



Regulations on the Universal Access Fund (Creation, Management and Deployment)

LTA – REG – 0006

September 2015

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Part I Introduction

1. Preamble

These Regulations on the Universal Access Fund (Creation, Management and Deployment), 2015, have been developed by the Liberia Telecommunications Authority (TA) pursuant to the National Universal Access Program Strategy, 2014 (NUAPS), the National ICT and Telecommunications Policy, 2011, (ICT Policy), and sections 22 and 23 of the Telecommunications Act of 2007 of the Republic of Liberia (Act).

These Regulations may be cited as the UAF Regulations.

2 Purpose and Scope of these Regulations

These Regulations address the establishment of the Universal Access Fund (UAF) comprising the Universal Access Governing Board (Board), the Universal Access Implementation Committee (Committee) and the Universal Access Project Implementation Unit (PIU) as envisaged in article 23(1) of the Act and the NUAPS. These Regulations have the following purpose and scope:

- a) to define the roles of each of the Board and the Committee;
- b) to provide for the establishment of a bank account with a registered and recognized bank in Liberia to receive and disburse funds in accordance with these Regulations to be known as the Universal Access Fund the Fund;
- c) to identify sources of funds for the Fund;
- d) to determine the criteria for projects that may qualify for funding from the Fund;
- e) to establish the procedures for applications and disbursements for funding those projects;
- f) to deal with the auditing of the UAF and related matters;
- g) and to provide for reporting obligations by the Committee and the Board, and liaison with the Ministry of Finance and the Ministry of Posts and Telecommunications (the Minister).

3 Objectives of these Regulations

These Regulations have the following objectives:

- (a) To assist in achieving the goals of Universal Access as set out in the Act, the ICT Policy and the NUAPS;
- (b) To collect, deposit to a bank account and to disburse from that account funds received from licensees and other sources;

- (c) To administer the Fund in a transparent, objective and accountable manner;
- (d) To direct the application of funds only towards the achievement of the goals of Universal Access and the costs of administration reasonably associated with these goals; and
- (e) To ensure that the interests of the Government of Liberia, the public, and service providers are taken into account.

Part II Creation of the Administrative Entities

4. The appointment and proceedings of the Board

4.1 Subject to subsection 4.3, the Board shall be established on the appointment by the Minister of eight members, with members being nominated by -

- (a) the Ministry of Posts and Telecommunications, which shall act as chair;
- (b) the LTA, which shall act as secretary;
- (c) the Ministry of Finance;
- (d) the Ministry of Internal Affairs;
- (e) the Liberia Chamber of Commerce; and
- (f) licensed service providers (three members).

4.2 The Minister shall appoint the Board within one month of the coming into effect of these Regulations, otherwise the persons nominated shall constitute the Board.

4.3 Persons nominated and appointed to the Board shall have good standing, which for purposes of these Regulations means that each of them shall .

- (a) be a person of integrity and good reputation;
- (b) have knowledge of or experience in the ICT/Telecom sector;
- (c) not be an elected official of Government, nor a candidate for an elected office of Government, whether national, local or provincial for the duration of his or her appointment; and
- (d) not have a criminal record, be insolvent or bankrupt, have been dismissed from any position by reason of mismanagement, or be of unsound mind.

- 4.4 Members of the Board shall hold office .
- (a) for a period of three years and shall be eligible for re-appointment for one further term, but appointments shall be staggered to ensure continuity on the Board.
 - (b) until death, they reach the age of 70 years, they are incapable of doing so, they resign, they fail to attend three consecutive meetings of the Board (without excuse), or they are no longer eligible under section 4.3; or
 - (c) unless they are requested to leave office by a unanimous decision of the other members, for failing to carry out the mandate or frustrating the mandate of the Board, or by reason of any criminal conviction whether in connection with their membership of the Board or not, or in terms of section 7.2.
- 4.5 A vacancy on the Board shall be filled as soon as possible and in any event, within 45 days of the vacancy arising, by nomination and appointment in terms of this section 4 with the necessary changes to reflect that the appointment is the filling of a vacancy and not an initial appointment, and specifically to address the category of vacancy.
- 4.6 The Board shall meet as often as required to conduct the business of the Board as set out in these Regulations, and no less than four times per year, provided that the Board shall meet within a maximum of 15 days in response to a formal request from the Committee. A meeting of the Board shall be convened by the Chairperson, and notice of the meeting shall be provided to each member.
- 4.7 Meetings of the Board shall be held at such times and in such places as the Chairperson reasonably decides and may be held by teleconference or video conference or by any other means that enables all parties to communicate with one another at the same time.
- 4.8 The Board shall keep written minutes of all meetings which shall be made available to any party on request.
- 4.9 At Board meetings .
- (a) the Chairperson shall preside at all meetings unless s/he is absent, in which case s/he shall designate a proxy Chairperson for that meeting; and in the absence of such designation, the members present shall elect a proxy Chairperson for that meeting and the proxy Chairperson shall decide the procedure for the meeting;

- (b) a quorum shall be constituted if five members are present; and
- (c) all members are entitled to vote at meetings and matters arising shall be decided by a majority of votes, provided that in the case of a tie the Chairperson shall have a casting or additional vote.

