

Universal Service Fund

(A company set up under Section 42 of the Companies Ordinance 1984)

REQUEST FOR APPLICATIONS FOR ESTABLISHING TELECENTERS ON BUILD, OPERATE, & TRANSFER (BOT) BASIS

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USFCo.
Request for applications for establishing
Telecenters in USF areas on BOT Basis
Table of Contents

Part I: Introduction	5
1. Purpose of the RFA Process	5
2. Source of Funds	5
3. Current Legal, Regulatory, and Market Regime	6
4. USF Policy	6
5. Telecenters	7
6. USF Requirements	8
7. USF Contributors and Eligibility	8
8. Time Schedule	9
9. Project Administration and Correspondence	9
Part II: Rights and Obligations of USF Service Provider	10
10. Exclusivity	10
11. Construction of Telecenters, Supply of Services & Operations	10
12. USF Payments	10
13. Service Availability and Quality Specifications	10
14. Scope of Work	10
15. Regulation of Operators	11
16. Interconnection and Facilities Sharing	11
17. Numbering and Electronic Addressing	11
18. Type Approval	11
19. Regulation of USF Broadband Service Charges	12
20. Authority to Acquire Land, Construct and Use Facilities	12
21. Requirement to Build, Operate and Transfer the USF Telecenters	13
22. Transfer or Change of Control	13
23. [Omitted]	13
24. Force Majeure	13
25. Dispute Resolution	13
26. Technical Auditor	13

27. Compliance with Law _____	14
28. Term of BOT Agreement _____	14
29. Other Obligations under BOT Agreement _____	14
30. Fees Payable by the USF Service Provider _____	14
31. [Omitted] _____	14
Part III: Instructions to Applicants _____	15
32. Selection of Successful Applicant _____	15
33. [Omitted] _____	15
34. Qualification Criteria _____	15
35. Financing Capacity _____	15
36. Operational Experience _____	16
37. Applicant Eligibility _____	16
38. Consortium Applicant _____	17
39. Bid Bond _____	17
40. Responsiveness of Proposals _____	18
41. Content and Format of Proposals _____	18
42. Part 1 Structure Requirements – Qualification & Technical Proposal _____	19
43. Part 2 Financial Proposal _____	25
44. Compliance Checklist _____	26
45. Submission of the Proposal _____	26
46. Delivery of the Proposal _____	27
47. Opening of Proposals _____	27
48. Selection Process and Evaluation of Proposals _____	28
49. [Omitted] _____	29
50. Period of Validity of Proposal _____	29
51. Grounds for Rejection of Proposal _____	29
52. Subsequent Disqualification and Ineligibility _____	29
53. Letter of Intent _____	30
54. Performance Bond _____	31
55. Information Provided by USF Co. _____	31
56. Communications, Comments and Requests for Clarification _____	31
57. Confidentiality of Proposals _____	32

58. USF Co. Use of Proposals _____	32
59. Cost of Proposal and Bidding _____	32
60. Reservation of Rights _____	33
61. Legal and Formal Requirements _____	33
62. Miscellaneous. _____	33
Part IV: Definitions _____	35
63. Definitions _____	35
Annex 1: USF Financial Proposal Form _____	38
Annex 2: Bid Bond _____	40
Annex 3: Registration Form for TELECENTER(s) _____	41
Annex 4: Form of Letter Regarding Compliance with License(s) _____	43
Annex 5: Compliance Checklist _____	44
Annex 6: Draft of Proposed BOT Agreement _____	45
Annex 7: Dispute Resolution Terms and Processes _____	46

Part I: Introduction

1. Purpose of the RFA Process

1.1 All telecommunications licenses issued by the Pakistan Telecommunications Authority (“PTA”) subsequent to the De-Regulation Policy 2003 and the Mobile Cellular Policy 2004 provide for contribution by licensees to a Universal Service Fund (“USF”) except some Class licenses for Value Added Services (CVAS licenses).

1.2 USF intends to launch a tender for **Establishing Telecenters in un-served, under-served, rural and remote areas falling within the statutory mandate of USF** (“USF areas”) whereby USF Contributors will be asked to bid for the project on Build, Operate, and Transfer (**BOT**) basis.

1.3 The purpose of this Request for Applications (“RFA”) is to invite holders of telecommunication licenses with an obligation to make contribution to USF to submit Proposals, either individually or as part of a consortium, for the Telecenter Project.

1.4 This RFA is part of a Universal Service Program initiated by the Government of Pakistan (“GoP”), which is aimed at increasing access to ICTs – specifically, Broadband and electronic services - in un-served, under-served, rural and remote areas of Pakistan in a manner consistent with fair competition, international best practices and existing sector policies and GoP commitments.

1.5 GoP has created a not-for-profit Federal Government owned and controlled Universal Service Fund, a company set up under Section 42 of the Companies Ordinance 1984 (“USFCo”) to administer the USF, including the process initiated by this RFA (“RFA Process”). It is GoP’s intent that USFCo utilizes part of the USF fund toward payment for purchase of land for Telecenter, construction of Telecenter building, supply of equipment, broadband connectivity through Fiber Optic Cable, warranty support for supplied equipment, and operation of Telecenter for five years.

1.6 Further information on the establishment of Telecenters is set out in this RFA.

1.7 It is the intention of Government of Pakistan to implement its policy of extending access to Broadband and electronic services by establishing Telecenters in USF areas across Pakistan.

2. Source of Funds

Pursuant to Section 33A of the Telecommunication Re-organization Act, the USF shall consist of:

- (a) Prescribed contribution by licensees;
- (b) Sale proceeds from the auction of the right to use radio spectrum
- (c) Grants made by the Federal Government and the Provincial Governments;

(d) Loans obtained from the Federal Government; and

(e) Grants and endowments received from other agencies.

3. Current Legal, Regulatory, and Market Regime

3.1 Before 1996, Pakistan's telecommunications markets including internet were governed by the Telegraph Act, 1885 and Wireless Telegraphy Act, 1933. Most telecommunication services were provided by the GoP's Telegraph and Telephone Department and subsequently that Department was converted into a statutory corporation in 1990 as the Pakistan Telecommunication Corporation ("PTC") and later in 1996 it was converted into a public limited company Pakistan Telecommunication Company Limited ("PTCL"). Competitive mobile telephone service was launched in 1991. Payphone service was launched in 1993. But of these competitors, only PTC and then PTCL had a formal duty to serve cities, towns, villages and Mauzas in all areas of Pakistan.

3.2 Additional mobile, Wireless Local Loop (WLL), fixed-line Local Loop ("LL") and Long Distance International ("LDI") licensing since 2004 has increased competition substantially. Use of telecommunications services has expanded rapidly in this increasingly competitive environment.

3.3 Making modern telecommunications services (which include broadband services) available country-wide is a GoP priority.

3.4 In a competitive sector, it is not appropriate to impose universal service obligations on a single operator. Accordingly, the De-Regulation Policy (2003) at section 5, the Mobile Cellular Policy (2004) at section 8, and the Pakistan Telecommunications (Reorganization) Act, 1996 at section 33A, respectively, require that PTCL and all subsequent fixed and mobile licensees contribute to the USF.

3.5 Companies who enter into a BOT Agreement as a result of the RFA Process ("USF Service Providers") after competitive bidding will receive funding from the USF for the establishment of Telecenters, thereby increasing broadband penetration and providing public with access to e-services. The amount of the USF funding will be established in accordance with sections 12 and 43 of this RFA. The funding will be provided against identified Project Implementation Milestones in accordance with the Schedule D of the BOT Agreement.

4. USF Policy

4.1 The Universal Service Fund Policy ("USF Policy") is the policy framework guiding the RFA Process. It sets out goals, objectives, and guidelines for using USF funding to meet certain basic telecommunication and ICT services needs in areas of Pakistan which would otherwise remain un-served.

4.2 The USF Policy will guide the actions of USFCo. in administering the Universal Service Fund. The bidding of the project will be based on "reverse auction" with a reserve price. The RFA Process shall use competitive bidding among eligible licensees to minimize the amount of USF funding, and to maximize overall benefits from the USF. Together, these features establish a

USF regime to extend access to Broadband and electronic services through Telecenters to un-served and underserved, rural and remote areas in a sustainable manner consistent with fair competition.

4.3 The entire project shall be based on a **reserve price**.

5. Telecenters

5.1 A Telecenter will be a shared facility that provides public access to ICT and e-services primarily for the people in the un-served, underserved, rural and remote areas. Telecenter is universally considered to be an effective means in extending broadband internet outreach to un-served, underserved, rural and remote areas and enhancing ICT literacy. Telecenters have the potential to provide e-services, distance learning and create employment opportunities, among various other benefits.

