



Opening Your World

Final Draft

Universal Service Fund (USF)

Operating Manual

April 2022

TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	OBJECTIVES OF THE USF	3
3.	KEY PRINCIPLES OF THE USF	4
3.2.	Market efficiency and targeted interventions in the Public Use Network.....	4
3.3.	Smart subsidies and sustainability	5
3.4.	Selection of Service Providers	5
3.5.	Open access	6
3.6.	The true access gap	6
3.7.	Uniform criteria for selection areas.....	6
3.8.	Creating maximum socio-economic impact	7
3.9.	Limitations on how much subsidies a Licensee can be awarded	7
3.10.	Technology neutral	7
3.11.	Transparency and stakeholders' consultations.....	7
4.	GOVERNANCE, MANAGEMENT AND ADMINISTRATION OF THE FUND	9
4.1.	General Roles and Functions	9
4.2.	Role of the CA Board	10
4.3.	Role of CA Management	10
4.4.	Roles and Duties of USF Function	11
4.5.	Responsibilities of USAC	11
4.6.	Conflict of interest	12
4.7.	Meetings, Quorum and Decisions of the USAC members.....	12
4.8.	Relationship of USAC with the Board.....	12
4.9.	Relationship of USAC with Management	12
4.10.	Relationship of USAC with the Public	12
4.11.	Relationship of CA with other institutions on USF	13
5.	SOURCES OF FINANCE AND FINANCIAL MANAGEMENT	14
5.1.	USF sources of funding	14
5.2.	Financial Management	14
6.	PROGRAM DEVELOPMENT	15
6.2.	Determining the current status of UA/US	15
6.3.	Determining USF Projects	16
7.	PROJECT DESIGN AND PRIORITISATION CRITERIA.....	17
7.1.	General	17
7.2.	Smart subsidy estimation and prioritisation of projects.....	17

7.3.	Sustainable project design and prioritisation.....	19
7.4.	Stakeholder and Public consultation	20
8.	SELECTION AND AWARD OF PROJECTS	21
8.1.	Open competitive tendering for smart subsidies.....	21
1.	Requirements for public tender	21
2.	Bidder requirements.....	21
3.	Technology Neutrality	22
4.	Financial requirements	22
5.	Project award and Service Agreement.....	22
8.2.	Other projects.....	22
8.3.	External and / or unsolicited proposals	23
8.4.	Public Private Partnerships and Inter-government (Public-to-Public) projects.	24
8.5.	Grant Management and Administration.....	24
8.6.	Joint sponsorship projects with non-Government agencies	25
8.7.	Projects sponsored by Development partners	26
9.	FUND DISBURSEMENT, MONITORING & EVALUATION	27
9.1.	General	27
9.2.	Inspections for fund disbursements.....	27
9.3.	Project Implementation Reports	27
9.4.	Quality of Service.....	27
9.5.	Enforcement.....	27
9.6.	Monitoring and Evaluation	27

Acronyms / Abbreviations

CA	Communications Authority of Kenya
CAPEX	Capital Expenditure
GOK	Government of Kenya
ICT	Information and Communications Technologies
KICA	Kenya Information and Communications Act
MoICT	Ministry of Information & Communications Technology
OPEX	Operating Expenditure
MDA	Ministry, Department or Agency
NGO	Non-Government Organisation
PPP	Public Private Partnership
PSC	Public Service Commission
RFP	Request for Proposal
UA	Universal Access
US	Universal Service
USAC	Universal Service Advisory Council
USF	Universal Service Fund

1. INTRODUCTION

- 1.1. The Kenya Information Communications Act 2009 (KICA 2009) and the Kenya Information and Communications Regulations 2010 (KICR US&A 2010) gives the Communications Authority of Kenya (CA) administrative responsibility to promote and ensure universal access and service (see a definition of these terms in 6.3.1) with respect to the provision of communication services in Kenya. Communication services means telecommunications, broadcasting, postal/courier, e-commerce, Internet / broadband services.
- 1.2. The Act created the Universal Access and Service Fund (USF or the Fund) which is managed by the CA with the Universal Service Advisory Council (USAC) playing an advisory role. The USAC is appointed by the Cabinet Secretary, MoICT upon receiving candidate names from the Public Service Commission (PSC).
- 1.3. The KICR 2010 further provides, through section 84J (3), for the CA to impose a Universal Access and Service (UAS) levy on identified communications service providers for purposes of funding universal access in the communications sector.
- 1.4. The purpose of the USF is exclusively for the implementation of universal access and service initiatives in order to promote social and economic development, focusing on unserved or underserved areas and disadvantaged communities that cannot be served by commercial service providers.
- 1.5. The USF is a funding instrument designed to achieve its key objectives, and for that purpose it collects a Universal Service levy. The levy is imposed under section 84J(3) of the Act, to be charged on all licensees offering communications systems and services on a commercial basis. The levy charged shall not exceed one percent of the gross revenue of a licensee.
- 1.6. The USF develops investment plans which describe key programs and guide the development and implementation of specific projects to assist in achieving universal access and service, as well as required capacity development.
- 1.7. The Fund offers subsidies and financial incentives to attract communications service providers to expand infrastructure and services in unserved and underserved areas. The Fund also assists in supporting innovations, ICT capacity and local content development.
- 1.8. The Fund also supports the provision of access to the Internet in sectors such as education and health for which the development and application of information and communications technology is critical to the sector and to national development.