4.10 The Board's functions shall include to .

- (a) establish the high level vision and agenda for achieving the provision of Universal Access in Liberia;
- (b) determine the meaning of %~~un-served~~+and %~~under-served~~+areas from time to time and setting the scope of services for the UA program within those areas, taking into consideration the recommendations of the Committee, and so as to implement the objectives of the NUAPS and facilitate the determination of the level of contributions required by the UAF as provided in Section 10.3;
- (c) based on the recommendations of the Committee, set, review and update from time to time the appropriate performance targets for the UAF in terms of the percentage of projects completed on schedule, the percentage of the annual budget disbursed to plan and the ratio between annual contributions to the Fund and the balance in the Fund;
- (d) review and approve the Universal Access Annual Work plan and Budget (%~~Budget~~+)submitted annually by the Committee;
- (e) submit the Budget to the Minister of Finance for inclusion in the annual budget of the Executive for approval by the National Legislature;
- (f) review and approve the Monitoring and Evaluation Report submitted quarterly by the Committee; and
- (g) appoint and oversee independent auditors in accordance with section 9.6.

5. The appointment and proceedings of the Committee

5.1 Within one month of the establishment of the Board, the Board shall appoint the Committee which shall consist of no more than seven members.

5.2 The Chairperson of the Committee shall be the LTA's nominated member of the Board and should also be a member of the Board of Commissioners of the LTA (BoC).

- 5.3 The Committee members shall be constituted as follows:
- (a) one other member of the BoC shall be a member of the Committee;
 - (b) at least three members shall be nominated by licensed service providers; and, where feasible, should not be the same entities represented on the Board;
 - (c) at least one member shall be nominated by an organization that represents telecommunication users or the interests of civil society in Liberia; and
- 5.4 Each member of the Committee, excepting the Chairperson who shall be appointed as in section 4.4(a), shall hold office for two years, which term may be renewed no more than twice.
- 5.5 The same criteria shall apply to the qualifications, appointment and good standing of Committee members as are set out in sections 4.3, 4.4 and 4.5, except as indicated in sections 5.3 and 5.4.
- 5.6 The Committee shall perform its functions and duties as set out in these Regulations in addition to any matters reasonably delegated to it by the Board, and may appoint such staff as it may reasonably require in carrying out the work of the Committee.
- 5.7 The Committee shall meet as often as required to conduct its business as set out in these Regulations, and no less than six times per year. After due consultation with the Chairperson of the Committee, a meeting of the Committee may be convened by any member and notice of the meeting shall be provided to each member by the member who wishes to convene the meeting.
- 5.8 Except as provided for in section 5.7, meetings of the Committee shall be held at such times and in such places as the Chairperson decides and may be held by teleconference or video conference or by any other means that enables all parties to communicate with one another at the same time.
- 5.9 The Committee shall keep written minutes of all meetings which shall be made available to any person on request, provided that the cost associated with reproducing said minutes is borne by the requester.
- 5.10 At Committee meetings .
- (a) the Chairperson shall preside at all meetings unless s/he is absent, in which case s/he shall designate a proxy Chairperson for that meeting; and in the absence of such designation, the members present shall elect a proxy

Chairperson for that meeting and the proxy Chairperson shall decide the procedure for the meeting;

- (b) a quorum shall be constituted if at least 50% of the members are present; and
- (c) all members are entitled to vote at meetings and matters arising shall be decided by a majority of votes, provided that in the case of a tie the Chairperson shall have a casting or additional vote.

5.11 The Committee shall appoint a Project Implementation Unit (PIU) to implement or monitor approved projects to achieve the goals of Universal Access. The Committee shall remain responsible for the actions and omissions of any person, expert or other entity to whom those powers and functions have been delegated.

5.12 The Committee shall establish an Operations Manual for the UAF that shall be reviewed annually and updated as appropriate. The Operations Manual shall specify the roles, responsibilities and functions of the Board, the Committee and the PIU consistent with these Regulations, and shall establish procedures for the selection of UA programs and projects.

