

Replies to Bidders's Queries : Batch 2 (Part - 1)

Release Date: 31st March 2015

Sr.No.	General Query	USFCo's Response
1	We understand that the tender for the provision of Optic Fiber connectivity in Shangla has been advertised (Phase IX of Optic Fiber Program) by USF and the project will be completely executed in a year's time frame to be available for VSAT off-loading. Kindly confirm;	Bids for USF OFC KPK Project are expected in May 2015. As per the RFA, time frame for the said project is 16 months from the date of signing of the contract.
2	Kindly comment on how stringent would USF be on 3G rollout/requirements. Is it possible to for bidder to submit two bids; one with complete 3G rollout (potentially very high value) & the other with selective/strategic rollout (model that will be mutually beneficial and value for money). It is to be noted that 3G rollout should only be the mandatory when the FOC lot is rolled out, otherwise till such time, high VSAT subsidy will be required;	USF follows bidding process as defined by PPRA and only one bid is allowed. As per PPRA, more than one bids from same bidder are not acceptable.
3	Data/Population Verification using the latest scientific tools is being done as some of the mouzas in mandatory category may found to be less than 500 populace. Clarification is required on: (i) Shall we plan to provide coverage only in the mandatory Mauzas qualifying the USF population benchmarks? (ii) Is there any penalty associated with not providing coverage for the (a) Mandatory or (b) optional Mauzas?	Bids submitted by a bidder must provide coverage to all mauzas identified as 'Mandatory' in Schedule C to the draft SSA. Any bid not providing coverage to any mandatory mauza may lead to disqualification. Coverage to mauzas marked as 'Optional' is up to the Bidder and non-coverage to any optional mauza will have no impact on evaluation of the bid.
4	We understand that for the cases where two co-ordinates coming very close to each other, the likelihood of it being due to multiple names for the same mauza doesn't exist. These are separate mauzas and not a single mauza. Please clarify.	All mauzas identified in Schedule C to the Draft SSA shall be considered individual mauzas.

Replies to Bidders's Queries : Batch 2 (Part - 1)

Release Date: 31st March 2015

Sr.No.	General Query	USFCo's Response
5	<p>We understand that if any mauza lies under direct or spillover coverage from an existing site of an operator, the operator may leverage upon the same while providing the details of the involved sites; and in that case, the USF mandatory requirements w.r.t. advertised/awarded lot (e.g. Renewable Energy Solution and site sharing) are not applicable on the operator's prescribed existing infrastructure. Do we need to include such Mauzas in our technical and financial plan/bid; and how will the use of such existing assets be treated by USF?</p>	<p>Coverage of all mandatory mauzas is mandatory. In case existing sites can provide coverage the technical proposal should clearly state that. Infrastructure sharing is required for new sites that are being built for USF.</p>
6	<p>We understand that use of renewable energy as a power source is mandatory however the sites can have dual power source depending upon the operator.</p>	<p>Renewable Energy solutions shall be used as primary source of Power. Choice of technology for secondary power source is up to the Bidder</p>
7	<p>The Information Package document requires the USF Service Provider to share infrastructure with at least one USF Contributor. On the contrary, there are SMART Solutions available that are specifically designed for Rural / Remote Coverage with very attractive CapEx/OpEx, with a downside of not being able to host other USF Contributors. USF is requested to</p> <p>(1) re-consider the mandatory site sharing obligations by relaxing it to a total of 50% of sites thereby enabling the adoption of optimized CapEx and OpEx solutions through deployment of smart sites</p> <p>(2) clarify that whether we can be successful bidder if we make use of these smart solutions to rationalize project cost while mentioning partial compliance/non-compliance to this sharing requirement or not?</p>	<p>Infrastructure sharing is a mandatory clause that ensures that competition remains even in the USF areas.</p>

Replies to Bidders's Queries : Batch 2 (Part - 1)