5.2 The configuration of the Telecenter Project is given below;

- a) Purchase of Land as identified at Schedule B-3 of the BOT Agreement.
- b) Construction of Telecenter building as identified at Schedule B-2 of the BOT Agreement.
- c) Supply of equipment as identified at Schedule B-1 of the BOT Agreement.
- d) Broadband connectivity through Fiber Optic Cable as specified at Schedule A of the BOT Agreement
- e) Warranty support for supplied equipment and operation of Telecenter for a period of five years.
- f) Operation of Telecenters as mentioned in the Telecenter Operational Guideline (Schedule B-4 of BOT Agreement) for five years which may be extended for further period upon mutually agreed terms and conditions where USFCo is satisfied with successful operation of Telecenters. In case extension is not agreed upon, or if the BOT Agreement is terminated before expiry, then USFCo shall take over the charge of Telecenters for transfer to a new operator through competitive bidding. In that case the Telecenter must be in a fully functional condition, and any shortcoming in the USF financed equipment and civil structure shall be rectified at bidder's cost.
- g) The Service Provider will provide following free of cost facilities;
 - i. Space and broadband services to NADRA for three years.
 - ii. Broadband internet to the General Public
- h) The Telecenter shall be primarily used for promotion of ICT services and provision of e-services provided by NADRA. Any other service, for example Biometric Sim Verification, etc., beneficial for communities and making the Telecenter financially viable, shall be provided with the prior written consent of the USFCo.

5.3 In order to achieve these objectives, USF Co. through this RFA process, will select USF Service Provider for the establishment of Telecenters on BOT basis at locations mentioned in Schedule C of BOT Agreement.

5.4 After establishing Telecenters, USF Service Provider will operate these Telecenters in a sustainable manner for a period of five years. The USF Service Provider will follow the Telecenter Operational Guidelines attached as Schedule B4 of BOT Agreement.

5.5 The geographic locations and details of Telecenters that are the subject of this RFA and related USF funding are identified in Schedule C of BOT Agreement.

5.6 It is mandatory for all bidders to visit the Telecenter locations mentioned in Schedule C of BOT Agreement, and identify more than one land parcel for each of the proposed Telecenter, before submitting their proposals.

6. USF Requirements

The mandatory requirements, that has to be met by the successful Applicant(s) selected pursuant to this RFA, regarding parameters for land parcel, construction, connectivity, equipment and operations are identified in Schedules A, A1, B-1, B-2, B-3 ,B-4, and B-5 of the BOT Agreement.

7. USF Contributors and Eligibility

7.1 Persons whose Local Loop (“LL”) Wireless Local Loop (“WLL”), Long Distance and International (“LDI”) or Telecommunication Infrastructure Provider (“TIP”) License was issued after adoption of the Deregulation Policy 2003, and persons whose mobile cellular license was issued or renewed after adoption of the Mobile Cellular Policy 2004 have an obligation to contribute 1.5% of annual gross revenues to the Universal Service Fund, less inter-operator fees and related payments mandated by the PTA or Frequency Allocation Board (“FAB”).

7.2 Any other licensee who has had its license issued, re-issued or amended to include Universal Service Fund contribution payment requirements will, on satisfaction of those requirements, be classified as a USF Contributor as well.

7.3 Eligibility to participate in the RFA process is limited to USF Contributors only under the Universal Service Fund Rules, 2006.

7.4 Rule 24(12) of the USF Rules sets out the following further restriction:

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 during which 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.

USFCo. has developed guidelines under Rule 24(12), which can be amended from time to time. Applicants should consider the potential application of this restriction in considering their bidding strategy, particularly where multiple USF Projects are being offered.

8. Time Schedule

8.1 The timetable for the RFA events, beginning with publication of the pre-auction notice, is set out below.

Event	Date
Publication of Specific Procurement Notice	14-March-16
Distribution of RFA document & Start of Registration	14-March-16
Deadline for submission of questions by bidders	2-May-16
Final answers to questions	17- May-16
Last Date for Registration of Applicants	27-May-16
Deadline for submission of Proposals	15-June-16
Opening of the Qualification & Technical Proposal	15-June-16

8.2 If the scheduled day of an event falls on a gazetted holiday in Pakistan, the day of the event will be the next working day following such holiday.

9. Project Administration and Correspondence

9.1 All correspondence relating to this RFA should be addressed to:

Chief Technology Officer (CTO), USFCo.
5th Floor, HBL Tower, Jinnah Avenue,
Islamabad,
Pakistan
Telephone: 051-9212308-09
Fax: 051-9214261
E-mail: projects.tenders@usf.org.pk

End of Part I

Part II: Rights and Obligations of USF Service Provider

10. Exclusivity

A USF Service Provider will not have any exclusive rights to provide USF Broadband Services in the USF Adjacent Areas of Telecenters.

11. Construction of Telecenters, Supply of Services & Operations

It is GoP's intent that USF Co utilizes part of the USF fund toward payment for purchase of land for Telecenter, construction of Telecenter building, supply of equipment, broadband connectivity through Fiber Optic Cable, warranty support for supplied equipment, and operation of Telecenter for five years in accordance with RFA.

12. USF Payments

In order to promote GoP's policy of expanding ICTs, Broadband & electronic services and access in un-served/under-served, rural and remote areas, USF funding, based on purchase of land, construction of Telecenter, provisioning of USF Telecenter Equipment and USF Telecenter Services to designated Telecenters and operational cost for five years, shall be provided to the USF Service Provider. The USF payments shall be made in accordance with the Schedule D of BOT Agreement.

13. Service Availability and Quality Specifications

13.1 The USF Service Provider must roll-out and operate Telecenters in accordance with the plans submitted and the technology described in its accepted Proposal.

13.2 The USF Service Provider must also roll-out and operate the Telecenters so that the USF Broadband Services meet all applicable quality of service measures and requirements, including those set out in applicable License(s) and BOT Agreement enclosed as Annex 6.

13.3 Quality of service reports for the USF Broadband Services shall be filed by the USF Service Provider with USF Co. in accordance with the BOT Agreement.

14. Scope of Work

14.1 Purchase of Land - purchase of 9000 square feet land at an accessible location (in the name of USFCo, in whose name the land have to be transferred) in accordance with Schedule B-3 of BOT Agreement for the construction of Telecenters.

14.2 Construction of Telecenter Building- To construct a building as per the design and requirements attached as Schedule-B2 of BOT Agreement.

14.3 USF Broadband Services – The USF Broadband Services, shall be provided to the Designated Telecenters through optic fiber, in accordance with Schedule A of the BOT Agreement.

14.4 Equipment- The equipment shall be provided in accordance with Schedule B-1 of BOT Agreement.

14.5 Operations – USF Service Provider shall be responsible for operation of Telecenters as mentioned in the Telecenter Operational Guideline (Schedule B4 of BOT Agreement) for five years extendable for further period upon mutually agreed terms and conditions.

14.6 Optional Services – In addition to the USF Broadband Services, a USF Service Provider may provide other optional services in the designated Telecenters, to the extent the USF Service Provider is authorized to provide such services under applicable License(s) without compromising on the quality of the USF Broadband Services after prior written approval by USF Co.

15. Regulation of Operators

USF Service Providers will remain subject to all other regulatory requirements established from time to time by the PTA, including the terms of all previously granted Licenses.

16. Interconnection and Facilities Sharing

16.1 Interconnection between a USF Service Provider’s network and other licensed telecommunications networks in Pakistan is governed by applicable laws such as:

- (a) The Act;
- (b) The Pakistan Telecommunication Rules, Policies and Guideline;
- (c) All applicable licenses;
- (d) The Interconnection Regulations; and
- (e) The BOT Agreement.

17. Numbering and Electronic Addressing

17.1 Any numbers or electronic addresses used in Pakistan by a USF Service Provider shall be in accordance with the Act and any applicable numbering or electronic addressing plans established by the PTA pursuant to the Act.

17.2 For the purposes of section 17.1, “electronic addressing” shall be interpreted as including ENUM, Distributed Universal Number Discovery (“DUNDi”) and other systems for mapping telephone numbers to IP addresses; but does not include domain name management related systems or functions.

18. Type Approval

Any Broadband equipment or facilities used in Pakistan by a USF Service Provider shall be subject to the type approval requirements of the Act and any type approval processes established by the PTA pursuant to the Act.

19. Regulation of USF Broadband Service Charges

19.1 The tariffs charged by a USF Service Provider for the Telecenters in the USF Adjacent Areas are subject to requirements under the BOT Agreement, including that those charges shall not exceed the USF Service Provider's national or regional tariffs for the same or equivalent services provided in urban locations that are not included in the USF Areas¹.

19.2 USF Service Providers remain subject to any other tariff regulation by the PTA pursuant to the Act.

20. Authority to Acquire Land, Construct and Use Facilities

20.1 Subject to the terms of the BOT Agreement, a USF Service Provider will be required to acquire (at its own cost) land in the name of USFCo and transfer the land in the name of USFCo. The USF Services Provider shall also construct or otherwise procure all ICT facilities required to provide the USF Broadband Services in Telecenters and USF Telecenter Equipment mentioned in Schedule A & B of the BOT Agreement. The Service Provider shall bear the cost of purchasing and transferring the land in the name of USFCo. If any land is acquired on leasehold basis pursuant to Schedule B-3 of the BOT Agreement, the USF Service Provider shall be responsible for payment of the lease rental and other payments required to be borne and made by the lessee under the lease such as, without limitation, security deposits (to be refunded to USFCo upon the expiry or termination of the lease) and advance lease payments, during the term of the BOT Agreement.