5.13 The Committee shall from time to time, based on the analysis and recommendations of the PIU, make recommendations to the Board regarding the determination of those areas that are un-served and under-served and the scope of the UA programs and projects in terms of services to be provided in those areas.

5.14 The Committee shall submit to the Board the Budget setting forth .

- (a) the prioritized Universal Access projects for the year;
- (b) a detailed description of planned activities for the year;
- (c) the sources and uses of funds, including a schedule of proposed disbursements; and
- (d) the manner in which the PIU will complete the execution of the UA projects and activities, budgets, expected start and completion date, outputs, and monitoring indicators to track progress of each project.

5.14 The Committee shall, with the assistance of the PIU, submit to the Board in writing a Monitoring and Evaluation Report at least once per quarter on .

- (a) the establishment of and progress made and/or impediments encountered in relation to any project to achieve Universal Access goals;
- (b) the receipt and disbursement of funds from the Fund;
- (c) any delegation of its powers; and
- (d) progress against the Budget.

6. Establishment and operation of the Project Implementation Unit

- 6.1 The PIU shall be established as an independent unit within LTA responsible, as directed by the Committee, for the management and implementation of the tasks required to implement the NUAPS.
- 6.2 The PIU will be headed by a Project Coordinator appointed by the Committee. Other suitably qualified staff may be appointed to or removed from the PIU by the Committee as required. Removal of a member from the PIU may take place on the basis that a member of the PIU has not carried out the terms of an assignment under this Regulation in relation to the UA program to the Committee's reasonable satisfaction, or has failed to disclose an interest in terms of section 7. Appointment of a member of the PIU shall be on such terms and for such period as may be decided by the Committee.
- 6.3 The PIU shall ensure effective and flexible coordination, management and day to day implementation of the UA program, including preparation of annual work-plans and budgets, procurement, payments, monitoring, evaluating and reporting. Its functions shall specifically include -
 - (a) administration and management of all projects supported by the UAF;
 - (b) management of the procurement process for UA projects;
 - (c) preparation of project plans for UA projects;
 - (d) preparation of reports on project outcomes against performance indicators or targets defined in the project plans; and
 - (e) the conduct of research and analysis and provision of recommendations to assist the Committee in determining which areas are actually underserved and unserved.

6.4 Annually, on a date to be specified by the Committee (preferably no later than 31 December) the PIU shall submit a draft Budget to the Committee in a standard format as required and approved by the Committee.

6.5 Quarterly the PIU shall prepare and submit to the Committee a Monitoring and Evaluation Report, setting forth in a standard format as required and approved by the Committee, progress against plan for each UA project and identifying any corrective actions required for implementation.

7. Disclosure of interests

7.1 A member of the Board or Committee as the case may be, shall disclose any direct or indirect financial interest to the other members of the Board or Committee that he or she may acquire in any service provider or licensee, or in any matter that is before or that will come before the Board or Committee as the case may be, for consideration, and a member of the PIU shall similarly disclose to the Committee any direct or indirect financial interest that he or she may acquire in any service provider or licensee, or in any matter that is before or that will come before the PIU for implementation; provided that section 7.2 shall not apply in the case where the interest of the member is limited to the supply of goods and services to the public on the same terms and conditions.

7.2

The Board or Committee as the case may be, shall determine whether or not that member shall remove himself or herself from any meetings concerning that matter, or from the Board, or Committee, or what other steps shall be taken in relation to that member in consequence of that disclosure. In any event, the vote of that member shall be disregarded in any such meeting and for the purpose of constituting a quorum at such meetings.

7.3 The disclosure shall be minuted.

8. Immunity

Members of the Board, the Committee and the PIU shall not be personally liable for any act or omission executed in good faith in the performance of a function or power under these Regulations.

Part III Creation and operation of the Fund

9 Opening and operating the account

- 9.1 The Chairperson of the Committee shall cause a bank account to be opened in the form of an escrow account, with a registered and recognized bank in Liberia, on the terms and conditions that usually apply to such an account, within one month of the appointment of the Committee. The bank account shall be called the %Universal Access Fund+.
- 9.2 Any transactions to be performed on the Fund shall require the signatures of the Chairperson of the Board and the Chairperson of the Committee. One alternate signatory for each Chairperson shall be appointed for this purpose at a duly constituted meeting of each of the Board and the Committee.
- 9.3 The Chairperson shall report to the Committee at the next meeting of the Committee on the establishment of the bank account. The Committee shall likewise report to the Board at the next meeting of the Board.
- 9.4 Monies must be deposited in the Fund in accordance with the requirements of the bank at which the account is held and .
- (a) notification of all payments and transfers to the Fund shall be copied to the Chairperson of the Committee;
 - (b) monies may be paid out of the Fund only if all of the following requirements are met:
 - (i) funding is appropriated in the annual Budget; and
 - (ii) payment is authorized by the authorized signatories; and
 - (iii) payment will not cause the Fund to have a negative balance following the payment.
- 9.5 Any surplus in the Fund after allowing for budgeted items in any one year shall be retained as a reserve for the purpose of fulfilling Universal Access goals in future years.
- 9.6 The Board shall appoint a firm of independent auditors to audit and provide a set of audited financial statements in relation to the Fund on the principles established in