Release Date: 31st March 2015

Sr.No.	General Query	USFCo's Response
8	The specifications provided by USF suggest that it is looking for a 3G network (min. 256 kbps UL/DL). But some clauses also require backwards compatibility with 2G networks and 2G Handsets. Does it means that actually we need to rollout a 2G + 3G network? If yes, than PTML understand that the mandatory KPIs of USF lots (e.g. minimum user data rate: 256 Kbps typical in PTML NGMS License) will remain within scope of PTML Licenses as RTeS services have to be provided on sustainable basis as per the license (i.e. Rights and Obligations – Copy of respective Licenses have already been provided with registration form).	USF Service Provider must provide minimum user data of 256 kbps typical as identified in NGMS licenses issued by PTA
9	As the entire network design is majorly based on desktop planning and assumptions (Civil works, tower heights, transmission etc.), there is a possibility of deviation between the planned and actual on-ground requirements. How USF will deal the deviations and will USF compensate an operator in case additional cost is incurred (over and above the projected CapEx) during implementation?	Once the financial proposals have been opened and announced, USFCo will not assume any additional cost on account of any increase in the bidder's projected Capex. It may also be pertinent to point out here, that a proportionate amount of subsidy will be deducted in cases where the installed network equipment is less than the BoQ agreed at the time of signing of SA
10	As per clause 35 (Financing Capacity) Net worth of at least PKR 300 Million is required. The historic Financial Statements will serve the purpose or there will be any other document that we need for meeting this requirement?	The definition of Net Worth is "Assets – liabilities". A Financial Statements that shows a net worth of minimum PKR 300 million will be considered acceptable. Otherwise the bidder will have to produce evidence of access to a credit line of at least 300 million from a scheduled bank.
11	As per Article 7.01 (a) requires USFCo as an additional insured for Commercial and General Liability Insurance why it is required?	The requirement of incorporating USFCo as an "additional insured" in the insurance policy is to cover the risks faced by USFCo (being a party to the contract)
12	We understand that ownership of correctness of information memorandum/package should rest with USF. Please clarify	All information provided in the package is supposed to be true and correct to the best of our knowledge and belief, however, USF is not responsible for any errors or omissions.
13	As per OFC Balochistan-Package 4 launched by USF, Zhob was also covered, kindly share (1) the completion status of project in Zhob Tehsil, as well as (2) fiber points of presence in Zhob	Please refer to Maps 5, 6 & 7 of the Schedule C of the draft SSA of Zhob Lot that provide points of connectivity of optical fiber.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
ANNEX 2 OF RFA – BID BOND			
1	Term	The Bid Bond currently provides a validity of 210 days from its issuance but fails to provide that the Bid Bond may also be deemed to have expired upon acceptance of an Applicant's Proposal at a date prior to the end of 210 days' duration, or in case someone other than the Applicant is selected by the USFCo. as the USF Service Provider prior to the expiry of the 210 days (whichever date is earlier) – requested to be amended accordingly;	No change. Please refer to Clause 39 of the RFA.
2	Conditions	Where it is stated that "If the Applicant withdraws its Proposal prior to execution of the Agreement", the sentence should begin with the qualification, "if the Applicant, having been notified of the acceptance of the Proposal by the USFCo during the period of validity of the Proposal and..." because otherwise it appears that a rejected Proposal if withdrawn may also attract this condition;	No change.
3	Conditions	For condition No. 3, which is dependent on disqualification of an Applicant as per Section 51.1 of the RFA, therein lies a disconnect, as Section 51.1(b) of the RFA disqualifies an Applicant upon failure to submit the Bid Bond amount – if the Bid Bond amount is being catered to through a line of credit from the Bank, then can it be said that the amount has not been submitted? How shall it be confirmed that the Bid Bond amount has been paid to the Bank? Can the fact that the Bid Bond has been issued in favor of USFCo. by the Bank be taken as a confirmation of the amount to have been paid?	Kindly submit the Bid Bond in accordance with Clause 39 and clause 42 (f) of the RFA.
4	Conditions	As per Section 51.1(e) of the RFA, an Applicant may also be disqualified in case it is determined by USFCo. to have a conflict of interest, which would result in forfeiture of the Bid Bond – Section 37.3 of the RFA defines "conflict of interest" to also mean an Applicant participating in more than one Proposal in the RFA process. If such is the case, Section 37 fails to provide the way forward in this particular instance, whether the Applicant is to be disqualified from the whole process or only to the extent that the Application received prior in time is accepted and the Applicant is removed from the second Application or the second Application is rejected altogether. Accordingly, it remains unclear how the Bid Bond shall be treated in such an instance;	Clause is self explanatory and hence requires no further clarification.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
ANNEX 6 of RFA – USF SERVICES & SUBSIDY AGREEMENT (SSA)			