Without limiting the generality of the foregoing, the Service Provider shall bear stamp duty, registration fees, mutation fees and all other costs of acquiring and transferring the land in the name of USFCo. The Service Provider shall also bear the cost of obtaining and maintaining all permits (including conversion and user permits) and utilities including gas where available, electricity and water required for the construction, operation and maintenance of the Telecenters and shall also bear property tax and all other taxes, duties and impositions (of whatever nature and howsoever described) levied on or with reference to the property in question or its use, notwithstanding that the same may be imposed or leviable on USFCo as the owner thereof). The USF Service Provider will apply for, and maintain, all utility connections in the name of USFCo.

20.2 All ICT facilities and equipment installed by a USF Service Provider as part of the USF Telecenters shall be:

- (a) New when first installed;
- (b) field-proven (in accordance with section 42.7); and

¹See section 2.06 of BOT Agreement.

(c) Compliant with internationally recognized standards.

20.3 Any permissions or authorizations required from authorities or other persons in connection with the purchase of land and use thereof for construction of Telecenter, provision of broadband internet, commissioning of equipment, and operation of Telecenter for five years (as extended under the BOT Agreement) and transfer thereof in accordance with the BOT Agreement shall be the responsibility of the USF Service Provider.

21. Requirement to Build, Operate and Transfer the USF Telecenters

A USF Service Provider shall be required to Build, Operate and Transfer Telecenters in accordance with the BOT Agreement.

22. Transfer or Change of Control

The BOT Agreement shall remain in force for a period of five years, in addition to one year and six months for construction of Telecenter, from the date of its signing. After the expiry of the contract period USF shall be entitled to take control of Telecenters or extend the contract by mutual consent on agreed terms and conditions. USF shall be entitled to take control of Telecenters upon termination of the BOT Agreement prior to the expiry of its original period.

23. [Omitted]

24. Force Majeure

Where Force Majeure Certification has been duly issued by the USF Co, a USF Service Provider shall be excused in accordance with the BOT Agreement from certain failures to perform its obligations under the BOT Agreement if an event of force majeure has prevented the performance of the obligations (see Schedule K of BOT Agreement).

25. Dispute Resolution

The BOT Agreement includes a number of mechanisms to facilitate resolution of disputes, including the appointment by USFCo. of disputes committee, consisting of appropriately qualified persons. Where disputes cannot be resolved by application of these mechanisms (set out in Schedule M of BOT Agreement), parties will continue to have the right of recourse to legal proceedings in accordance with the laws of Pakistan.

26. Technical Auditor

A Technical Auditor shall be appointed by USFCo. in accordance with the BOT Agreement, and other processes applicable under law. The Technical Auditor(s) may be an appropriately qualified employee(s) of USFCo. and/or expert consultant(s), and will perform identified functions in accordance with the BOT Agreement including:

- (a) certification that Project Implementation Milestones have been met or otherwise;
- (b) certification that events of force majeure have prevented the performance of certain obligations under the BOT Agreement; and

(c) proposing amendment in BOT Agreement, upon the occurrence of a certified event of force majeure etc.

27. Compliance with Law

A USF Service Provider shall be required to comply with all laws of Pakistan applicable to its activities related to Telecenter Project at all times, including the Act, all Regulations, Rules, Policies, Orders, decisions and guidelines issued under the Act.

28. Term of BOT Agreement

The total duration of the BOT Agreement will be six years six months, segregated as given below:

- I. Establishment of Telecenters –**one year six months** from the date of the signing of the BOT Agreement
- II. Telecenters Operation – **five years** after establishment of the Telecenters.

29. Other Obligations under BOT Agreement

The BOT Agreement contains specific obligations of the USF Service Provider, including obligations regarding purchase of land, construction of Telecenters, provision of the USF Broadband Services and USF Telecenter Equipment and Operation of Telecenters for five years. The BOT Agreement also includes specific remedies for non-performance, including en-cashing of the Performance Bond or exercising the lien, as well as insurance requirements, indemnification, and USF Service Provider's representations and warranties.

30. Fees Payable by the USF Service Provider

A USF Service Provider will be responsible for paying any fees, taxes or charges otherwise applicable to the USF Service Provider in relation to its implementation of Telecenter Project, in accordance with the Act and other laws of Pakistan and regulations made thereunder.

31. [Omitted]

End of Part II

Part III: Instructions to Applicants

32. Selection of Successful Applicant

USF Co. plans to execute BOT Agreement with the Applicant whose Proposal meets the following selection criteria:

- (a) the Proposal demonstrates that the Applicant is a “Qualified Applicant”, meeting the requirements of sections 34, 35, 36 and 37 of this RFA;
- (b) the Proposal is “responsive”, meeting the requirements identified in section 40.1 of this RFA; and
- (c) the Applicant requests the lowest bid for the LOT i.e. to Build, Operate & Transfer Telecenters.

33. [Omitted]

34. Qualification Criteria

34.1 USF Co. will determine whether an Applicant qualifies as a Qualified Applicant for the purposes of the award of a BOT Agreement.

34.2 For the purpose of this RFA the qualification criteria are described in sections 35, 36, and 37.

35. Financing Capacity

35.1 The Applicant must satisfy USF Co. that the proposed USF Service Provider has sufficient financing capacity for the investments required to establish Telecenters, and operate these Telecenters for five years. The criteria to determine whether an Applicant has sufficient financing capacity for a project of this size are:

- (a) A net worth of not less than PKR 500,000,000 (Pak Rupees Five hundred million only) and
- (b) Possession or access to a line of credit equal to PKR 100,000,000 (Pak Rupees One hundred million only) per lot.

35.2 The net worth of any shareholder in the proposed USF Service Provider may be included in the calculation of the net worth of the proposed USF Service Provider for the purposes of sections 35.1 and 42.5 if:

- (a) the shareholder holds or will hold a minimum of 1/3 (one third) of the ownership interest (including all forms of ownership interest) in the USF Service Provider; and

(b) the shareholder indicates that it is willing to guarantee the performance of the USF Service Provider and provides a written undertaking to this effect for inclusion in the Proposal and in the BOT Agreement, which will be revised accordingly.

36. Operational Experience

36.1 The Applicant must have experience of establishing and operating ICT infrastructure for a minimum of five (5) years at the time of registration.

36.2 In complying with section 36.1 above, the Applicant may rely on:

(a) the operational experience of the USF Service Provider it proposes; or

(b) the experience of any Person that is a member of the Applicant's bidding consortium, and that Person:

(i) is licensed by the PTA; and

(ii) is a shareholder in the proposed USF Service Provider, or

(iii) has committed in a binding agreement to become a shareholder in the proposed USF Service Provider, provided that the Person holds or will hold a minimum of 1/3 (one third) of the ownership interests (including all forms of ownership interests) in the USF Service Provider.

37. Applicant Eligibility

37.1 The Applicant must demonstrate that the proposed USF Service Provider is eligible to receive the USF Funding.

37.2 As indicated elsewhere in this RFA, the Applicant must be a USF Contributor and included in the active taxpayers list of the Federal Board of Revenue

37.3 The Applicant must also not have any "conflict of interest", meaning any association with consultants or other advisors retained by USF Co. or GoP to advise on the design or implementation of the RFA Process; or participating in more than one Proposal in this RFA Process.

37.4 The USF Service Provider proposed by the Applicant must be incorporated under the Companies Ordinance, 1984.

37.5 The Applicant must possess valid License(s) for the relevant region and telecommunication services (i.e., has license to provide commercial internet/data services), issued by PTA. The Applicant must satisfy USF Co. that the proposed USF Service Provider is in substantial compliance with the conditions of its License(s). In complying with this requirement, the Applicant may rely on the License(s) of any shareholder in the USF Service Provider that meets the requirements of section 35.2.

38. Consortium Applicant

38.1 Any USF Contributor leading a consortium may bid for any Telecenter Lot on behalf of that consortium (“Consortium Applicant”) under conditions similar to those set out for an individual USF Applicant, provided that the consortium’s composition and Proposal materials satisfy the consortium requirements identified below – the BOT Agreement shall be revised, mutatis mutandis, to reflect the USF Service Provider being a consortium and the joint and several liability of each member of the consortium:

38.1.1 There shall be no limit on the number of members of the consortium, except that:

- (a) the consortium shall include at least one USF Contributor; and
- (b) the consortium shall include at least one LL, WLL or Cellular Mobile license holder; but shall include no more than one LL, WLL, Cellular Mobile or LDI license holder.

38.1.2 One member of the consortium shall be identified as the consortium leader. The consortium leader shall be responsible for consortium performance.

38.1.3 Notwithstanding section 38.1.2, all members of the consortium shall be parties to the BOT Agreement and shall be jointly and severally liable to USF Co. in respect to the performance of the BOT Agreement.

39. Bid Bond

39.1 The Bid Bond, valuing PKR 10,000,000 (Rupees Ten Million) for each lot, identified in section 45.8 USF Co. will not be obligated or liable to pay any accumulated interest on the Bid Bond.