- 1.9. The USF Operating Manual guides CA Management, USAC and the Board in the discharge of their duties and obligations, and on how to implement the USF programs and projects. It provides guidelines and operating principles on how the USF will be managed and administered.
- 1.10. The Operating Manual provides guidance in regards to how to implement, as well as how to develop the next USF strategy.
- 1.11. The USF is guided by key principles which are as described and explained in Section 3.

2. OBJECTIVES OF THE USF

2.1. The USF of Kenya has the following main objectives:

- (a) Promote communications infrastructure and services rollout in rural, remote and under-served areas
- (b) Ensure availability of communication services to Persons with Disabilities, women and other vulnerable groups.
- (c) Support the development of capacity building in ICTs and technological innovation;
- (d) Support expansion of communication services to schools, health facilities and other organisations serving public needs; and
- (e) Facilitate development of and access to a wide range of local and relevant content

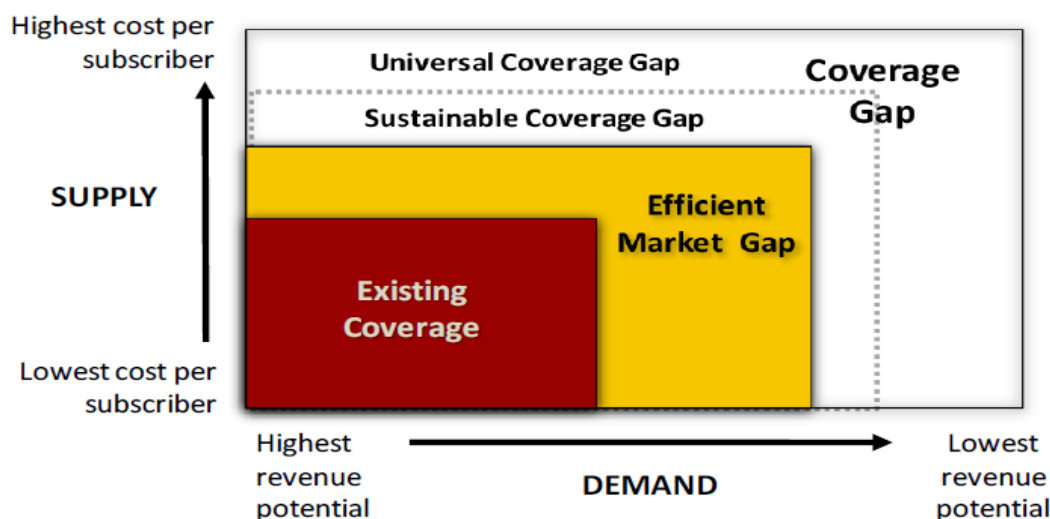
2.2. In particular, this includes the following:

- (a) Ensure the availability and use of information communications systems and services throughout Kenya, focusing on unserved or underserved areas or disadvantaged communities, in order to promote social and economic development;
- (b) Encourage communications service providers to rollout communications networks and services to uneconomical areas;
- (c) Improve the communication infrastructure and penetration in Kenya, in the telecommunications, postal and broadcasting sectors in the unserved and underserved communities.
- (d) Ensure that un-served areas have access to information and communication systems and services at reasonable costs and affordable prices;
- (e) Encourage the development and use of local content and applications;
- (f) Support universal access and service projects, and related research and programmes in all sectors of the economy, in particular support access and use of broadband communications in the education, health and agriculture sectors with priority being given to unserved and underserved communities.
- (g) Collect and distribute funds for the achievement of Universal Access and Service (UAS);
- (h) Initiate, manage and oversee the implementation of UAS programs, projects, research and innovations;
- (i) Monitor the provision of UAS initiatives; and
- (j) Evaluate on an ongoing basis areas supported by the Fund and make appropriate intervention

3. KEY PRINCIPLES OF THE USF

3.1. Introduction

- 3.1.1. The USF approach to access and penetration of communications in the public network is guided by the access gap model¹, as shown in the figure below.



- 3.1.2. Existing coverage shows the status quo in a country. This is typically the areas and population groups where cost of supply is low and demand and revenues are high. In more mature markets operators can reach quite far though into higher cost and lower revenue areas.
- 3.1.3. Most countries also have a market efficiency gap. This means that operators could expand their network and services if the regulatory system would be optimised, and regulatory barriers removed as much as possible. Examples are in the area of frequency management, infrastructure sharing, taxation and regulatory enforcement.
- 3.1.4. The coverage gap are the areas which the operators cannot provide services on commercial basis. The coverage gap can be sub-divided into the sustainable coverage gap and the “true” access gap or “universal” coverage gap (see more below in 3.6). The sustainable coverage gap can be closed if USF provides a smart subsidy (see below 3.3). The true access gap is so challenging and might be the last 1-2% of population unserved, that higher or possibly ongoing subsidies are needed.

3.2. Market efficiency and targeted interventions in the Public Use Network

¹ There have been many versions and variations, but the original is from “Telecommunications and information services for the poor - toward a strategy for universal access”, Navas-Sabater, Dymond, Juntunen, World Bank 2002

3.2.1. The USF is implemented within a multi-player, commercial marketplace, in accordance with the broader policy objectives of the GOK. The GOK continues to be committed to foster efficient market operation, a fair competitive environment and overall sector expansion, and to remove any regulatory or other barriers to the operation of an efficient market.

3.2.2. Targeted interventions and financial subsidies from the USF will only be used as a means to provide support in areas and for user groups where efficient market forces alone cannot provide the desired services. The Fund is to develop market-oriented programs and subsidise projects that will be mostly implemented by operators and service providers. In addition, the USF will be used in environment where the sector reforms have been implemented to allow fair competition.