5	Definitions – “Customer Service Agreement” & Clause 2.03(d)	The regulatory regime in Pakistan has been amended in such a manner that now Biometric verification is conducted prior to issuance of SIMs (for pre-paid and postpaid packages) and the subscribers are obligated to adhere to the Terms and Conditions approved by PTA; hence, no such agreement is signed with pre-paid subscribers. Accordingly, where Clause 2.03(d) states that the USF Service Provider shall provide USF Services to “each” subscriber or user pursuant to the Customer Service Agreement, the same is no longer an accurate depiction of on-ground regulatory regime prevalent and is recommended to be amended accordingly.	The Customer Services Agreement referred here is the one that is an obligation towards the operator. Clause 2.03 (d) states that the form of such agreement is for PTA to decide, if thereis any.
6	Clause 2.04	The quality of service requirements provided in Schedules A and B of the SSA can only be catered to the extent that the same are already reflected in the Licenses issued to PTML – as the Telecom Licenses are issued for the Territories of Pakistan and wherein the QoS KPIs are to be maintained across the board, it is apprehended that catering to any KPI above and beyond those provided in the Licenses may be misconstrued to mean that PTML has wilfully permitted an amendment to its License(s) or that a KPI adhered to for USF Area may become obligatory to be provided across the Country;	None of the quality service requirements are in contradiction to the standards set forth by PTA. In case any such conflict arises the conditions set by PTA shall prevail.
7	Clause 2.05	Where PTA has been mentioned to assist in resolution of sharing disputes, it is requested that reference be made to Section 4(j) of the Pakistan Telecommunication (Re-organization) Act 1996 (the “Act”), where PTA has been obligated to address such matters. This is requested because PTA is not a Party to the SSA and previously, in terms of Section 27-A (Right of Way) of the Act, despite the role of PTA being specifically mentioned, PTA went on record before the Lahore High Court and stated that Right of Way matters were beyond the scope of its functions;	PTA Section 4 (l to m) are elaborative enough and require no further ammendments in SSA.
8	Clause 4.01(a)(v)	An amendment is requested with respect to the proviso mentioned therein, which should be applicable to Clause 4.01(a)(iii) as well and not just to the sub-clause (v);	4.01 a(iii) deals with the delayed work whereas 4.01 a(v) pertains to the non provision of USF services in USF Areas. Both damages are to be calculated seperatly. Hence no ammendment is required.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
9	Clause 8.01(b)	Where the Clause states that the Technical Auditor "may be" an external consultant, it is requested that such Technical Auditor remains an external person with no direct affiliation with USFCo. to maintain impartiality. As the Technical Auditor is being appointed by the USFCo., the SSA should also mention the liability of the Technical Auditor is maintaining impartiality;	No change
10	Clause 8.03	As USFCo. is paying all fee payable to the Technical Auditor, kindly confirm if costs incurred from cooperating with the Technical Auditor (if any) shall be recovered from USFCo.;	Costs on the part of Service Provider are to be born by the Service Provider itself.
11	Clause 9.01(a)(v)	The report required on demand for Private Voice Telephony and Private Internet Access services does not appear to be in line with the prevalent regulatory regime that caters to provision of mobile communication services. Upon establishment of USF Network, any subscriber can connect to the same by purchasing a SIM connection in accordance with the prevalent regime. Thereafter, whether it is a citizen living in the USF Service Area or any citizen traveling through the area, they shall be able to access mobile communication (voice, SMS and data). Accordingly, it may not be possible to report the number of requests received but remain outstanding (as upon compliance with antecedents verification requirements the system automatically accepts such a person as a new subscriber and hence their outstanding nature is subject to the subscribers' action and not related to any deficiency that may be encountered due to the USF Service Provider), the average time it takes to fulfill a request for Services, etc.;	USF is technology neutral. The operator may choose any technology for provision of services in USF Areas.
12	Clause 13.01(h)	Where the inability to obtain financing is not deemed as a Force Majeure event, there are certain instances where Force Majeure events may prevent the timely disbursement of funds - that in itself is an outcome of a Force Majeure event, hence should be mentioned as exempted from the proviso;	No change required.
13	Clause 13.04(b)	A Force Majeure event, regardless of its duration, cannot be deemed to be a material breach of the Agreement by the USF Service Provider (and so declared at the sole discretion of the USFCo.), as the said Force Majeure event is beyond the control of the USF Service Provider. While the other party should have the right to terminate the Agreement, the event being called a material breach creates unnecessary burdens on the USF Service Provider, affecting the rights available to it under the prevalent law. The Clause is requested to be amended accordingly;	No change required.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
14	Clause 16.04	It is requested that this Clause be applicable on both Parties; i.e. USFCo. should consult the USF Service Provider prior to issuing any public announcements or statements relating to the USF Area;	No change required.