39.2 The Bid Bond of all unsuccessful Applicants will be released not later than 30 days after the execution of the BOT Agreement. However the bid bond of the Applicant with second lowest bid, shall remain with USF Co. till the execution of the BOT Agreement with the successful Applicant.

39.3 The Bid Bond of the Applicant proposing the lowest funding will be released not later than 30 days after: i) the execution of the BOT Agreement; and ii) furnishing of the Performance Bond pursuant to section 54.

39.4 Notwithstanding section 39.3, the Bid Bond of the Applicant proposing the lowest funding shall be forfeited and encashed in any of the following cases:

- (a) the Applicant withdraws its Proposal prior to execution of the BOT Agreement or where, in the case of a consortium, the consortium agreement is terminated or amended prior to execution of the BOT Agreement without the prior written consent of USFCo;

(b) where the Applicant has received a Letter of Intent (LOI) for the execution of BOT Agreement and the Applicant fails or refuses to submit the Performance Bond in accordance with sections 53 and 54 of this RFA;

(c) if after the issuance of the Letter of Intent(LOI) USF Co. determines that Applicant is disqualified pursuant to section 51.1 of the RFA; and

(d) the USF Service Provider proposed by the Applicant does not execute BOT Agreement within 14 days of the issuance of LOI.

40. Responsiveness of Proposals

40.1 A Proposal will be considered responsive only if all of the following requirements are met:

(a) The Proposal is submitted by an Applicant (or any company or other Person identified in the Proposal as a member or participant in a Consortium Applicant) that has registered with USF Co. and purchased an official copy of the RFA in accordance with the Notice of Request for Applications document issued by USF Co..

(b) The Proposal is complete and submitted in accordance with all the requirements of this RFA, including the content requirements identified in sections 41, 42 and 43 and the submission requirements identified in sections 45 and 46.

(c) The Proposal is received before the closing date and time for submission identified in section 46.3.

40.2 Proposals that do not comply substantially with the above requirements will be rejected as non-responsive.

41. Content and Format of Proposals

41.1 Proposal for each LOT shall be assembled in two separate parts, contained in separate and clearly marked envelopes, as follows:

(a) Part 1 - **“Qualification & Technical Proposal”**, setting out information about the Applicant, the USF Service Provider proposed by the Applicant, purchase, construction, equipment and operations. (section 42)

(b) Part 2 - **“Financial Proposal”**, which shall set out the proposed USF Funding amount separately for each Telecenter LOT as mentioned in Schedule C of BOT Agreement. (Section 43)

41.2 The required content and form of each Part of the Proposal are outlined in more detail below. All parts of the Proposal must be printed using indelible ink.

42. Part 1 Structure Requirements – Qualification & Technical Proposal

Part 1 of the Proposal shall include the following documents and information:

42.1 Cover Letter and Attachments

(a) The cover letter and each page of the attached proposal materials must be signed by a person or persons duly authorized to act on behalf of the Applicant. Where the Applicant is a Consortium, the cover letter and attachments must be signed by a person or persons duly authorized to act on behalf of each member of the Consortium.

(b) The cover letter must provide a summary description of the Applicant, including the members of any Consortium Applicant, and of the USF Service Provider proposed by the Applicant.

(c) The cover letter must indicate a firm commitment to engage in final negotiation of the BOT Agreement promptly and in good faith.

(d) The cover letter must confirm that the Proposal is open for acceptance by USF Co. for 240 (two hundred and forty) days from the bid closing date identified in section 46.3 of this RFA.

(e) Attached to the cover letter must be one or more Power of Attorney (on stamp paper of the applicable value) and supporting Board resolutions (or extracts of Board resolutions duly certified by the respective company secretary) that clearly evidence the authority of the signatory/ (ies) of the cover letter and other documents submitted with the Proposal which require signature on behalf of the Applicant, a shareholder of the Applicant, the members of the Applicant Consortium, if applicable, or the USF Service Provider proposed by the Applicant. Powers of Attorney issued outside Pakistan shall be notarized and consularized by the relevant Pakistani embassy or mission and shall be affixed with adhesive stamps of the applicable value upon receipt in Pakistan before submission to USFCo.

(f) Also included with the cover letter must be the Bid Bond in the form of Annex 2 to this RFA, in accordance with the following requirements:

(i) The Applicant shall furnish a Bid Bond in the minimum amount of PKR 10,000,000 (Rupees Ten Million Only) in the form of Annex 2 to this RFA and issued by a reputable bank with AAA rating, located in Pakistan that is acceptable to USF Co.

(ii) The Applicant shall submit the Bid Bond as specified in Annex 2.

(iii) The Bid Bond of a Consortium must be in the name of the lead member of the consortium, who shall be expressly authorized to submit the same under the consortium agreement.

42.2 Information and Documentation on the Applicant

- (a) The name, legal status, registered office address and a description of the business of the proposed USF Service Provider.
- (b) The name, legal status, registered office address and a description of the business of all shareholders in the proposed USF Service Provider.
- (c) The name, legal status and registered office address of any Person who Controls the proposed USF Service Provider.
- (d) The name, legal status and registered office address of all Persons who own, directly or indirectly, any ownership interest in a shareholder of the proposed USF Service Provider.
- (e) The name, country of citizenship and address of each Person who is a director of the proposed USF Service Provider.
- (f) A chart:
 - (i) showing the ownership structure of the proposed USF Service Provider;
 - (ii) illustrating the relationship among all Persons having a direct or indirect ownership interest; and
 - (iii) specifying the nature and level of such ownership interest.
- (g) A description of the legal status of the proposed USF Service Provider, including:
 - (i) a certified copy of its certificate of incorporation, Memorandum and Articles of Association;
 - (ii) a certified copy of a resolution of the Board of Directors of the USF Service Provider that authorizes the Applicant to submit the Proposal and to enter into the BOT Agreement if it is awarded the same – for the avoidance of doubt, the aforementioned Board resolution is required in addition to, and is separate from, the Board resolution mentioned in section 42.1(e) of this RFA; and
 - (iii) any shareholder agreement, joint venture agreement or Memorandum of Understanding, or other arrangement of any kind between the shareholders of the proposed USF Service Provider.
- (h) In the case of companies with shares listed on a stock exchange, the information regarding shareholders required in sections 42.2(b), 42.2(d) and 42.2(f) must be provided only to the best of the Applicant's knowledge and only in respect of shareholders owning more than 10% (ten percent) of the issued shares.

42.3 Information to be submitted by a Consortium Applicant –

In the case of a Consortium Applicant, the Consortium Applicant's Proposal shall also include:

(a) the name, legal status, registered office address and a description of the business of all Persons with a direct or indirect ownership interest of more than 10% (ten percent) in the Consortium Applicant or in any member of the Consortium;

(b) where a Consortium member is an individual, identification and proof of citizenship for that individual;

(c) specific details of the structure of the Consortium, including identification of the lead member of the consortium;

(d) the agreement(s) establishing the Consortium, printed on stamp paper of the applicable value and executed by each member of the consortium through its duly authorized representative(s) whose signature shall be attested by two male witnesses or by one male and two female witnesses, and specifying at least:

(i) a clear allocation of responsibilities (including identification of the consortium leader) and confirmation that all members of the Consortium will be jointly and severally liable to USF Co. in respect of performance of the BOT Agreement;

(ii) the duration of the Consortium agreement;

(iii) details of the ownership interests in the Consortium and the financial contributions of each member;

(iv) arrangements governing managerial control by the Consortium over the operation of the USF Service Provider;

(v) a clear statement that the consortium agreement shall not be terminated or amended without the prior written consent of USFCo; and

(e) the powers of attorney (each on stamp paper of the applicable value) and supporting Board resolutions (or extracts of Board resolutions duly certified by the respective company secretary) from each member of the consortium that clearly approve the execution and implementation of the consortium agreement on behalf of each member of the consortium and evidence the authority of the signatory/(ies) of each member to enter into the consortium agreement on its behalf.

42.4 Documentation on the Applicant's License(s)

To demonstrate substantial compliance with the conditions of existing license(s), the Applicant shall submit:

(a) a copy of each license issued by the PTA to the proposed USF Service Provider, or to any shareholder of the USF Service Provider that meets the requirements of section 35.2;

(b) a copy of the most recent renewal of any such license; and

(c) a declaration in the form of Annex 4 to this RFA, representing that the Applicant is in compliance with all applicable license conditions, that PTA has not cancelled or suspended (or threatened to cancel or suspend) any such license and that it is otherwise in good standing with the PTA.

42.5 Documentation on Financial Resources of the Applicant

(a) Audited financial statements of the proposed USF Service Provider for the preceding two years, including an income statement and balance sheet, prepared in accordance with internationally accepted accounting standards as applicable in Pakistan by law; or

(b) If the proposed USF Service Provider has not existed, or has not received service revenues, for at least one year prior to the submission of the Proposal, the financial statements of any shareholder that meets the requirements of section 35.2 must be provided. The financial statements of said shareholder must be provided for the preceding one year and must be prepared in accordance with internationally accepted accounting standards (as applicable in Pakistan by law, in the case of Pakistani shareholders).

