

**Vermont Community Broadband Board Meeting
Special Meeting
Monday, March 25, 2024, 12:00pm – 2:00pm
AGENDA**

Meeting is being held virtually.

[Click here to join the meeting](#)

Join by Phone; [+1 802-828-7667, 626912370#](#)

Note: there may be executive sessions as needed.

- 12:00 1) Call Meeting to Order, Roll Call, Approval of Agenda
- 12:05 2) Public Comment
- 12:15 3) Board Accountability Policy - [Consumer Protection Policy](#) – Toni Clithero
- 12:40 4) Board Accountability Policy – [Grantee Agreement Policy](#) – Toni Clithero
- 1:05 5) Board Accountability Policy – [Construction Standards Policy](#) – Toni Clithero
- 1:30 6) Legislative Update – Gwynn Zakov
- 1:55 7) Motion to Adjourn

Press inquiries: please contact Herryn Herzog, herryn.herzog@vermont.gov

Vermont Community Broadband Board
Accountability Policy
Consumer Protection Standards

1. Purpose: Pursuant to Act 71, the Board is mandated to prioritize grant proposals that “provide broadband service that complies with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.”¹ The Board is also mandated to support policies that ensure that grant funds are used to deliver reliable, high-quality broadband consistent with Vermont law. The VCBB hereby establishes minimum consumer protection and quality assurance policies for all Grantees.

2. Consumer Protection Standards Policy:

(a) The VCBB hereby incorporates the net neutrality and consumer protection standards adopted by the General Assembly in response to the Federal Communications Commission’s (“FCC”) repeal of the federal net neutrality rule (“Consumer Protection Standards” or “Standards”).² These Standards apply to all Grantees.³

(b) All grantees must provide written summaries demonstrating how the grantee and any implementing partners with which the grantee may contract will comply with the Standards in 3 V.S.A. §348, incorporated herein, as it may be amended, and described below, which prohibit Grantees from engaging in any of the following practices in Vermont:

- (A) “Blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management.
- (B) Impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service or the use of a nonharmful device, subject to reasonable network management.
- (C) Engaging in paid prioritization unless” waived pursuant to 3 V.S.A. §348 (c)
- (D) “Unreasonably interfering with or unreasonably disadvantaging either a customer’s ability to select, access, and use broadband Internet access service or lawful Internet content, applications, services, or devices of the customer’s choice or an edge provider’s ability to make lawful content, applications, services, or devices available to a customer. Reasonable network management shall not be considered a violation of this prohibition.

¹ 30 V.S.A. § 8086(b)(3),

² 3 V.S.A. § 348.

³ Compliance with these standards is currently required in both the Grant Application and Attachment A of the Construction Grant Agreement (requiring speeds of at least 100/100 Mbps complying with the Standards for a period of at least five (5) years from the date of award. Additionally, the following documents incorporate additional consumer protection standards in the existing Grant Agreements of SoVT, Lamoille FiberNet, CVFiber and ECFiber: Schedule C, Schedule D, Schedule D and Open Internet Transparency Policy, respectively.

(E) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.”

(F) Grantees must ensure that consumers are provided with accurate information concerning the “network management practices, performance and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.”⁴

(c) Grantees may obtain or require their contracted ISPs to obtain a certificate of net neutrality from the Secretary of Administration and provide a copy of such certificate to the VCBB. Alternatively, in the absence of certification by the Secretary of Administration, Grantees shall submit a Proposed Certification that documents that the ISP manages its network in compliance with the Standards to the VCBB. The approval of the Proposed Certification will require Board approval.

(d) Quality Assurance Plan. This policy further requires grantees develop a plan that describes how the Grantee will provide universal access to reliable, high-quality, affordable, and fixed broadband. More specifically each Grantee must identify in its grant application, grant agreement or grant amendment, how it and any implementing partners it may contract with will follow best practices in internet service and report on how the implementing partner will:

- Assure and measure network reliability;
- Assure and measure high quality customer service;
- Provide consumer complaint procedures;
- Assure customers are getting what they are paying for;
- Assure the network is maintained to general industry standards to meet customer demands for speed and reliability over time;
- Perform, carry out, and measure speed testing.
- Meet standard customer service requirements and related best practices including outage response, call taking, bill questions, consumer protections, response to customer inquiries, etc.
- Address consumer complaints through industry-standard procedures.

3. Reporting. Grant agreements may require annual reporting of Grantee performance under its Quality Assurance Plan with respect to network reliability and service quality. VCBB may consolidate performance reports in its annual report to the legislature.

⁴ 3 V.S.A. §348(b) (1) (A-E) and (b)(2).

Vermont Community Broadband Board
Accountability Policy
Grantee Agreement
Indications of Failure and Remediation Process

(1) **Purpose:** To fulfill the VCBB’s statutory obligation to establish policies, grant terms and grant conditions that establish a process for reviewing and developing remediation commitments when a Grantee either fails to comply with grant conditions or gives an indication that it might not be able to comply with a grant condition based on normal grant reviews processes performed by the VCBB and its staff. The remediation process described in section (3) precedes, and attempts to avoid, progressing a Grantee that is failing or trending toward failing to meet grant conditions to the Recoupment and Transfer of Ownership Policy, noted in section (5).