3.3. Smart subsidies and sustainability

3.3.1. USF shall use the smart subsidy approach, to provide financial support in provision of services in rural and high cost areas, low-income population groups, capacity building efforts and service targets which will not be reached by the market alone. Targeted financial intervention is required beyond normal regulatory measures to provide services to these population groups and areas.

3.3.2. These smart subsidies typically amount to well less than 100% of CAPEX cost. They are designed not to distort the market, and encourage cost minimisation and growth of the market. The ultimate objective of providing a smart subsidy is to make the project attractive for investment and commercially viable in the medium term.

3.3.3. Also in cases where commercial viability is not possible or cannot be implemented by the industry, the USF is to consider and ensure long-term sustainability of projects. This may include involving other partners. The USF shall avoid funding any projects on an open-ended basis.

3.4. Selection of Service Providers

3.4.1. The mode of selection of a service provider will be determined by the type of project being implemented. CA management reserves the right to determine an appropriate mode of selecting a service provider. This may range from tendering, grants, donations, or direct collaboration with a service provider in the event that only one organisation is suitable to offer the service. In each case, a justification for the choice will have to be made.

3.4.2. For projects that require Smart subsidies, the mechanism to select an operator or service provider to receive a smart subsidy from the USF shall be through a competitive open tender.

3.4.2.1 The USF is to use this open competitive tendering approach for the least amount of subsidy requested for service provision from qualified bidders.

Service providers need to submit a technical proposal proving that they are qualified and a financial bid submission with their request for subsidy for each USF project or bidding lot. Among the qualified bidders, the bidder that requests the lowest subsidy is awarded the project.

- 3.4.2.2 Winning bidders will sign a time-bound contract agreeing to a once-only financial subsidy that will be disbursed over time as they meet their build-out requirements and service provision obligations. Any networks deployed for providing the services will be fully owned by the implementing operators.
- 3.4.3. For projects that require CAPEX grants or any other mode of selection, CA management will start by establishing a criterion of selecting the appropriate service provider. Such a criterion will be made public during the call for proposals. Participating firms plus winning proposals will be published in any public newspaper with Nationwide circulation

3.5. Open access

- 3.5.1. While competitive tendering or [any other means will be used](#), this shall not lead to exclusivity for the winning operator or service provider. Any service provider that receives subsidies [or any firm of funding](#) from the USF shall be required to allow open, cost based sharing of infrastructure on facilities implemented under USF contracts to other licensed operators. Such sharing may include access to masts, cables, dark fiber, physical structures, ducts, equipment enclosures, and similar facilities.

3.6. The true access gap

- 3.6.1. The true access gap comprises areas or communications targets that are beyond any commercial viability, even in instances where initial smart subsidies are given. [The extent of the true gap may vary based on the type of service under consideration. It is therefore imperative that CA determines the true gap of each technology served by USF \(e.g., Voice and data, Postal & Courier, Broadcasting\)](#). Commercial sector operators or service providers serving these areas would need ongoing financial support, possibly in the form of operating subsidies. The USF is to identify the kind of assistance that can be given for the “true access gap” – considering that these projects will require ongoing subsidies.

3.7. Uniform criteria for selection areas

- 3.7.1. CA shall apply clear and objective methods and criteria for prioritising geographic zones where USF will be implemented. Priority will be given to rural, remote, and small towns and villages which are unserved or underserved by ICT services, and where licensees do not intend to provide services. The factors that will determine which specific areas will be chosen for any given projects will be transparent and fair, based on consultations with

local stakeholders, taking into account of such criteria as access and proximity to existing network infrastructure, size of the population and density, status of the supporting infrastructure (energy, roads, etc.), socio-economic conditions, and geographic and demographic diversity. The detailed prioritisation methodology is described in Section 7 of the USF Operating Manual.

3.8. Creating maximum socio-economic impact

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

3.9. Limitations on how much subsidies a Licensee can be awarded

- 3.9.1. The CA shall endeavour to ensure that all Licensees contributing to the Fund have a fair and equal opportunity to receive USF funding through competitive project bids. In particular, the CA may consider establishing maximum limits on the total number of projects or amount of payments from the Fund that a licensee can receive during a given period of time.

3.10. Technology neutral

- 3.10.1. The USF mechanism is to enable the most effective, efficient and appropriate technologies to be implemented for Universal Access and Service. By ensuring a technology neutral approach in the competitive tendering process, the USF will allow the operators to choose the most suitable technology to provide the required services, acceptable quality of service and affordable end-user devices existing in the market.

3.11. Transparency and stakeholders' consultations

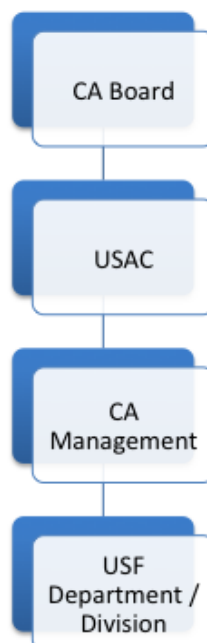
- 3.11.1. The USF will be operating in an open and transparent manner by:
- (a) Publishing, as a minimum, annual reports that provide details of funds collected, funds disbursed, to which operator or service provider projects are awarded and how much funds they receive, key terms and conditions of their service agreement, status and achievements of project implementation and service provision, successes and problems encountered;
 - (b) Publishing any tender advertisement, call for proposals in case of grants or any other means of selection and publishing the relevant engagement documents if feasible;
 - (c) Awarding the funds of the USF in an open, fair and transparent manner; and

- (d) Disseminating the purpose and objectives of the Fund through the media and organising public sensitisation and awareness campaigns especially at places where USF projects are being planned or implemented.