42.6 Documentation on Operational Experience of the Applicant

(a) Where the Applicant will rely on the experience of a Person identified in section 36.2, the Applicant must demonstrate that arrangements are in place to provide the proposed USF Service Provider with access to the technology, professional know how and operational experience required to operate the USF Network and to provide the USF Broadband Services. Specifically, the Proposal must include:

(i) a statement that identifies the Person;

(ii) documentation that clearly demonstrates that the relationship between the proposed USF Service Provider and such Person meets the requirements of section 36.2(b);

(iii) a written commitment from said Person to participate in the USF Service Provider's operations;

(iv) a description of such proposed participation, which must clearly demonstrate to USFCo's satisfaction that the Person will have a significant and continuing participation in running the operations of the USF Service Provider for the life of the BOT Agreement; and

(v) approval in writing by the Person's Board of Directors of the commitment and description of the Person's proposed participation.

(b) The Proposal shall include specific information regarding the telecommunications markets in which the proposed USF Service Provider (or, if its experience is relied upon, the Person identified in section 36.2) has operated in the manner described. Details should be provided concerning:

- (i) number of years of operation;
- (ii) Broadband management experience of the proposed USF Service Provider;
- (iii) types of ICT services provided; and
- (iv) experience of the proposed USF Service Provider in rolling out ICT services.

(c) The operational experience listed in section 36.1 above shall constitute experience of only one Person and not the aggregate experience of two or more Persons.

42.7 Field Proven Equipment and Software

(a) All proposed equipment and software shall have been satisfactorily field- proven in actual service. USF Co. reserves the right to verify the quality of the equipment and software and its satisfactory performance in actual service.

(b) The Applicant shall provide the technical specifications of the major types of equipment and software to be supplied, installed and operated in order to provide the USF Broadband Services, including modems, multiplexing equipment, routers, switches and method for connection to the global Internet.

(c) In view of the rapid technological development in communications technology, hardware and software, Applicants may propose that the USF Service Provider will install updated versions of the equipment and software in actual service. Applicants shall provide full details of the technological changes introduced in the proposed equipment and software.

42.8 Network Description

(a) The Applicant must provide a concise description of the planned network of the proposed USF Service Provider. The description must demonstrate that the proposed Telecenter will meet the requirements specified in the BOT Agreement, including, but not limited to, the USF Broadband Services specifications in Schedules A and B to BOT Agreement.

(b) The network description shall include:

(i) a summary description of the roll-out and service coverage plans for the Telecenters and USF Telecenter Services, that meet or exceed the Project Implementation Milestones;

(ii) the specific bandwidth capacity estimated by the Applicant as required to meet traffic requirements in the Telecenter(s) over the first five years of commercial operations, and how that capacity will be provided by the USF Service Provider;

(iii) proposed interconnection points: The Applicant should specify how it intends to connect its Broadband traffic to the Internet. The specification should make maximum use of existing services and facilities available from other service providers in order to minimize Funding requirements; and

(iv) a brief description of any land or rights in land (i.e., rights of way) that must be acquired for the operations, the estimated cost of acquiring such land or rights in land and the impact acquiring such rights might have on the Applicant's network roll-out plan;

(v) details of the alternate energy solution with detailed engineering drawings and designer certificates including mounting structure, weight, Line diagram of power system, design life, civil works, details of manufacturer, complete data sheets of all equipment involved and country of origin.

42.9 Operations Description - The Proposal must include:

(a) a general description of the intended operations of the USF Service Provider, including its general approach to implementation of Telecenter and provision of USF Broadband Services.

42.10 Quality of Service Description - The Proposal must include a summary of the methodology and processes that will be implemented by the proposed USF Service Provider to meet the service requirements and quality of service standards identified in Schedule A to the BOT Agreement, including performance monitoring, reporting and fault resolution processes.

42.11 Projected Financial Statements - The Applicant must provide projected financial statements for year one through five of the USF Service Provider, including an income statement, balance sheet and statements of sources and application of funds for the USF Service Provider prepared in accordance with internationally accepted accounting standards. For this purpose, the financial statements shall treat the USF Funding amount as if it were part of the debt, equity or deferred income of the USF Service Provider². The financial statements shall include projections of fee revenues from the USF Broadband Services and any Optional Services.

42.12 Tariffs and Charges - The Proposal must include a statement by the Applicant confirming that its tariffs and service charges for the USF Broadband Services in Telecenters will meet the tariff requirements identified in the BOT Agreement³.

42.13 Additional Information

²Applicants must take care that the USF Financing amount included in the financial statements is aggregated with other funds so that the amount of the Applicant's intended Financing cannot be specifically identified.

³See Section 2.06 of BOT Agreement.

- (a) The Applicant's comments on the draft BOT Agreement or any other transaction documents or requirements, including particularly any terms or conditions that the Applicant cannot or will not comply with; and
- (b) Any information that does not specifically respond to this RFA, but that the Applicant thinks is relevant to the Proposal.

43. Part 2 Financial Proposal

Information to be submitted by the Applicant in Part 2 of its Proposal:

- (a) **Financial Proposal** – The Applicant must provide a complete Financial Proposal Form prepared in accordance with Annex 1 to this RFA. As indicated in Annex 1, the amount of the proposed total cost of the project in accordance with a reserve price (where applicable) shall be set out in words and numbers and in the event of any discrepancy between the words and numbers, the amount set out in words shall govern, and the currency of the proposed USF financial proposal shall be stated in PKR.
- (b) Telecenter(s)– Telecenter will be auctioned based on a reserve price.

Capital Expenditures (CAPEX)

The reserve price for each Telecenter CAPEX will be PKR 15 million, that includes the price of land, construction of the building, equipment, solar, optic fiber deployment, and other cost for the establishment of Telecenters.

The Applicant's Financial Proposal must state the proposed cost of the project for establishment of the Telecenter as required under BOT Agreement for each of Telecenter as indicated in Schedule C of the BOT Agreement. The Applicant shall separately state cost of:

- i. Cost of Land, that should be in line with DC value of the relevant districts.
- ii. Establishment of each Telecenter as per Bill of Quantities as per schedule B3.
 - (i) Construction cost of the building PKR.
 - (ii) Construction cost of the building (external development including boundary wall, gates, etc)
- iii. Telecenter equipment as per schedule B-1
- iv. Cost of Optic Fiber cable (OFC) Deployment.

Operational Expenditures (OPEX)

USF will provide PKR 9 million for the operation of each Telecenter for the entire period of BOT-Agreement.

- (c) **Calculation of Cost**– The Proposal must include a concise financial analysis detailing the calculation of the proposed USF Funding amount for each Telecenter for a particular LOT identified in Schedule C of the BOT Agreement. The information furnished in this regard will be kept strictly confidential by USF Co.; however, and as

indicated in section 47.2, USF Co. shall be entitled to publicly announce the total amount of each Applicant's USF Financial Proposal for each of the Telecenters for a particular LOT. The financial analysis must clearly demonstrate the breakdown of costs, itemized to show the costs of the components identified pursuant to section 42.8, per Telecenter.

44. Compliance Checklist

44.1 A "Compliance Checklist" is attached as Annex 5 to this RFA. Applicants must include a completed Compliance Checklist in each copy of their Proposals.

44.2 When completing the Compliance Checklist, Applicants must identify the specific parts and page numbers of their Proposals that correspond to the documents and information required by the RFA sections identified in the Compliance Checklist. Applicants must also specifically identify and comment on any of the identified RFA sections for which their Proposals are "Non-Compliant".

44.3 Without derogating from the provisions of sections 44.1 and 44.2, above, in the event of any discrepancy between the Proposal requirements described in this RFA and the Compliance Checklist, the terms and requirements of this RFA shall prevail.

45. Submission of the Proposal

45.1 The Applicant shall prepare three copies of the Proposal for each LOT, clearly marking the first copy "Original Proposal" and each of the 2nd & 3rd, copies "Copy of Proposal".

45.2 The Applicant shall also prepare one electronic copy of the Proposal for each LOT (i.e., CD-ROM or DVD containing a copy of the Proposal that is in a format readable by Microsoft Office or Adobe Acrobat software).

45.3 All copies of the Proposal shall be clearly marked with the name of the Applicant.

45.4 In the event of any discrepancy between copies, the original shall govern.

45.5 As indicated in section 41, the Proposal consists of two separate parts: Part 1, the Qualification and Service Proposal; and Part 2, the USF Financial Proposal. Each part of the Proposal shall be separated into clearly labeled envelopes, with each envelope containing the three hard copies and the CD-ROM or DVD copy of the applicable part of the Proposal. The envelopes containing the separate parts of the Proposal shall be packaged together in a single box or other container. The container shall be sealed; that is securely packed and closed, so that it is not possible to open it without visual evidence thereof.

45.6 Each Proposal package shall be clearly marked with the following information:

Proposal to Establish TELECENTERS LoT #
Name of Applicant:
Local Contact Name, Phone Number and E-Mail Address:

"DO NOT OPEN, EXCEPT IN PRESENCE OF USF Co. AUCTION

COMMITTEE”

45.7 USF Co. will provide a written receipt confirming the delivery of each Proposal received prior to the closing date and time.

