.4   The USF will publish a detailed application form that assists applicant organisations to supply the required data, information and qualitative rationale for the digital literacy project and broadband connectivity. Clear evaluation criteria and guidelines will be published that shall be used to select proposals for funding. This will also set-out clear accountability and monitoring processes that ensure funding is used for the intended purposes and target groups.

8.8.5   The best proposals will be selected. Applicant organisations need to demonstrate that they are addressing a gap; and that there are few or no other options to receive this training that is affordable. Their proposal needs to include their existing digital literacy training curriculum (e.g., the detailed topics, training material, etc.).

8.8.6   **Competitive bidding approach for broadband Internet connectivity:** The supply of digital connectivity to locations managed by eligible organisations such as Digital Learning Centres will be divided into several bidding lots.

8.8.7   The connectivity will be supplied by the telecom industry and service providers will be selected via competitive tenders. They will receive a subsidy

from the USF for providing the service that will cover their costs. This is similar to the process for Program 1, but much simplified and more than the four NTL operators will be eligible to participate.

8.8.8   The USF shall partially subsidise the monthly cost of broadband Internet connectivity to each institution location for 3 to 5 years, on a declining percentage basis. After that, the need to continue the subsidisation shall be evaluated. The evaluation will centre around

(a) if the goal been achieved to teach basic digital literacy or if there is still need and demand for basic digital literacy training. And

(b) if yes, is a subsidy still needed or can the digital learning centres pay for broadband Internet themselves through various options of self-funding (e.g., users are willing to make small payment for training and/or internet access)?

8.9   Program 3 - Small projects

8.9.1   Under its Program 3 (Small Projects) USF may:

(a) initiate from time to time specially justified special projects, in order to establish or refine its knowledge or methodology to be employed in the main program. It may also simply wish to fund a smaller project and smart subsidy bidding process as used under Program 1 may not be required or appropriate.

(b) implement pilot projects on universal service themes to explore new approaches which could become main stream programs in the next Universal Service Strategy.

8.9.2   These small projects shall use a public RFP process to identify and select appropriate USF subsidy recipients.

8.9.3   Key evaluation and selection criteria for small projects are as follows:

(a) Demonstration of cash or in-kind contribution in a specified ratio to the amount of the requested subsidy;

(b) Preparation of a business or sustainability plan – using a guideline provided in the RFP, which shows viability or sustainability for a specified period of operation such as 3 to 5 years;

(c) This shall include item-by-item costing details (capital and operational costs), anticipated revenues and income, any fees the bidder plans to charge the users, along with the technical infrastructure and equipment, its depreciation and replacement, and staffing plans;

(d) Demonstration of capacity to implement and manage the USF project through adequate and qualified staff and management. Training needs of staff shall be clearly identified;

(e) The definition of the user community, and explanation of how the users will be sensitised to the opportunity for communications services usage;

(f) Clear vision of what the project will address in terms of needs and demand, and the specific ways in which the communications services will be used by the user community;

(g) Demonstration of partnerships, where appropriate to provide ongoing support and resources;

8.9.4 Results and findings from pilot projects shall be made public.

8.9.5 In order to assist bidders or applicants with little experience of funding agencies, the proposal shall be prepared in a standard format, to be provided by the USF, with explanation and examples, upon request.

8.10 Unsolicited proposals

8.10.1 From time to time, the USF may receive unsolicited proposals. Based on its key principle of fairness and transparency, the USF cannot fund any such proposals directly. If the USF considers the proposed idea to provide US for a certain communication as valuable, it shall develop a public tender or small project as described previously. This will allow potential other players an equal chance to also offer their services or compete for funds, and thus serves the purpose of the USF best.

9   SUBSIDY DISBURSEMENT AND MONITORING

9.1   General

9.1.1   All USF subsidy disbursements shall be made in tranches and may commence with, though not necessarily always required, a down payment upon signature of the service agreement. One or more subsequent payments shall be made upon certified completion of the installations and establishment of the project or service. The subsidy disbursement schedule shall always be spelled out in the RFP.

9.1.2   The disbursement of subsidies for implementation of the US project, and the penalty conditions for non-conformance shall be clearly outlined in the Service Agreement.

9.2   Inspections for subsidy disbursements

9.2.1   The USF will ensure that the conditions stipulated in the operators' Service Agreements, including technical compliance, during the roll-out periods are met, before any payments are made after the initial down-payment.

9.2.2   Depending on the complexity and size of the funding, the USF Board of Trustee shall either appoint a Regulator employee or third party expert as technical auditor to carry out technical inspections, which will include the following:

(a)   Determination as to whether each of the implementation milestones identified in the subsidy disbursement schedule have been met;

(b)   Determination as to whether any of the required services meet the availability and quality specifications of the service agreement;

(c)   Determination as to whether the overall network or infrastructure meets specifications;

(d)   Issuing an implementation milestone certification to the parties to indicate that a implementation milestone has been completed in accordance with the schedule, or has not been completed;

(e)   Making a determination as to whether a Force Majeure event exists in accordance with the Service Agreement; and

(f)   Issuing any relevant and justifiable technical amendments.

9.3   Project status and service roll-out

9.3.1   The USF shall require quarterly reports from service providers showing project and service status and rollout statistics, in order to keep record of total project achievement as well as to monitor service provider performance against their service contracts.

9.4   Ongoing service quality

9.4.1   USF Management Unit shall maintain a database of service quality requirements and service provider compliance, in order to:

(a) Ensure that service provider receiving subsidy provide an acceptable grade of service, in accordance with their service agreement;

(b) Ensure service provider's compliance with obligations;

(c) Determine the need for remedial action; and

(d) Create competitive pressure towards good performance.

9.5   Enforcement

9.5.1   Licence holders assisted by USF shall be subject to all the requirements and obligations contained in their licences. The Regulator shall have the right to exercise whatever recourse as empowered under the Telecommunications Law 2013 in the event of violations by licensees.

9.6   Environment and Social Management Framework

9.6.1   Based on the Environment and Social Management Framework developed in 2013 by the Government of Myanmar for the Telecommunications Sector Reform Project, the USF shall use the guidelines and screening programs contained in that document for the implementation of USF projects, and refine, update and modify as appropriate.