4. GOVERNANCE, MANAGEMENT AND ADMINISTRATION OF THE FUND

4.1. General Roles and Functions

- 4.1.1. Clarity of roles and functions is important for the Management and implementation of USF programs and projects. This section provides clear guidelines regarding responsibilities of involved entities, in order to ensure administrative effectiveness.
- 4.1.2. The USF Function shall develop and implement strategies, programs and projects that further the universal access and service objectives.
- 4.1.3. The USF Function is engaged on a full-time basis with all matters in regards to the Fund. It is responsible for the day-to-day Management of USF programs and strategic plans, review and implementation of projects proposals.
- 4.1.4. The CA Management reviews the USF strategic plans, the USF programs and project proposals and detailed design received by the USF Function before submitting such key documents to the USAC for their final review. The CA Management also monitors the implementation of the USF programs.
- 4.1.5. The USAC’s main role is to review the proposed USF strategic plans, projects, reports and outputs approved by the CA Management for presentation to the Board.
- 4.1.6. The CA Board is ultimately responsible for the Management and administration of the USF.



4.2. Role of the CA Board

The CA Board is responsible and accountable for the Management and administration of the Fund, and the implementation of its programs. Specific responsibilities include the following:

- 4.2.1. Approve the broad policy issues on the Management of the Fund;
- 4.2.2. Approve the USF Operating Manual for the effective working of the USF, containing its administrative framework for the Management of the USF and overall principles of USF operation;
- 4.2.3. Approve the USF strategic plans and programmes;
- 4.2.4. Approve the annual operating plans of the Fund, including project proposals, and their performance targets;
- 4.2.5. Review and approve for submission to the Cabinet Secretary of ICT the USF annual performance report;
- 4.2.6. Approve bank account opening for USF and designate signatories in accordance with CA financial regulations;
- 4.2.7. Review and approve annually finance and accounts reports related to the Fund;
- 4.2.8. Review quarterly performance evaluation reports;
- 4.2.1.1 Ensure and monitor transparency and accountability in all USF processes, including by publishing at least annual USF reports and financial reports;
- 4.2.1.2 Maintain the integrity of USF activities;
- 4.2.1.3 Authorize and conduct audit of USF activities;
- 4.2.1.4 Approve the structure of the USF Function

4.3. Role of CA Management

- 4.3.1. The Management has the power to issue general or specific policy directions, directives and guidelines relating to the Management of the Fund.
- 4.3.2. The Management shall set up a dedicated USF Function and appoint staff to undertake the day-to-day administration of USF activities.
- 4.3.3. The Management shall establish administrative mechanisms, systems and structures for the proper Management of the USF.
- 4.3.4. The Management shall monitor the efficient Management of the USF program and shall ensure the quality of the USF program results.
- 4.3.5. The Management shall avail the services of other CA employees on a need basis.

4.4. Roles and Duties of USF Function

The USF Function shall perform the following:

- 4.4.1. Preparing strategy and programs/projects proposals for approval.
- 4.4.2. Undertaking project management through monitoring and evaluation, data collection and research on new areas.
- 4.4.3. Conducting assessment on the state of universal service and other related research activities for the USF programs.
- 4.4.4. Ensuring that a database of relevant performance indicators relevant to the USF program is assembled, kept up to date and disseminated or made available as required.
- 4.4.5. Operationalising and maintain the Interactive ICT Access Gap portal and keep.
- 4.4.6. Developing the USF strategic plan and programs for review by Management;
- 4.4.7. Managing the execution of the USF Programs/projects;
- 4.4.8. Developing USF annual operating plans and budget requirements in accordance with the approved USF programs;
- 4.4.9. Designing and prioritising universal service projects, in line with the approved strategy and programs;
- 4.4.10. Undertaking activities relating to inspection, monitoring and evaluation of USF projects, including the selection and supervision of consultants and technical auditors/monitors to support project implementation as required;
- 4.4.11. Monitoring the expenditure of USF projects in consultation with Finance and Accounts department;
- 4.4.12. Preparing quarterly progress reports and submit to Management for review;
- 4.4.13. Preparing USF annual reports for approval before submission to the Ministry of Information Communication Technology.

4.5. Responsibilities of USAC

- 4.5.1. The USAC shall advise the Board and provide strategic policy guidance for the administration and implementation of the USF including review of reports, programs/projects and budgets.
- 4.5.2. The USAC shall perform any other function as may be assigned by the Board from time to time consistent with provisions of the Act and Regulations.

4.6. Conflict of interest

- 4.6.1. USAC Members shall at all times disclose in writing any potential conflict of interest, whether it be financial or otherwise, direct or indirect, which they may have in the implementation of USF projects.
- 4.6.2. Provided such disclosure is full and made in writing and providing that the other Members approve of the same, a Member shall not necessarily be disqualified for possessions of such interest. However, a Member is not entitled to vote on any decision in a matter where he/she has a conflict of interest and the Member shall excuse himself/herself from that portion of the meeting concerning the matter in question.
- 4.6.3. A USAC Member's position shall be vacated if the USAC Member's ownership or employment in the communications sector is so extensive and constitutes a conflict of interest to such an extent, that it renders his role as USAC member ineffectual.

4.7. Meetings, Quorum and Decisions of the USAC members

- 4.7.1. The USAC shall have regular meetings, at least once every quarter of the year.
- 4.7.2. All USAC meetings shall require a quorum of at least seven (6) members to be present. Decisions shall require a simple majority of voting members present. In the event of a tie, the Chairperson has the deciding vote.