45.8 The Bid Bond should be enclosed in a separately sealed envelope clearly marked with the name of the Applicant and the text “Bid Bond”. This envelope should be included in the container that includes all Proposal contents (see section 45.5), and delivered with the assembled Proposal package.

46. Delivery of the Proposal

46.1 The Proposal packages shall be delivered to the following address before the closing date and time identified in section 46.3:

Chief Technology Officer (CTO),
USFCo.
Fifth Floor, HBL Tower, Jinnah Avenue,
Islamabad, Pakistan

46.2 If the Proposal container is not sealed and marked properly, USF Co. will assume no responsibility for the Proposal or the disposition of its contents. Improperly marked or sealed packages may be rejected by USF Co.

46.3 **Closing Date for Submission of the Proposal** - The sealed Proposal package shall be delivered to USF Co. at the address specified in section 46.1 no later than 1500 hrs on 15th June, 2016.

46.4 **Late Proposal** - Proposals received after the closing date and time identified in section 46.3 will be returned un-opened to the Applicant(s).

47. Opening of Proposals

47.1 USF Co. will publicly open the duly received Proposals, in the presence of authorized representatives of any Applicants who desire to attend, commencing at 1500 hrs on the closing date identified in section 46.3, in the conference room of USF Co., 5th Floor HBL Tower, Jinnah Avenue, Islamabad. The opening will proceed whether one or more representatives of Applicants are present or absent. Following opening of the Proposals, USF Co. will proceed with evaluation of the Proposals in accordance with section 48.

47.2 All Proposals shall be opened one at a time, with a representative of USF Co. reading out the name of the Applicants and any other Applicant information that USF Co. may consider appropriate. Only Proposals opened and read out at the proposal opening shall be considered for further evaluation, irrespective of the circumstances. No Proposals shall be rejected at Bid opening except for late Proposals or any Proposals that are not accompanied by a Bid Bond.

47.3 USF Co. shall prepare a record of the initial Proposal opening that shall include, at a minimum, the name of the Applicant, the presence or absence of a Bid Bond and identification

of any Proposals rejected for late submission. The Applicants' representatives who are present shall be requested to sign an attendance sheet.

48. Selection Process and Evaluation of Proposals

48.1 Subject to any request for clarification submitted by USF Co. pursuant to section 56.7, the information submitted by Applicants in response to this RFA will be the sole basis for the selection of the USF Service Provider. Provided that the Proposal is substantially responsive, USF Co. reserves the right to request Applicants to provide additional information and documents to assist USF Co in evaluating the Proposals. However, neither GoP nor USF Co., nor any other GoP body, will assist Applicants to supplement Proposals which are otherwise deficient or non-compliant. Failure to provide additional information within the identified timeframe may result in the Applicant's proposal being determined to be non-compliant.

48.2 USF Co. will review each Applicant's "Qualifications and Technical Proposal" (Part 1 of the Proposal) to determine whether or not each Applicant is a Qualified Applicant within the meaning of section 34 of this RFA. Applicants that fail to satisfy the criteria identified in section 34 for becoming a Qualified Applicant will be rejected. USF Co. will identify the grounds for rejection in a letter to each Applicant that fails to qualify as a Qualified Applicant.

48.3 USF Co. will open and review each Qualified Applicant's "Financial Proposal" (Part 2 of the Proposal). USF Co. will identify the date and time of opening the Financial Proposals and representatives of Qualified Applicants will be entitled to attend the opening of the USF Financial Proposals. The representatives of Qualified Applicants who are present at the opening shall be requested to sign an attendance sheet. A representative of USF Co. shall read out or otherwise announce the amount of financial proposal by each Qualified Applicant. USF Co. will prepare minutes for the USF Financial Proposal opening meeting. The minutes will be sent to all Qualified Applicants and will be published by USF Co. on its website.

a) After financial analysis of the Financial Proposals, USF will announce the lowest evaluated bidder for Telecenters.

48.4 **Awarding BOT Agreement**– BOT Agreement shall be awarded in the following manner:

(a) Subject to section 60, the BOT Agreement will be awarded to the Qualified Applicant that proposes the lowest financial bid for the **complete Telecenter lot** (herein after Successful Applicant).

48.5 **Ties** - In the event that there is more than one Qualified Applicant bidding the lowest USF Funding for entire Telecenter lot, USF Co. shall proceed as follows:

(a) The tied Qualified Applicants will receive written notice of the tie and instructions for submission of second round bids.

(b) The tied Qualified Applicants will proceed to a second round of bidding in which they will submit new Financial Proposals that comply with the requirements of sections 42 and 43 of RFA.

(c) The new Financial Proposal amount submitted by the tied Qualified Applicants must be smaller than the original Financial Proposal amount submitted by the Qualified Applicants.

(d) The new Financial Proposal shall be delivered in a sealed envelope, that is, securely closed so that it is not possible to open it without visual evidence thereof, to the address identified in section 46 and before the date and time specified in the written notice referred to in section 48.5(a). New Financial Proposals will not be accepted after the date and time specified in the written notice referred to in section 48.5(a).

48.6 USFCo's determinations in the evaluation process shall be final and binding upon Applicants.

49. [Omitted]

50. Period of Validity of Proposal

The Proposal shall remain valid for two hundred and forty (240) days from the closing date identified in section 46.3 of this RFA.

51. Grounds for Rejection of Proposal

51.1 USF Co. shall reject Proposals and remove them from further consideration for any of the reasons set out below:

(a) Failure to comply with any of the procedures or other requirements identified in sections 35, 36, 37, 40, 42, 43, 45 and 48 of this RFA.

(b) Failure to submit the Bid Bond amount specified in this RFA.

(c) Serious inaccuracy or misrepresentation of any material facts in any part of the Proposal.

(d) The Applicant submitting the Proposal is determined by USF Co. to have a conflict of interest (as that term is defined in section 37.3).

51.2 On the occurrence of any of the events identified above in section 51.1, USF Co. shall be entitled to select another Applicant as per section 53.2(c).

52. Subsequent Disqualification and Ineligibility

52.1 If evidence of any of the activities referred to in sub-sections 51.1 (c) through (d) is disclosed after the BOT Agreement has been executed, USF Co. may terminate the BOT Agreement without compensation. The provisions of this section are in addition to any criminal or civil legal action which may be available to or taken by any government or regulatory authority, including PTA and USF Co.

52.2 USF Co. will declare an Applicant ineligible, either indefinitely or for a stated period of time, to be awarded a BOT Agreement or any other agreement if, at any time, it determines that the Applicant has engaged in corrupt, fraudulent, collusive or coercive practices in applying for, or in performing, a BOT Agreement.

53. Letter of Intent

53.1 USF Co. will issue a Letter of Intent (“LOI”) to the successful Applicant(s) to confirm USF Co’s intention to grant the BOT Agreement to the USF Service Provider proposed by the Applicant. The LOI will also require the USF Service Provider proposed by a successful Applicant to submit the required Performance Bond within 10 days of receipt of the LOI.

53.2 If the USF Service Provider proposed by the Successful Applicant to whom the LOI is directed does not submit the required Performance Bond within 10 days from the date of receipt of the LOI, USF Co. may:

- (a) forfeit the Bid Bond pursuant to section 39.4 above;
- (b) disqualify the Successful Applicant and the USF Service Provider proposed by the Applicant; and
- (c) may issue another LOI to the Qualified Applicant that has submitted the next lowest qualified Financial proposal for the Telecenters lot.

53.3 A Successful Applicant to whom a LOI is directed must accept the LOI by notice in writing (the “Letter of Acceptance”) to USF Co. within a maximum of seven (7) days from the date of receipt of the LOI.

53.4 It is the intention of USF Co. that the BOT Agreement (the “Agreement”) will be finally negotiated and signed within 30 days of the date of receipt of the LOI. In the event that USF Co. and the recipient of the LOI are unable to finalize the terms of the Contract within the 30 day period, USF Co. shall be entitled to terminate negotiations, return the Performance Bond and may issue another LOI to the next Qualified Applicant.

53.5 Once the BOT Agreement has been entered into with the USF Service Provider(s), USF Co. shall publish the results of the RFA Process including at least the following information:

- (a) name of each Applicant who submitted a Proposal;
- (b) name of Applicants whose Proposals were rejected, and the reason(s) for their rejection;
- (c) the USF Financial Proposal amounts as read out at the Financial proposal opening;
- (d) the name of the winning Applicant; and
- (e) a summary of the resulting agreement.

The information shall also be published on USF Co's website and may be published in any other manner directed by USF Co. or GoP.

54. Performance Bond

A USF Service Provider proposed by an Applicant to whom an LOI has been directed shall furnish the Performance Bond in accordance with this RFA Process and the BOT Agreement. The Performance Bond shall be prepared in the form of Schedule F of BOT Agreement, and shall be furnished within fourteen (14) days of the date of receipt of the LOI.

55. Information Provided by USF Co.

55.1 The information contained in this RFA and any other information provided to Applicants during the Proposal process is intended to assist Applicants in the preparation of their Proposals. USF Co. will ensure that all Applicants are provided with the same information during the Proposal process, in accordance with sections 33.5 and 33.6 of this RFA.