15	Clause 16.06	As the Clause negates the value of any and all information and corroborating obligations as provided in the RFA (which shall be deemed to be information provided prior to signing of the SSA), accordingly no penalties can be imposed that are not specifically addressed in the SSA. As such, it is requested that the Bid Bond as provided in Annex 2 of the RFA be made a part of the SSA and be specifically addressed with respect to its validity period and other conditions that may apply to it (if any);	Please refer to the Draft SSA provided along with the information package, the RFA becomes part and parcel of SSA on award of contract.
Schedule A of SSA			
1	Section 1(d)(ii)(b)	With reference to subscribers' contracts, it is requested that the statement be qualified with "where applicable in accordance with the prevalent law", as presently, there is no longer any such contract with a prepaid subscriber in accordance with the SOP for Biometric Verification dated 20 November 2013 issued by the PTA and instead, PTA has approved Terms and Conditions for the same.	USF is technology Neutral therefore no amendment to SSA is required
2	Section 1(d)(ii)(c)	The fulfillment of service requests depends on purchase of SIM connection and fulfillment of antecedents verification requirements, both of which conditions are applicable on the subscriber – an Operator cannot be obligated to cater to a request unless the legal requirements have been met – requested to be amended.	USF is technology Neutral therefore no amendment to SSA is required
3	Section 1(d)(ii)(d)	The cellular mobile operators are not in the business of manufacture, sale or distribution of subscriber terminal equipment or customer premises equipment; hence cannot be obligated to ensure that such equipment is made available to the public at affordable rates – requested to be amended.	This clause is applicable only where service provider has to provide Subscriber terminal or customer premises equipment.
4	Section 1(d)(iii)	While an Operator can provide access to operator services, the provision of access to emergency response service has to be dependent on whether such services are available locally (police, ambulance etc.) – accordingly, for emergency response service, it is requested to qualify the Section with "where available".	The clause is self explanatory and needs no change.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
5	Section 4	<p>As commented on above on Clause 2.04 of the SSA;</p> <p>Further, as PTA continues to revise the QoS Survey methodology with the Cellular Industry, how is USF to re-align its survey methodology?</p> <p>Will USF be dependent on PTA to survey the QoS in the USF Area to ensure conformity and accuracy of the Report submitted by the USF Service Provider?</p>	<p>PTA's QoS are the standard QoS to be followed by a Service Provider and USF. The technical Auditor is responsible to ensure compliance to the QoS standards specified by the PTA.</p>
Schedule B of SSA			
1	"computer hardware and software"	It is requested that since the USF Service Provider cannot be obligated to provide any hardware or software at the premises of any subscriber and provision of internet access is through handsets/smart phones, the usage of "computer hardware and software" be amended accordingly.	Please refer to clause 1.b.iv of Schedule B to the SSA
2	Section 5(d)	As stated for Schedule A, under the prevalent regime, there is no contract for internet services for prepaid subscribers aside from the Terms and Conditions approved by PTA – requested to be amended accordingly.	Adequately addressed no amendment needed.
3	Section 6	As commented on above on Clause 2.04 of the SSA;	Please refer to USFCo's reply on Clause 2.04 of the SSA.
Schedule F and Schedule F1 of SSA – Performance Bonds			
1		The usage of the term "Applicant" is inaccurate, as the Performance Bonds are being issued upon receipt of LOI from USFCo. and subsequent signing of the SSA, which makes the submission of Performance Bonds mandatory. Accordingly, the client mentioned by the Bank in the Performance Bonds is recommended to be titled "USF Service Provider";	In the Schedule F and F1 the term Applicant has been described as "full legal name and address of the USF Service Provider" on behalf of which the bank is issuing the guarantee. No change is required.
2		The Performance Bonds make no reference to the milestones which, if not met, shall result in the forfeiture of the Performance Bond – a simple request for drawing any amount under the Performance Bonds appears highly strict and limits the legal rights of the USF Service Provider to ensure the provision of required services under extraordinary circumstances but without risking the Performance Bonds submitted;	It is a mandatory clause. No amendment needed.
3		Under Section 6.01 of the SSA, the validity period provided for the Performance Bonds is subject to extension to the extent of Force Majeure events encountered during this time – the Performance Bonds are recommended to reflect the same, to ensure its continuity by the Bank who are not a party to the SSA.	The bank simply issues an amendment on top of the original Bank Guarantee stating that the guarantee period is extended to a new date.

Replies to Bidders's Queries : Batch 2 (Part - 2)

Release Date: 31st March 2015

Sr. No.	Document	Bidders' Query	USFCo's Response
4		The Performance Bonds need to be reviewed in accordance with Article 6 of the SSA, to which there is no reference available in the Performance Bonds	No change required.