4.8. Relationship of USAC with the Board

- 4.8.1. Communication between the USAC and the Board shall primarily be through the Director General. However, the USAC Chairperson may from time to time consult the Board on issues related to its activities.
- 4.8.2. The USAC Chairperson or nominee may bring to the attention of the Board any issues related to their mandate that they wish to have the CA Board to consider.
- 4.8.3. The USAC Chairperson or nominee can at the invitation of the CA Board Chairman, attend meetings to present or clarify on some issues.

4.9. Relationship of USAC with Management

- 4.9.1. Communication from USAC to Management shall be through USAC Chairperson or nominee.
- 4.9.2. Such Communication shall be through the Director General.

4.10. Relationship of USAC with the Public

- 4.10.1. Communication by or from the USAC to the Public shall be through the Director General.

4.11. Relationship of CA with other institutions on USF

- 4.11.1. The Management can engage directly with other institutions on any USF related responsibilities. However, any agreements such as a Memorandum of Understanding requires the approval of the CA Board.

5. SOURCES OF FINANCE AND FINANCIAL MANAGEMENT

5.1. USF sources of funding

5.1.1. The USF shall be sourced mainly from the following:

- (a) Levy from all licensees providing commercial communication services;
- (b) Government contributions as may be appropriated by the National Parliament;
- (c) Gifts, Donations, Grants and Endowments;
- (d) Contributions from CA; and
- (e) Any other source as may be advised by USAC and approved by the CA board

5.2. Financial Management

5.2.1. USF Account

5.2.1.1 The USF shall have its own bank account or accounts with a reputable bank or banks. This account shall be separate from any CA finances, and USF accounting shall be transparently maintained and operated as such.

5.2.2. Administrative and Operational expenses

5.2.2.1 All administrative and operational expenses of the USF shall be drawn from the approved Authority's budget.

5.2.2.2 [The budget for all USF projects will include a 3% project administration fee as allowed by the Public Finance Management Act. This fee will enable USF to engage extra capacity for project execution on a project basis.](#)

5.2.3. Auditing, Quarterly and Annual reports

5.2.3.1 The USF shall be audited annually by independent Auditors appointed by the Board and the reports submitted to the Cabinet Secretary for ICT. The USF financial Audited accounts shall be published jointly with the annual report of the USF and shall be open to the general public.

5.2.3.2 The Authority shall prepare an Annual Report of all the USF's activities which shall be submitted to the Cabinet Secretary for ICT by 30th September. This report shall also be open for the general public.

6. PROGRAM DEVELOPMENT

6.1 General

The general methodology to be followed in the identification and development of programs for USF financing in each of the communications sub-sectors shall be as follows;

- 6.1.1. Every three to five years or within another interval as the USF deems appropriate, a high-level strategy shall be developed that sets out the specific programs and activities in all sectors to be supported by the USF.
- 6.1.2. In order to identify and develop programs/projects in each sub-sector the following shall be considered:
- 6.1.3. What should be considered a basic and essential service?
- 6.1.4. What is the current status of universal access and service?
- 6.1.5. Is the project sustainable?
- 6.1.6. In sectors supported by the USF, such as education and health, have the sector agencies themselves established the necessary plans and mechanisms to ensure sustainability, use and impact of the communications services in their main areas of activity.

6.2. Determining the current status of UA/US

- 6.2.1. In order to determine the current status of universal access and service and/or need for communications access, the Authority shall conduct market studies (demand analysis/ [baseline studies](#)/ access gap study) which determine the demand and supply of the services, in consideration of the following four aspects which characterise universal access and service:
 - (a) **Availability**—what type and level of service is available for users? Do all areas in the country receive the same service without geographical discrimination? Or are there areas or population groups for whom the services are not available?
 - (b) **Accessibility**—can all people and institutions in Kenya access the services in a non-discriminatory manner?
 - (c) **Affordability**—can all people pay a reasonable amount of usage of the basic and essential services allowing them to derive socio-economic benefits?
 - (d) **Awareness and ability** – are people and potential user organisations informed of the existing benefits of communications services and applications? Do people have the knowledge, skills and capacity to use the communications services such as computers and other communications devices?

6.3. Determining USF Projects

- 6.3.1. In developing USF projects to be undertaken in the main Public Use Network, the level of penetration of communication services shall be taken into consideration. This will determine whether the USF shall implement universal service (US) or universal access (UA) projects.
- 6.3.2. The USF shall implement US projects to provide essential communication services to individual households.
- 6.3.3. The USF shall implement UA projects to provide essential communications services at a publicly accessible centre.
- 6.3.4. In order to determine whether a communication service is to be considered essential for implementation, the USF shall undertake regular studies to determine penetration of the service.
- 6.3.5. In implementing USF projects, the specific targets shall be either UA targets or US targets. In cases where availability, access and affordability of a communications service is below 50% population penetration, a universal service target is not realistic and feasible. A program targeting the availability of the service at a public place shall be considered.
- 6.3.6. Where a service penetration is above 75% of household penetration USF shall develop universal service target for this area.
- 6.3.7. In areas where service provision is between 50% and 75% a dual approach of providing communication service at both household level and publicly available centres shall be considered.
- 6.3.8. Having determined the level of service penetration in various parts of the country the USF shall develop programs/projects to be implemented.

7. PROJECT DESIGN AND PRIORITISATION CRITERIA

7.1. General

The majority of USF projects shall be designed and prioritised according to the commercial viability analysis described in this section. This applies mainly to supply-side oriented projects which are aimed at communication service providers to build and operate infrastructure specific services. These projects are to be commercially viable with the help of a smart subsidy from the USF. This means they are also sustainable beyond the subsidy. Therefore, a commercial viability analysis is used to categorise, group and prioritise individual projects.