the law, and on an annual basis to the Minister who shall provide the financial statements to the Minister of Finance.

- 9.7 Within 6 months of project completion, any UA project over a threshold that is to be determined annually by the Board, shall also be audited using an independent expert appointed by the Board to assess whether the project implementation has met the contractual requirements and ensure that the quality of equipment and its installation is to an acceptable level.

10. Sources of funds and the budget

- 10.1 Subject to the ICT Policy and the NUAPS and in terms of section 11 of the Act, the LTA shall impose license conditions on service providers and licensees that are not more burdensome than necessary for the Universal Access goals to be achieved. Such license conditions may include the obligation to make payment of a contribution to the UAF in accordance with the ICT Policy.
- 10.2 Licensees and service providers designated by LTA shall pay 0.5% (half of one percent) of annual gross revenues for the first year of the operation of the UAF. The LTA may revise these contributions in terms of section 10.3, and shall suspend contributions for any year in which the balance of the Fund at the start of the year, excluding Extraordinary Contributions, exceeds a sum equal to three times the aggregate contribution assessed on licensees in the most recent financial year. Contributions by licensees shall be made directly to the Fund no less frequently than annually, within three months of the date of the financial year end, and on the basis of the relevant entity's audited financial statements, with proof of payment being furnished to the LTA at the same time. The LTA may charge interest on any late payment at the maximum rate permitted by law.
- 10.3 The level of contributions to the Fund shall be determined by the need to facilitate the provision of services to un-served and under-served areas in Liberia. The Committee shall make a recommendation to the LTA regarding the level of contributions needed having regard to these determinations and by reviewing the level of accrued funds in the UAF, the level of expenditure needed against the UA programs planned and implemented to date, and the ongoing need to maintain and improve such programs.
- 10.4 In addition to the contributions made by licensees and service providers, the Committee may receive funds from donations to the Fund, allocations from the national budget that may include the County Development Fund and the Social

Development Fund, or from any Ministry of Government for the purpose of achieving Universal Access, and any other legitimate source (~~Extraordinary Contributions~~).

- 10.5 The Committee shall, in consultation with the Board and having regard to the provisions of NUAPS and the provisions of section 11 .
 - (a) determine a draft list of priority programs for the first three years of the operation of the UAF (the ~~three-year period~~), and publish this list for public comment;
 - (b) in determining priority programs, take into account the implementation schedule, areas to be covered, and cost of implementation; and
 - (c) taking account of comments received, determine a final list of priority programs.
- 10.6 The Committee shall, in consultation with the Board, review and revise if determined appropriate the priority list of programs no less frequently than the second year of each three-year planning period, and in doing so follow the procedure set out in section 10.5.
- 10.7 The Committee shall, subject to the approval of the Board, determine the Budget for the three-year period, and thereafter adjust the Budget each year as may be needed, and then it shall determine the Budget for the following three-year period, and so on.
- 10.8 The Budget shall include a forecast of the costs reasonably and necessarily associated with the due and proper administration of the Board and the Committee (including the PIU), which shall be covered by the Fund, and shall not exceed 15% of the annual contributions to the Fund in the first two years of operation and shall not exceed 10% of the annual contributions thereafter.
- 10.9 The Budget shall also identify likely sources and amounts of monies to be received by the Fund.
- 10.10 The Budget shall be approved on an annual basis by the National Legislature as part of the National Budget approval process.

Part IV Subsidies

11. Programs and projects eligible for subsidies from the Fund

11.1 Programs and projects that have as their object the provision of service in un-served and under-served areas or the provision of services to disadvantaged groups shall be eligible for a subsidy from the Fund, and the Committee shall make recommendations to the Board regarding the approval of these programs and projects.

11.2 No program or project shall be approved by the Board unless it is .

- (a) specific, measurable, achievable, relevant and time-bound, having regard to the targets and scope of services set out in NUAPS;
- (b) supported by a budget that includes a detailed work plan, project milestones, evaluation criteria and payment criteria;
- (c) within the approved annual budget of the UAF;
- (d) considered to be self-sustainable if it were to be awarded a subsidy;
- (e) technically feasible;
- (f) not already addressed by another program or project whether funded by the UAF or not.