55.2 USF Co. has made and will continue to make reasonable efforts to include accurate and current information in this RFA and in any other documentation provided to Applicants and potential Applicants. However, neither GoP, USF Co. nor any of its agencies, employees, representatives, advisors or consultants shall have any liability whatsoever to any Applicant or any of its shareholders or members or any other Person resulting from use of or reliance on any of the information so provided. Applicants are encouraged to undertake their own verification of any information supplied by USF Co. prior to use of or reliance on that information.

56. Communications, Comments and Requests for Clarification

56.1 All deliveries, notices or other communications made by USF Co. to Applicants in connection with the Proposal process shall be sent by fax, e-mail or personal delivery to the registered office of the Applicant, as specified at the time the Applicant registered with USF Co. pursuant to this RFA Process.

56.2 All deliveries, notices or other communications made by Applicants to USF Co. in connection with the Proposal process, except for submission of the Proposal itself, shall be sent in writing by e-mail or personal delivery, unless otherwise specified by USF Co., to the contact person and address specified in section 9.1.

56.3 Subject to section 48.1, during the period between the deadline for submissions of Proposals and the award of the BOT Agreement, no Applicant, no USF Service Provider proposed by an Applicant and no party interested in a Proposal shall be permitted to discuss the merits of any Proposal with any representative of USF Co. Any communications, or attempted communications, in contravention of this section shall serve as ground for immediate disqualification.

56.4 Applicants are expected to carefully examine all instructions, forms and annexes in this RFA. Failure to furnish all information required by this RFA or the submission of a Proposal that does not comply with the RFA in all respects may result in disqualification of the Proposal.

56.5 A prospective Applicant requiring any clarification of this RFA or the draft BOT Agreement may pose one or more questions to USF Co. in writing by e-mail or personal delivery up to ten (10) days prior to the closing date for Proposals. USF Co. will respond in writing to such written questions following the pre-proposal meeting described in section 33 above. Written questions received by USF Co. less than ten (10) days prior to the closing date will not be answered.

56.6 A prospective Applicant may make comments on the structure and contents of this RFA or the draft BOT Agreement. Such comments should be sent in writing by e-mail or personal delivery to USF Co. up to ten (10) days prior to the closing date for Proposals. USF Co. will respond in writing to such written comments following the pre-proposal meeting described in section 33 above. USF Co. will not respond to written comments received by USF Co. less than ten (10) days prior to the closing date.

56.7 To assist in the examination and evaluation of Proposals, USF Co. may, at its discretion, ask any Applicant for a clarification of its Proposal. Any clarification submitted by an Applicant in respect to its Proposal that is not in response to a request by USF Co. shall not be considered. USF Co.'s request for clarification and any response shall be in writing. Subject to sub-section 48.5, no change in the proposed Funding amount shall be sought, offered or permitted, except to confirm the correction of arithmetic errors discovered by USF Co. in the evaluation of the Proposals. In responding to any request for clarification, Applicants may not attempt to change their Proposals, and any response that USF Co. determines constitutes a change to an Applicant's Proposal shall not be taken into account by USF Co. in evaluating the Proposal.

57. Confidentiality of Proposals

57.1 Except for the public opening of USF Financial Proposals pursuant to section 47, USF Co. shall treat all Proposals received in relation to this RFA as confidential during the period before the award of the BOT Agreement.

57.2 USF Co. and its agencies, employees, representatives, advisors or consultants shall take reasonable steps to protect Proposal related information from improper use or disclosure; however, liability for disclosure shall be subject to the limitation set out in section 61.3.

57.3 Information relating to the examination, evaluation, comparison, and qualification of Proposals, and any recommendation of Contract award, shall not be disclosed by any representative of USF Co. or GoP to Applicants or any other Persons not officially concerned with such process except as specifically permitted by sections 47, 48, and 53.5 of this RFA.

58. USF Co. Use of Proposals

Subject to compliance with intellectual property laws of Pakistan, and section 57 above, USF Co. shall have the right to use or reproduce ideas and information contained in a Proposal without notice or payment of any kind to the Applicant.

59. Cost of Proposal and Bidding

The Applicant shall bear all costs associated with the preparation and submission of its Proposal and USF Co. will in no case be responsible for any such costs, regardless of the conduct or outcome of the Proposal process.

60. Reservation of Rights

60.1 USF Co. reserves the right, in its sole discretion, to take any action, including amendment of this RFA, which it considers necessary to ensure that the RFA Process proceeds in a fair, open and transparent manner, in accordance with the laws of Pakistan and to meet the objectives of USF Co.

60.2 USF Co. reserves the right to modify or terminate the RFA Process at any time in its sole discretion and to accept or reject any bid/application, or to reject all bids/applications, in each case, without assigning any reason and without thereby incurring liability to any bidder/applicant or to any other person.

60.3 USF Co. is not legally obligated to execute the BOT Agreement. It may terminate the RFA Process or revoke an award of the BOT Agreement at any time before the BOT Agreement is executed.

61. Legal and Formal Requirements

61.1 **Governing Law** - This RFA and any BOT Agreement executed pursuant to this RFA shall be exclusively subject to, and interpreted in accordance with, the laws of Pakistan.

61.2 **Settlement of disputes** - Any dispute, controversy or claim arising out of or in connection with this RFA document, or the breach, termination or invalidity thereof, shall be subject to the dispute resolution terms and processes set out in Annex 7 to this RFA.

61.3 **Limitation of Liability** - Neither GoP nor any of its Ministries, agencies, employees, representatives, advisors or consultants, including USF Co. and its officers, employees, advisors and contractors, shall incur any liability whatsoever to any Applicant or any USF Service Provider proposed by an Applicant, or any of their respective shareholders or members or any other Person, in connection with any damages, losses, expenses or injury whatsoever, including but not limited to loss of revenue, opportunity, or goodwill, resulting from participation in the RFA Process, including reliance of any person on the information set out in this RFA, and from any cancellation of the RFA Process and from the outcome of the RFA Process.

61.4 **Language** - The Proposal, the accompanying documents, and all correspondence relating to this RFA shall be submitted in the English language, subject to the laws of Pakistan.

62. Miscellaneous.

62.1 All USF Service Providers are encouraged to develop and provide local content to the users in general and users in TELECENTERS. They may also establish their separate or a common web portal for the purpose.

62.2 All USF Service Providers are expected to employ people from local Areas and generate local employment by supporting and engaging local labor and industry.

End of Part III

Part IV: Definitions

63. Definitions

In this Request for Applications (RFA), unless the subject matter or context otherwise requires, the following terms shall have the following meanings and terms not defined below shall bear the respective meaning ascribed thereto elsewhere in this RFA, or in the BOT Agreement, as applicable:

“Agreement” means the BOT Agreement signed with successful Qualified Applicant(s) on successful conclusion of the RFA Process;

“Act” means the Pakistan Telecommunication Act (Re-Organization) Act, 1996, XVII of 1996, as amended, and any successor legislation;

“Applicant” means any Person that registers itself with USF Co. as an Applicant for purposes of this RFA, having obtained a copy of this RFA from USF Co.;

“Bid Bond” means the security for the bid, in the shape of demand draft in the name of USF Co., which an Applicant must furnish to USF Co. in accordance with section 39 of this RFA;

“BOT Agreement” means Build, Operate and Transfer Agreement, the draft of which is annexed as Annex- 6 to this RFA, for the purchase of land, construction, equipment, connectivity and operations of the USF Telecenters and payment of the USF Funding to be granted pursuant to this RFA;

“Compliance Checklist” means the form set out in Annex 5 to this RFA that Applicants must complete in accordance with section 44 of this RFA;

“Consortium Applicant” means a group of Persons, including a joint venture, that submits a Proposal on behalf of its members, and that meets all eligibility requirements identified in section 38.1 of this RFA;

“Contract” means the BOT Agreement signed with successful Qualified Applicant(s) on successful conclusion of the RFA Process;

“Control” of a Person other than an individual means the ownership of at least 51% (fifty one percent) of the voting interests in the subject Person; or the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Person, whether through the ownership of shares, voting, securities, partnership or other ownership interests, agreement or otherwise;

“GoP” means the Government of Pakistan;

“Interconnection Regulations” means any interconnection regulations, rules or guidelines that may be issued by PTA from time to time;

“Letter of Acceptance” means the letter described in section 53.3 of this RFA;

“Letter of Intent” or **“LOI”** means the letter described in section 53.1 of this RFA;

“License” means any telecommunications license granted by the PTA to the USF Service Provider, or to any shareholder of the USF Service Provider that meets the requirements;

“Net worth” for the purposes of sections 35 means total assets minus total liabilities;

“Performance Bond” means the financial security for performance a USF Service Provider must furnish in accordance with section 54 of this RFA;

“Person” means any individual, firm, company, corporation, partnership, joint venture or other consortium, government or governmental entity;

“Point of Interconnection” or **“POI”** means a connection point between the networks of two telecommunications service providers;

“Project Implementation Milestones” means the milestones for the roll-out of the Telecenter Project identified in Schedule D of the BOT Agreement;

“Proposal” means a proposal submitted by an Applicant in response to this RFA;

“PTA” means the Pakistan Telecommunication Authority, a statutory body corporate established under Section 3 of the Act, and its predecessors and successors;

“Qualifications and Technical Proposal” means Part 1 of the Proposal, that Applicants must prepare in accordance with section 41.1(a) of this RFA;

“Qualified Applicant” has the meaning ascribed thereto in section 34 of this RFA;

“Reserve Price” means the maximum funding value available for each Telecenter and it includes capital expenditures (15 million PKR) inclusive of land price and operational cost for five years (9 million PKR).