The USF may also fund other projects where commercial viability is not possible or not necessarily the aim, such as projects focussed on capacity building, [supporting creation of local content and applications](#), [enhancing security](#), [supporting e-government of institutional services](#). The focus here is typically sustainability. While some principles from the smart subsidy approach can be derived, it requires additional criterion to help design and prioritise projects as described below.

7.1.1. The general key considerations for USF project design and prioritisation are as follows:

- (a) A degree of regional representation of USF projects across counties;
- (b) Sustainability of projects
- (c) Practicality of projects,
- (d) In the case of institutional support (e.g., educational, health, etc.), the agreement of a mutual memorandum of understanding laying USF responsibilities with the leading agency where services are to be provided,
- (e) The impact of projects, e.g., higher number of people, lower subsidy (e.g., by comparing subsidy cost per person or user institution impacted);
- (f) The needs and demand for communications services;
- (g) Initiatives that allow a larger number of operators to participate in the tender process; and
- (h) Availability of funding, timeliness and capacity to implement the projects/programs.
- (i) Initiatives to deepen use and impact

7.2. Smart subsidy estimation and prioritisation of projects

7.2.1. In the main public Network Use sector in particular, the smart subsidy is the amount of money required by a communications service provider to bring loss-making services to an acceptable rate of return over the long term. Once the operator has an acceptable rate of return over the long-term, the service provision is sustainable.

7.2.2. The USF Fund initially estimates the 5 year revenues and costs, and the “financial gap” of providing a particular communications service. Bidders are

required to make their own estimate at or below the maximum allowable subsidy. The competitive process ensures there is no overcharging of the USF.

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

- (a) Population numbers and their demand/ projected expenditures on communications services. This is to model expected revenues from the users, institutions and businesses for the particular communication services;
- (b) Per capita and household incomes to cross-check reasonable communications expenditure as a percentage of income;
- (c) Geographic areas that are unserved or underserved;
- (d) Infrastructure and service supply costs – the costs for supplying extension of the existing infrastructure and service provision into unserved or underserved areas of the country.

7.2.4. The output of the subsidy and financial viability model is a **viability rating** as a percentage for each project or project area. The viability rating is the amount that the model calculates as the amount of subsidy compared to the overall investment needed. For example: assuming to serve an area with communications services requires Kenya Shillings 10,000,000 investment, and the subsidy required to make this investment profitable is Kenya Shillings 2,000,000. The service provider invests Kenya Shillings 8,000,000 and the subsidy is Kenya Shillings 2,000,000, so this area is 80% viable. The table below shows a typical categorisation of viability ratings, highlighting in blue what type of projects the USF can best target.

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

Category 3	51-75%	Commercially unviable without a subsidy in the range of 25-50% of overall investment. Good target for USF Program.
Category 4	26-50%	Unviable and very unlikely to be served without subsidy in the range 50-75% of overall investment. Should be targeted for USF Program subsidy
Category 5	0-25%	Definitely unviable without major subsidy, e.g., requiring more than 75% of overall investment. Also may require an ongoing operating cost subsidy. Should be targeted later when market has expanded.

- 7.2.5. In accordance with USF’s objective of leveraging commercial sector participation and supporting sustainable development of services while minimising the amount of subsidy needed, the USF focusses on projects/localities with a viability between 25% and 75% highlighted in the blue category 3 and 4.
- 7.2.6. This relative prioritisation using a relative ranking technique is appropriate to recognise the uncertainty of predicting USF project performance.
- 7.2.7. Some localities in Category 5 may be considered as eligible for smart subsidy if “mixed” with more viable localities in Categories 2 and 3, and accepted by service providers as part of a regional tender lot. The USF shall optimise the possibility of including all regions and communities in the USF program.

7.3. Sustainable project design and prioritisation

- 7.3.1. For other projects, where the smart subsidy commercial viability analysis is not possible or appropriate (such as pilot projects, capacity building projects, education projects), there are the general key considerations listed under [7.1.1](#), and the additional considerations listed below, that are helpful to guide the design and prioritisation of USF programs / projects.
- 7.3.2. The readiness of the beneficiary of a USF subsidy, such as a school or other institution, is important. This refers to the capacity to take advantage of the provided communications services, as well as the capacity to maintain and secure any provided equipment, and/or the willingness of the agency (e.g., an MDA), to partner with the USF and assume the operating costs over time.
- 7.3.3. Projects thus need to be designed in a holistic way that demand and ensure readiness from beneficiaries and project partners. This may mean that the project includes additional measures that support the success and impact of the project.
- 7.3.4. Sufficient processes or structures need to be implemented to ensure good communication with and support from project partners and beneficiaries.

7.4. Stakeholder and Public consultation

- 7.4.1. The Authority shall share the activities of the USF with stakeholders through workshops and other effective means.

8. SELECTION AND AWARD OF PROJECTS

The selection of USF service may be through subsidies after a competitive procurement process, or grants based on an established and transparent grant administration process:

8.1. Open competitive tendering for smart subsidies

- 8.1.1. The mechanism to select an operator or service provider to receive a smart subsidy from the USF shall be in accordance with CA best practice and the Public Procurement and Asset Disposal Act, 2015 and corresponding regulations.
- 8.1.2. The lowest-subsidy auction is the most common and efficient form of open tendering. For it to succeed, it is necessary to attract the highest possible number of bidders so as to increase the cost-competitiveness of bids and reduce the size of the subsidies.
- 8.1.3. The USF shall define the maximum allowable subsidy to be disbursed for implementation of the USF project.
- 8.1.4. Bidders meeting all the tender requirements of the tender document and who have requested the least subsidy shall be awarded the tender.