11.3 Approved projects that are created within each program shall be awarded only on the basis of open, competitive bidding processes which are compliant with the requirements of the Public Procurement and Concessions Act (PPC Act) and Regulations issued by the relevant authority, provided that no project shall exceed the three-year period of each budget.

11.4 In selecting relevant projects the Committee should give priority to projects that extend coverage of mobile and/or broadband services in previously un-served and under-served areas. The UA Operations Manual shall provide the quantitative and methodological procedure for determining un-served and under-served communities and for selecting projects and locations eligible for UAF subsidies.

12. Process for awarding subsidies

12.1 The Committee shall award subsidies to competent agencies to implement a UA program or project pursuant to a competitive bidding process as required by the PPC

Act, and may delegate any of the following tasks, as it may determine in its discretion, to the PIU .

- (a) prepare an initial report on the project which stipulates the scope of work and timetable for the project and whether the project will be subsidized in full or only in part and the terms on which part-subsidies may be awarded;
- (b) prepare and publish a detailed specification, qualification criteria, terms of reference, a tender document, and detailed and objective evaluation criteria in relation to each project which may include proof of financial capacity and technical expertise for the proposed project, and an assessment of whether or not the project offers value for money;
- (c) receive and assess bids and award the contract, and negotiate and finalize the contract terms which shall include terms relating to contract management, reporting and dispute resolution;
- (d) monitor the progress of the project against the contract deliverables, request and collect information from the successful bidder for this purpose, and where necessary, take corrective action to ensure the project is completed on time and in accordance with its terms and where this is not possible, to terminate the contract and make alternative arrangements for its completion by issuing a further tender;
- (e) issue completion notices for each completed milestone or deliverable; and
- (f) pay approved invoices from the Fund on the basis set out in these Regulations.

12.2 Projects may be resubmitted to the Committee for consideration from time to time unless the Board has issued a final rejection notice in relation to that project or a successful bidder has failed to complete a project and the contract appointing that bidder has been terminated in accordance with section 12.1 (d).

Part V Reporting

13 Reporting by the Board and the Committee

13.1 The Committee shall provide a report on the progress made on each project on at least a quarterly basis to the Board and a report on progress in achieving the goals of Universal Access set for that year, on an annual basis.

- 13.2 The Committee shall provide a quarterly report to the Board on the performance of the Fund against the targets established in accordance with 4.10(c) and on any other relevant matter as instructed by the Board, including achievement of key performance indicators, measuring, monitoring and drawing lessons from project successes and failures.
- 13.3 The Board shall report against the annual goals in its annual report to the President, along with the audited financial statements of the Fund.

14 Transparency and accountability

- 14.1 In addition to the other provisions of these Regulations, the Committee shall, in consultation with the Board and within six months of the date of commencement of these Regulations, establish a website that contains information that can be easily accessed describing .
- (a) the roles of each of the Board and the Committee; and
 - (b) the goals of the NUAPS.
- 14.2 The website shall be regularly updated and shall contain details of .
- (a) the Board definition of ~~%un-served+and %under-served;~~
 - (b) the programs and projects that the Committee considers to be priorities;
 - (c) all tenders issued by the Committee and the successful bidders and details of each project including the timetable for completion and the area in which the project will be carried out and other relevant information including statistics;
 - (d) the relevant provisions of the Act, NUAPS and the ICT Policy, these Regulations, the Committee's Quarterly Reports, the Board's Annual Reports, and the audited annual financial statements of the UAF; and
 - (e) the contact person to whom queries and comments or suggestions about Universal Access and the UAF or any other related matter can be addressed.

Part VI Entry into Force

Short Title and Date of Entry into Force

15. These Regulations shall be cited as the LTA Regulations on the Universal Access Fund and shall come into effect on the date on which it is officially published by the Board of Commissioners of the Liberia Telecommunications Authority.

ISSUED BY THE BOARD OF COMMISSIONERS OF THE LIBERIA
TELECOMMUNICATIONS AUTHORITY ON THIS 10TH DAY OF SEPTEMBER 2015 IN
THE CITY OF MONROVIA, COUNTY OF MONTERRADO, REPUBLIC OF LIBERIA.

Angelique E. Weeks
Chairperson

Harry T. Yuan Sr.
Commissioner

Henry W. Benson
Commissioner

B. Anthony McCritty Sr.
Commissioner

Maria G. Harrison
Commissioner