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EXECUTIVE ORDER No. 02 -1998

**AN ORDER ESTABLISHING THE AMERICAN SAMOA
TELECOMMUNICATIONS AUTHORITY**

Section 1: Authority

This Executive Order is issued under the authority granted to the Governor in Article IV, Section 6, American Samoa Revised Constitution, Title 4 A.S.C.A. Section 4.0111(b) and applicable sections of the Federal Communications Act of 1934, as amended, and the Telecommunications Act of 1996.

Section 2: Preamble and Purpose

WHEREAS, the local communications network in American Samoa, with connections to other United States and international points, was originally constructed by the U.S. Navy and the U.S. Department of the Interior; and

WHEREAS, the network was inherited, improved and expanded by the American Samoa Government which operates the Office of Communications under the direction of the Director of Communications, who is appointed by the Governor; and

WHEREAS, the Office of Communications is mandated to comply with certain provisions of the 1934 Communications Act and the 1996 Telecommunications Act; and

WHEREAS, the American Samoa Government has filed with the Federal Communications Commission (FCC), on October 1, 1997, its Plan to regularize the Office of Communications status under FCC Regulations; and

WHEREAS, the American Samoa Government is committed to comply with all applicable federal regulations pertaining to the operation of the government's communications system by the Office of Communications,

NOW, THEREFORE, the creation of the American Samoa Telecommunications Authority is hereby authorized, with the duties and responsibilities as set forth herein.

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 (ASTA), formerly known as the Office of Communications. ASTA shall exist as a semi-autonomous agency of ASG and will be governed by a board, which shall be known as the ASTA Board, consisting of three (3) members who are appointed by the Governor for terms of two (2) years.

Section 4: Composition and Qualifications of ASTA Board

Of the three gubernatorial appointees, one member shall be from the American Samoa Government Employees' Retirement Fund Board; a second member shall be an ASG career employee selected on the basis of character, competence, education, experience, and judgement; and the third member shall be from the private sector, selected on the basis of character, competence, education, accounting and finance experience and judgement.

Section 5: ASTA Board Duties and Responsibilities

The ASTA Board shall have the following duties and responsibilities:

- (1) elect its own chairman annually.
- (2) hire an Executive Director who shall be directly responsible to the Board for the proper and efficient management of ASTA.
- (3) establish and promulgate rules and regulations, not inconsistent with local and federal laws, for users of telecommunications services in American Samoa.
- (4) review and approve the Annual Operating and Construction Budgets of ASTA in accordance with the ASG's regular budget process.
- (5) review and approve ASTA's long-range plan to insure compliance with the Rate Integration Plan filed with the FCC on October 1, 1997 and regularize ASTA's operations in accordance with FCC Regulations.
- (6) review and approve rates before submitting said rates to any appropriate regulatory body as required for final approval.
- (7) review and approve procurement actions.
- (8) review and approve personnel actions.

(6) prepare, approve and issue ASTA's bi-weekly payroll checks in accordance with ASTA Board policies and in compliance with local and federal labor laws.

(7) prepare and submit to the ASTA Board monthly summary reports of cash receipts, receivables, payables, and all pertinent financial data necessary for the proper monitoring of ASTA finances.

(8) prepare the agenda for ASTA Board meetings.

Section 8: Transfer of Assets

At a date fixed by the ASTA Board and approved by the Governor, all tangible assets formerly listed under the Office of Communications shall be transferred to ASTA with the rights to operate all items of property including construction in progress.

Section 9: Transfer of Liabilities

At a date fixed by the ASTA Board and approved by the Governor, all outstanding liabilities incurred by the former Office of Communications, including all contracts and statutory obligations, shall be transferred to ASTA.

Section 10: Transfer of Leases, Contracts and Agreements

All leases, contracts, and agreements which were entered into by the former Office of Communications and are current, valid and in effect, shall be transferred to ASTA.

Section 11: Personnel

(1) At a date fixed by the ASTA Board and approved by the Governor, all personnel presently assigned to the Office of Communications shall be transferred to ASTA without any change in salary or in-service date for computation of retirement eligibility credit under the Government Employees' Retirement Fund.

(2) All officers and employees of the authority, other than the Executive Director, are appointed and compensated in accordance with requirements of the government employee laws, ASCA Title 7 and ASAC Title 4, except that the ASTA 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 in the specific categories of personnel recruitment, employment, termination of employee services, disciplinary actions and compensation at levels comparable to prevailing communications levels.

(9) review and approve accounting and financial management policies and procedures to insure compliance with FCC accounting and auditing requirements.

(10) review, approve and submit Quarterly Performance and financial Reports to the Governor no later than 30 days after the end of the Quarter.

(11) review, approve and submit an Annual Financial Report to the Governor no later than 90 days after the end of the fiscal year.

(12) 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.

(13) review and approve all other matters properly within the ASTA's authority which are included on the agenda of the ASTA Board.

Section 6: ASTA Board Compensation

ASTA Board members shall be compensated at the rate of \$500.00 per month. No other special compensation shall be authorized.

Section 7: Duties and Responsibilities of Executive Director

The Executive Director shall be the Chief Executive Officer of ASTA, shall report directly to the ASTA Board and shall perform the following duties:

(1) develop policies/programs for the administration, management and operation of ASTA and submit to the ASTA Board for approval.

(2) develop and submit to the ASTA Board the Annual Operating and Construction Budget for approval.

(3) prepare and submit to the ASTA Board Monthly Operating Statements, Quarterly Performance and Financial Reports, and Annual Financial Reports.

(4) hire qualified and experienced management personnel subject to ASTA Board approval and in accordance with government employee laws ASCA Title 7, ASAC Title 4 and the provisions of this Executive Order.

(5) prepare, approve and conduct procurement of supplies, equipment, materials, and personal services, other than employees, in accordance with all applicable laws and rules of American Samoa and the provisions of this Executive Order.

Section 12: Accounting and Budget

ASTA shall assume responsibility for the accounting and financial management of the telecommunications authority and shall perform all related accounting functions, including, but not limited to general ledger, fixed assets, accounts receivable, accounts payable, payroll and cash. ASTA shall apply and adhere to Generally Accepted Accounting Principles (GAAP).

Section 13: Independent Audit

ASTA 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 ASTA Board.

Section 14: Procurement

ASTA may contract for the procurement of supplies, equipment, materials, personal services other than by 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 materials, supplies and equipment.

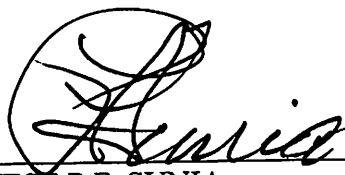
Section 15: Transition Period

All fees, rates, charges, and contracts in effect during the transfer of property and facilities, and management thereof, to ASTA's control and jurisdiction are considered properly adopted and continue in effect until duly changed or modified.

Section 16: Effective Date

This order is effective immediately and supersedes General Memorandum No. 16-1972.

Dated: Jan 9th, 1998.



TAUESE P.F. SUNIA
Governor

cc: Per Standard List