1. Requirements for public tender

- 8.1.5. The USF shall develop standard tender documents tailored to its purposes, in accordance with the Public Procurement and Asset Disposal Act, 2015, corresponding regulations. The tender document shall also include standard form of contract.
- 8.1.6. The tender document shall be issued and notice of tender shall be advertised in at least two national newspapers with a wide circulation/my gov publication, the IFMIS supplier portal at the National Treasury, and on the CA website. Every effort shall be made to ensure that potential bidders are alerted to the USF bid opportunity.
- 8.1.7. Public tender documents may be offered for sale to prospective bidders for the sum that would be determined by the guidelines of the Public Procurement and Asset Disposal Act, 2015 and corresponding regulations or as amended.

2. Bidder requirements

- 8.1.8. A Bidder for any USF project(s) must generally be a holder of a valid license to provide communications services in Kenya.
- 8.1.9. Bidders must demonstrate that they have sufficient experience and resources in providing the required communications services.

3. Technology Neutrality

- 8.1.10. The USF shall not dictate the technology to be implemented by service providers instead; the service contract shall be awarded to the bidder meeting all minimum service requirements.
- 8.1.11. Bidders shall demonstrate the suitability of the technology being provided.
- 8.1.12. Where a bidder proposes a new technology the Authority shall evaluate its consequences to the end-user.
- 8.1.13. Where bidders require radio frequencies they shall be obligated to secure the requisite spectrum upon award of tender.
- 8.1.14. [The Authority may however, upon comprehensive research and stakeholder engagement, recommend particular technologies or solutions if they are found to sufficiently address affordability, availability, and accessibility. Upon recommendation all operators will be invited to participate in tenders to use these technologies.](#)

4. Financial requirements

- 8.1.15. The USF shall require bidders to demonstrate financial capability to undertake the projects.
- 8.1.16. Bidders shall be required to provide a guarantee in the form of a bid bond and/or a performance bond issued by a reputable financial institution as security for undertaking USF projects.

5. Project award and Service Agreement

- 8.1.17. The service contract shall be awarded to the bidder with the least subsidy requirement and that has fulfilled all the tender requirements.
- 8.1.18. The successful service provider shall meet the Quality of Service requirements that are listed in the tender document and Service Level Agreement.
- 8.1.19. Any successful service providers will be subject to applicable sector regulations.

8.2. Other projects

- 8.2.1. [In accordance with its mandate the USF shall develop and advertise tenders or call for proposals](#) for a range of special projects to be developed through an ongoing consultation process and planned for procurement [or grants](#) on an annual budgeting basis.
- 8.2.2. These shall be competitively tendered individually as per the Public Procurement and Asset Disposal Act, 2015 and corresponding regulations or [may be awarded in accordance with an established criteria of awarding as required in section 3.4.3.](#)

8.2.3. Other projects shall include the following Category of project:

- (a) Small or Pilot Projects: At the beginning of every financial year, the USF shall make a budgetary allocation to support small or pilot projects. These Projects aim at assisting the USF to establish or refine its knowledge or methodology to be employed in the main programs. It may also wish to fund smaller projects to meet specific needs of a target community.
- (b) Capacity Building and Content Development Projects: The USF shall consider supporting projects that focus on capacity building and development of content and applications of value to regional or rural and underserved communities. These could include web sites, mobile apps, educational and training materials, interactive and multimedia applications for special needs users, and other targeted ICT content.
- (c) Innovations: A project to develop a new idea or new innovation may be initiated by the USF itself and put out to tender for proposals in accordance with para 8.8.2, or may be received as an external or unsolicited proposal.
- (d) E-inclusivity projects: These are projects meant to ensure special groups such as women, PWDs, children, the aged are brought on Board in using ICT services with priority given to unserved and underserved communities.
- (e) e-public projects: These are projects aimed at enabling the government to serve its citizens in public places such as schools, health centres, administration centres etc.
- (f) Projects that entail operationalisation of core USF projects: USF may, on a need by need basis, engage external consultants to help them execute USF projects as long as the need is justifiable in terms of the value creation.

8.3. External and / or unsolicited proposals

- 8.3.1. At the beginning of every financial year the USF shall also make budgetary provision to fund external project proposals aimed at meeting the objectives of the Fund. These may be solicited or unsolicited.
- 8.3.2. The USF shall receive project proposals from individuals, firms, organisations, operators and institutions seeking to be supported by the USF.
- 8.3.3. The USF shall evaluate the project proposals within 60 working days to determine the appropriateness of the proposal to meet the objectives of the Fund.
- 8.3.4. Based on its key principle of fairness and transparency, the USF will not fund such proposals directly without competition unless the service provider is a monopoly in the market with a clear competitive advantage.
- 8.3.5. Where the project proposal fulfils the requirements of the Fund, the USF shall use the proposal to develop a tender document or issue a grant depending on 8.3.4. In case of a tender, it shall be advertised to allow other interested bidders to participate and shall be executed in accordance with the Public

Procurement and Asset Disposal Act, 2015 and corresponding regulations. In case it is a grant, it will also be made public and public opinion sought.

