

## **EXECUTIVE ORDER NO. 012 - 2018**

AN ORDER REPLACING EXECUTIVE ORDER 02-1998, AS AMENDED, EXCLUDING EXECUTIVE ORDER 03-2016, CLARIFYING DUTIES OF THE BOARD AND THE EXECUTIVE DIRECTOR.

### **Section 1: Authority**

This Executive Order is issued under the authority granted to the Governor in Article IV, Section 6 and Section 7, American Samoa Revised Constitution and the American Samoa Code Annotated, §4.0111, applicable provisions of the Federal Communications Act of 1934, as amended, and the Telecommunications Act of 1996.

### **Section 2: Purpose**

The purpose of this order is to combine all effective ASTCA executive orders. It also clarifies and amends some of the duties of the Board and the Executive Director.

### **Section 3: Establishment of the American Samoa Telecommunications Authority**

There is hereby established, within the Executive Branch of the American Samoa Government (ASG), the American Samoa Telecommunications Authority (ASTCA), formerly known as the Office of Communications. ASTCA shall exist as a semi-autonomous agency of ASG and will be governed by a board, which shall be known as the ASTCA Board consisting of five (5) members who are appointed by the Governor for terms of two (2) years.

### **Section 4: Composition and Qualifications of ASTCA Board**

Of the five appointees, two (2) at-large members shall be selected on the basis of character, competence, education, experience and judgment; and at least three (3) shall be members from the private sector and, in addition to the above qualifying factors of the at-large members, shall have accounting, finance, or telecommunication industry experience.

### **Section 5: ASTCA Board Duties and Responsibilities**

- (1) hire an Executive Director who shall be directly responsible to the Board for the proper and efficient management of ASTCA;
- (2) establish and promulgate rules and regulations, not inconsistent with local and federal laws, for users of telecommunication services in American Samoa;
- (3) review and approve the Annual Operating and Construction Budgets of ASTCA in accordance with ASG's regular budget process;

- (4) develop, review, and approve ASTCA's long-term strategic plans and ensure they are in accordance with FCC Regulations;
- (5) review and approve rates before submitting said rates to any appropriate body if required for approval;
- (6) review and approve accounting and financial management policies and procedures to ensure compliance with local and federal accounting and auditing requirements;
- (7) develop enumerated policies, bylaws, and strategic initiatives for the administration, management and operation of the Board and ASTCA;
- (8) review the monthly operating statements of ASTCA, and any other financial reports or work product as it deems necessary;
- (9) prepare and file with the Governor and with the Legislature of American Samoa, annually, within 90 days after the close of the ASTCA's fiscal year, a report sworn to by an officer of ASTCA stating: (1) a profit and loss statement of the last fiscal year and (2) a statement of its assets and liabilities at the close of the year;
- (10) participate in training courses or seminars on topics relating to: directors' duties and liabilities; understanding the development telecommunication business; board roles and relationships; strategic planning; and financial planning. If such trainings occur off island then costs of travel, the training, and other reasonable expenses shall be provided in the annual budget of ASTCA. Off-island travel for trainings shall only occur if it is in the annual budget and if it is fiscally responsible to do so at the time.
- (11) shall hold regular meetings at least once every month and shall hold special meetings when necessary. It shall record and keep minutes of all such meetings and make said minutes available for public inspection.
- (12) exercise all other powers, not inconsistent with the laws and regulations of the Territory of American Samoa and the United States of America, which are reasonably necessary for the successful governance of ASTCA and the Board.

#### **Section 6: ASTCA Board Compensation**

Compensation for Directors shall be at a rate of \$5,000 per year paid in monthly installments. No other special compensation shall be authorized.

#### **Section 7: Duties and Responsibilities of Executive Director**

The Executive Director shall be the chief executive of ASTCA, and shall exercise and be responsible for all executive functions for ASTCA, including-

- (1) develop policies/programs for the administration, management and operation of ASTCA and submit for Board approval;

- (2) develop and submit to the ASTCA Board the Annual Operating and Construction Budget for approval;
- (3) all decisions regarding the day-to-day operations of the ASTCA;
- (4) carry out Board-established goals;
- (5) determine staffing levels and positions for ASTCA, including establishing the appropriate salary and benefits levels for each position in accordance with the law and Executive Order;
- (6) prepare, negotiate, approve and conduct procurement of supplies, equipment, materials, personal services, employees, and any other contracts in accordance with the law and Executive Order;
- (7) prepare, approve and issue ASTCA's bi-weekly payroll check in accordance with ASTCA Board policies and in compliance with the law and Executive order;
- (8) prepare and submit to the ASTCA Board and the Governor a monthly status report on the overall state of ASTCA;
- (9) prepare the agenda for ASTCA Board meetings;
- (10) manage activities and initiatives within approved budget limits;
- (11) be present and fully participating in discussions concerning any issue other than their own employment or compensation in all Board meetings, unless ASTCA business makes attendance impossible, whereupon a designee shall attend and participate on behalf of the Executive Director;
- (12) as a member of the Governor's cabinet, be the primary representative of ASTCA with the Government of American Samoa, and fulfill any and all duties and responsibilities required under the laws of the Territory;
- (13) set standards and performance objectives for all management, and be accountable to the Board for such reports.

#### **Section 8: Board and Executive Director Relationship**

Directors of the Board provide overarching governance to ASTCA; the officers of ASTCA provide management and carry out the plans and actions to meet the goals of the Board. The Executive Director reports to the Board but the individual officers and employees do not. Under normal circumstances, the ASTCA Board should limit its communication with and make any requests only to the Executive Director.

#### **Section 9: Personnel**

All officers and employees of the authority, other than the Executive Director, are appointed and compensated by the Executive Director in accordance with the requirements of the government employee laws, ASCA Title 7 and ASAC Title 4, except that the ASTCA Board, in conjunction with the Department of Human Resources, may adopt administrative rules, pursuant to 4.1001 ASCA et seq. to supplant government employee rules. The Executive Director shall be appointed by the Board.

**Section 10: Independent Audit**

ASTCA shall employ a firm of independent certified public accountants with telecommunications experience to examine and report on the condition of financial records and accounts no less than once a year. The report shall be submitted to the Governor by the ASTCA Board.

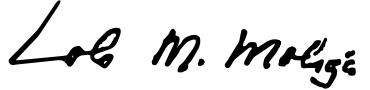
**Section 11: Procurement**

ASTCA may contract for the procurement of supplies, equipment, materials, personal services other than employees, and construction with any public or private entity upon terms and conditions as it finds necessary to the full and convenient exercise of its purposes and powers, subject to all applicable procurement laws and rules of American Samoa. The authority shall receive and account for its inventory of material supplies and equipment.

**Section 12: Rescission and Effective Date**

This order is effective immediately and supersedes Executive Order No. 02-1998, as amended excluding Executive Order 03-2016..

Date: October 15, 2018

  
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Lolo M. Moliga  
Governor of American Samoa