“RFA” means this Request for Applications, including all annexes hereto, as amended or modified by USF Co.;

“Technical Auditor” means the Person or party appointed for the technical audit of the project, in accordance with the BOT Agreement;

“Telecenter” will be a Community E-Resource Center that will provide public with easy access to USF Broadband Services, and services offered by NADRA. Each Telecenter will be connected to internet through a 10 Mbps broadband, powered through commercial power and supported with renewable energy (Solar) , equipped with 20 computers, digital queue counter, multi-media and other essential network elements (printer/ scanner/ copier) in accordance with Schedule A & B of the BOT Agreement;

“**USF Co.**” means the Universal Service Fund, a company setup under Section 42 of the Companies Ordinance 1984, established by the Government of Pakistan, and its successors;

“**USF Broadband Services**” has the meaning ascribed thereto in Schedule A of the BOT Agreement;

“**USF Telecenter Services**” means the ICTs services offered at Telecenters, in addition to the USF Broadband Services.

“**USF Contributor**” means any Person whose License includes identified USF Contribution requirements and is compliant with those requirements;

“**USF Network**” means the licensed telecommunication system consisting of the telecommunications network facilities to be deployed by the USF Telecenter Service Provider to provide USF Broadband Services pursuant to the BOT Agreement;

“**USF Rules**” means the Universal Service Fund Rules, 2006 (as amended);

“**USF Service Provider**” means the Party, other than USF Co., identified on the first page of this Agreement (referred to as the “Contractor” in the USF Rules);

“**USF Funding**” means the funding to be paid by USF Co. to the USF Telecenter Service Provider on achieving the Project Implementation Milestones;

“**USF Financial Proposal**” means Part 2 of the Proposal that Applicants must prepare in accordance with section 43 of this RFA; and

“**USF Financial Proposal Form**” means the form attached at Annex 1 of this RFA.

End of Part IV

Annex 1: USF Financial Proposal Form

RFA FOR ESTABLISHING TELECENTERS IN USF AREAS ON BOT BASIS

To:

The Chief Executive Officer
 USF Co.
 Fifth Floor, HBL Tower, Jinnah Avenue,
 Islamabad
 Pakistan

Applicant's USF Financial Proposal:

The Applicant, *[insert name of Applicant]*, hereby commits to assume all of the USF Telecenter Service and USF Telecenter Equipment obligations identified in the RFA and BOT Agreement in consideration for the award of the BOT Agreement and payment of the amount of USF Funding indicated in the following table:

Total Funding – [Insert Lot ID]	
Total (CAPEX+OPEX for 5 Years)	[Insert Total Cost of the Lot]
CAPEX	[Insert CAPEX Cost of the Lot]
OPEX (for 5 Years)	[Insert OPEX Cost of the Lot]

Telecenter ID	[Insert Telecenter ID as given Schedule C]				
Total CAPEX	<i>[Insert the CAPEX Value for the Telecenter]</i>				
Construction cost of the Telecenter	<i>[Insert the Amount Quoted for the Construction]</i>				
Price of Land	<i>Land Parcel No</i>	<i>Area (Square Feet)</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Value</i>
	1				<i>[Insert the Cost of the Land]</i>
	2				
	3				
Price of USF Telecenter Equipment	<i>[Insert the Amount Quoted for the USF Telecenter Equipment]</i>				
Value for Fiber Optic Cable Connectivity	<i>[Insert the Amount Quoted for the Connectivity through Fiber Optic Cable]</i>				

[Provide values mentioned in the table for each of the Telecenters separately in numbers and Words]

Telecenter ID	[Insert Telecenter ID as given Schedule C]
Total OPEX	<i>[Insert the OPEX Value for the Telecenter]</i>
Operational Cost for 1st Year	[Insert the value for Operational Cost for 1st Year]
Operational Cost for 2nd Year	[Insert the value for Operational Cost for 2nd Year]
Operational Cost for 3rd Year	[Insert the value for Operational Cost for 3rd Year]
Operational Cost for 4th Year	[Insert the value for Operational Cost for 4th Year]
Operational Cost for 5th Year	[Insert the value for Operational Cost for 5th Year]

1. In the event of any discrepancy between the USF Funding amount and total cost of the TELECENTER Project(s) set out in words and numbers, the amount set out in words shall govern.

2. This USF Financing Proposal shall remain valid in accordance with section 50 of the RFA.

Signature: Print Name:

in the capacity of *[insert title/position of individual signing]* duly authorized to sign for and on behalf of *[insert name of Applicant]*.

Dated this [dd], day of [mm], 20[yy].

Witness Signature: Print Name:

Dated this [dd] day of [mm], 20[yy].

Annex 2: Bid Bond

Bid Bond in the form of Demand Draft Amounting of Rs. 10,000,000 (Pak Rupees Ten million) for each lot in the name of USFCo.

Annex 3: Registration Form for TELECENTER(s)

Universal Service Fund

(A company setup under Section 42 of the Companies Ordinance 1984)

“Every Pakistani has the right to modern telecommunication services and we strive to provide that.”

REGISTRATION FORM FOR USF PROJECT # _____

Name of Applicant: _____

Registered Address: _____

Postal Address: _____

Phone: _____

Fax: _____

Email: _____

Contact Person for correspondence: _____

Person authorized for Registration: _____

(attach copy of authorization)

Nature of applicant’s License (copy attached): _____

Telecom services authorized under the License: _____

Date of Expiry of License: _____

Licensed territory: _____

Audited/Unaudited Report of USF Contributions as payable & paid to date:

(summarize and attach copy of full report) _____

Amount of any USF contributions outstanding to-date: _____

Proof of payment: _____

List of Consortium members, if registration is for consortium:

Applicant declared eligible by PTA & MoIT: Yes No

(Attach copies of eligibility letters from PTA & MoIT)

Attach copies of clearance letters from PTA & MoIT Yes No

(regarding payments of USF contribution and APC for USF and other related licensed obligations):

Compliance to roll out obligation: Yes No

Pay Order/DD of PKR 1,000 registration fee attached: Yes No

Certificate:

Certified that the information set out above is correct to the best of my information and belief, and nothing material has been concealed therefrom.

(Signature of Authorized Representative)

NIC: _____

Date: _____

Annex 4: Form of Letter Regarding Compliance with License(s)

[Month] [Day], 20[yy]

The Chief Executive Officer
USF Co.
Fifth Floor, HBL Tower, Jinnah Avenue,
Islamabad
Pakistan

Dear Sir:

Re: *[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA]*

Compliance with Conditions of Telecommunications License(s)

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA] is the holder of the following telecommunications licenses issued by the PTA:

[list all PTA issued licenses, including appropriate license identification and date]

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA] remains in substantial compliance with all terms and conditions of the license(s) issued by the PTA, and otherwise remains in good standing with the PTA, which has not cancelled or suspended (or threatened to cancel or suspend) any such license.

Yours very truly,

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA]

Per:

(Signature)

[insert name and title of person signing letter]

[insert phone number of person signing letter]

[insert postal and e-mail address of person signing letter]

cc: Director General (Licensing), Pakistan Telecommunication Authority

Annex 5: Compliance Checklist

1. Compliance Sheet

A complete compliance sheet for each clause of RFA/BOT Agreement/Annexes/Schedules shall be provided as softcopy and a signed hardcopy in the following format

Document	Clause No.	Compliance (Cross appropriate)	Proposal Page Reference	Remarks in case of Partially or Not Complied
RFA		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
Annex 1 – 5 & 7		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
BOT Agreement (Annex 6)		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
Schedules		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		
		<input type="checkbox"/> FC <input type="checkbox"/> NC		

Note: FC- Fully Complied, NC – Not Complied

Annex 6: Draft of Proposed BOT Agreement

Annex 7: Dispute Resolution Terms and Processes

(1) USF Co. and Applicant shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with participation in the RFA Process.

(2) Without affecting the right of USF Co to encash the bid bond at any time upon the occurrence of any of the conditions stated therein, neither party to the disagreement or dispute shall commence any appeal or other legal proceedings for at least twenty-eight (28) days after any unresolved disagreement or dispute has been formally notified to the Chief Executive Officer of USF Co. and a similarly senior officer of the Applicant. These senior officers shall engage in further discussions in an effort to resolve the disagreement or dispute within the 28 day period.

(3) If the parties have failed to resolve their disagreement or dispute using the processes described in paragraphs (1) and (2), then either party may give notice to the other party of its intention to take legal action in accordance with the laws of Pakistan.