8.4. Public Private Partnerships and Inter-government (Public-to-Public) projects.

- 8.4.1. The USF is able to collaborate in any PPP model listed in the Public Procurement Guidelines for PPP Agreements, 2010 and that shall be undertaken within the provisions of the Public Private Partnerships Act No. 15 of 2013, provided the aims and objectives broadly meet those of the USF.
- 8.4.2. The USF shall also be open to receive and evaluation proposals from any other Government Ministry, Department or Agency (MDA) for funding or partial funding of the ICT equipment or services fitting with the USF's aims and objectives.
- 8.4.3. USF will NOT fully finance projects from MDAs. Only projects targeting the unserved and underserved communities will be financed partially through match funding up to a maximum of 30% of project costs. In each case USF will only release their contribution once the MDA has already expensed their contribution.
- 8.4.4. All such PPP or public-public projects shall normally be governed by a "Memorandum of Understanding" or "Cooperation Agreement" between the MDA and USF laying out the specific terms of collaboration, joint and separate responsibilities, and the procurement of ICT facilities and services appropriate to the project.
- 8.4.5. Whereas procurement plans and decisions may be made under a specific PPP model, or collaboratively with another MDA, every effort shall be made to respect and maintain the USF's key principles, in particular socio-economic impact, technology neutrality, transparency and broad stakeholder consultation. In addition, priority will be given to projects that aim to serve the unserved and underserved communities.
- 8.4.6. Every effort shall be made to ensure that the procurement of ICT goods and services funded by the USF under its part shall be submitted to a competitive process.
- 8.4.7. If such competition is not possible or desirable because of the nature of the project or for efficiency, the inter-Government agreement shall spell out explicitly all costs, demonstrating how cost minimisation and best-price will be achieved, who will be paid, and how procurement decisions will be made. This arrangement may also be subject to public input and comment.
- 8.4.8. The USF shall also seek to avoid duplication of other GOK initiatives in the ICT arena, for example in development of content and applications (e.g., through MICT and the ICTA), except with express agreement.

8.5. Grant Management and Administration

- 8.5.1. USF will establish a Grant Management and administration process to select and award USF projects. That process will be subjected to public participation before adoption.
- 8.5.2. In line with may also select and award projects through grants. In such cases, a call for proposals will be made. Such a call may be open to the public or restricted to licensees only. In case its open, non-licensed participants will be allowed to jointly participate through JVs with licensed operators
- 8.5.3. Such a call for proposals will be made through public newspapers with nationwide circulation and stipulate the project scope, eligibility, value of the grant if already established and project timelines.
- 8.5.4. CA/USF will develop the terms of reference for the project and the criteria for selection based on a project by project basis. However, the following general guidelines will be used to select and award winners of the grant

	CRITERIA	DESCRIPTION	MAXIMUM SCORE
1	Sustainability	The proposal must demonstrate how to achieve sustainability on both the demand and Supply-side	Mandate
2	Alignment with the Government existing blueprints for Digital transformation	The project must be seen to directly contribute to the government’s digital transformation agenda	Mandatory
3	Alignment with USF’s mandate	The project must be seen to contribute to USF’s mandate of serving the unserved and underserved communities	Mandatory
4	It fits within the current Strategic plan	The project must fit within the Strategic direction and Strategies of the existing Strategic plan	Mandatory
5	Framework of implementation	There should be an existing framework of implementation or can be developed within a specified time	100
6	Technical Capacity	There should be technical capacity in the country to accommodate the solution	100
7	Impact	The social-economic impact must be visible to as many people as possible over a long period	100

8.6. Joint sponsorship projects with non-Government agencies

- 8.6.1. The USF shall be open to respond to proposals for collaboration and funding of projects planned and already partially funded by Non-government Organisations (NGOs) or other relevant associations in the industry
- 8.6.2. As in the case of inter-Government projects, the procurement of ICT goods and services funded by the USF must generally be submitted to a competitive tender in accordance with the Public Procurement and Asset Act, 2015 and corresponding regulations.
- 8.6.3. If such competition is not possible because of the nature of the project, this decision may also be subject to public input and comment.

8.7. Projects sponsored by Development partners

- 8.7.1. USF may also undertake/participate in projects sponsored by Development partners. However, such projects must be evaluated to ensure that they align with the USFs mandate and fit in a particular strategic direction.
- 8.7.2. CA/USF will sign an MOU with such partners to execute such projects. The MOU will stipulate the justification of the project, criteria for selection of service provider, the role of each partner, and the monitoring and reporting framework

9. FUND DISBURSEMENT, MONITORING & EVALUATION

9.1. General

- 9.1.1. The USF **will disburse funds** upon completion of agreed milestones as per the service contract.
- 9.1.2. The disbursement of **the Fund** for implementation of the USF projects, and the penalty conditions for non-conformance shall be clearly outlined in the Service Agreement.

9.2. Inspections for fund disbursements

- 9.2.1. The USF shall inspect the projects as per the service agreement before making **fund** disbursements.
- 9.2.2. The inspection shall be undertaken by either a team of CA employees or an independent technical experts appointed by CA.

9.3. Project Implementation Reports

- 9.3.1. The service providers shall submit regular status reports on implementation of the project as per the service contract.

9.4. Quality of Service

- 9.4.1. The USF shall undertake regular measurement of quality of service to ensure the service providers adhere to the service contract.

9.5. Enforcement

- 9.5.1. The USF shall ensure organisations undertaking USF projects comply with terms and obligations of their respective contracts. Service providers who fail to meet their obligations shall be penalised according to Kenya Information Communications Act 2013 (KICA 2013) and Kenya Information Communication Regulations 2010 (KICR 2010).

9.6. Monitoring and Evaluation

- 9.6.1. The USF shall develop tools and frameworks for regular monitoring and evaluation of projects/programs.