(2) **Indications of Failure to Comply with Grant Conditions:** If it becomes reasonably foreseeable for a Grantee that it may not be able to comply with a material grant condition, the Grantee must promptly inform VCBB staff in writing. Such notification may be made by email to VCBB Staff and should be included in any routine reporting to grant management staff at the VCBB. Upon such notice or upon an initial failure to comply with grant conditions as determined by VCBB staff, the VCBB will assess whether the issue of concern may be remediated by the Grantee. VCBB may request that the Grantee promptly provide additional information as requested. VCBB may request Grantee to promptly submit a proposed remediation plan to the VCBB. The VCBB may accept, reject, or modify the remediation plan and facilitate collaboration on the remediation plan with the Grantee and other stakeholders. The remediation plan should prioritize continuity of service to customers wherever possible.¹ The remediation process precedes, and attempts to avoid, progressing a Grantee that has failed to meet grant conditions to be further assessed under the Recoupment and Transfer of Ownership Policy. In the event of a significant breach or breaches of a grant agreement, VCBB may, at its discretion, decide to skip a remediation process and recommend review against the Recoupment and Transfer of Ownership policy instead.

(a) Initial Failure to Comply with Grant Conditions. An initial failure to comply with grant conditions is one which violates an expressed grant condition or conditions and/or prevents the VCBB from being able to properly assess a Grantee’s grant performance due to a lack of information, transparency, or ability to verify information provided. Examples of such failures include but are not limited to:

- Repeated, material adverse audit findings.
- Repeated failure to timely and accurately file any required financial reports and forecasts for the reporting period in question.
- Failure to comply with state Bulletin 5.0 or the federal Uniform Guidance, 2 C.F.R. Part 200 Subpart D.
- Recurring, unexcused non-performance of construction milestones.

¹ See 30 V.S.A. §8086(c)(4).

- Failure to provide timely and accurate documentation of locations that have been connected and offered broadband service.
- Failure to comply with or to support verification of compliance with construction standards.
- Failure to seek advance approval of sale or transfer of grant funded network assets (8086 (c) (5)).
- Failure to notify VCBB of the termination of an operating agreement with a critical operating partner to the grant agreement in the absence of a substantially similar replacement operating partner or plan and associated transition plan. The VCBB will be given notice of the substantially similar replacement operating partner or plan and associated transition plan as soon as practical.

(3) Remediation Policy. The VCBB will use specific facts to determine whether the potential material failure to comply may be remediated by the Grantee. The VCBB may ask the Grantee to promptly submit additional information, including possibly a proposed remediation plan, to the VCBB within 60 days of such request or such time frame as may be necessary. The VCBB may accept, reject or modify the remediation plan in coordination with the Grantee. The VCBB may facilitate collaboration on the remediation plan with the Grantee and other stakeholders. The remediation plan should prioritize continuity of service to customers wherever possible.

(4) Remediation. Grantees that successfully fulfill the requirements of the remediation plan developed in collaboration with VCBB are deemed remediated.

(5) Failure to Repair through Remediation. Grantees who fail to or refuse to repair grant condition failures through the remediation plan developed in collaboration with VCBB will have their grant project escalated to the steps enumerated in the Recoupment and Transfer of Ownership Policy.

(6) Force Majeure and Excused Delays. Grantee shall notify the VCBB of circumstances materially impacting grant compliance, including anticipated or actual delays in construction. Such delays may temporarily excuse performance. In such instances, Grantees shall submit and implement a remediation plan.

**Vermont Community Broadband Board
Accountability Policy
Construction Standards Policy**

- 1. Purpose:** The VCBB’s mission is to “support policies and programs designed to accelerate community efforts that advance the State’s goal of achieving universal access to reliable, high-quality, affordable, fixed broadband.”¹ With respect to construction of broadband infrastructure, VCBB is specifically authorized to establish policies and standard grant terms which “adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability.”² This policy is intended to provide guidance to support Grantees in their construction and design of broadband infrastructure, while preserving their flexibility to tailor solutions to meet network goals and business objectives consistent with industry standards and Act 71. This policy only applies to the Broadband Equity Access and Deployment Program (BEAD) to the extent its provisions are consistent with BEAD.³

It is also the intent of this policy to ensure at a minimum that:

- a. Alternative operators can reasonably assume operation of the network to facilitate continuity of service⁴;
- b. The networks are designed with performance measures that ensure delivery of service meeting the minimum speeds of 100Mbps/100Mbps, accommodating changes in demand (scalability)⁵; and
- c. The design and installation promote network reliability, resiliency, and interoperability.⁶

- 2. Construction Standards Policy:** VCBB awards grants for the construction of broadband networks that achieve universal service to Vermonters.

- a. **Grant Conditions to Address Engineering Standards:** Pursuant to Act 71, the VCBB encourages designs and will prioritize applications that consist of the following:
 - i. Utilize available partnerships to deliver cost-effective and affordable broadband deployments⁷ ;

¹ 1 V.S.A. § 8081.

² 1 V.S.A. § 8086(c)(2).

³ Any provisions of this Policy which present an actual or perceived conflict with BEAD are inapplicable to BEAD Subrecipients and/or their contractors.

⁴ 30 V.S.A. § 8086(c)(4).

⁵ 30 V.S.A. § 8086(f)(2)(100 Mbps standard) and 30 V.S.A. § 8086(c)(2)(resiliency).

⁶ 30 V.S.A. § 8086(c)(2).

⁷ See 30 V.S.A. § 8084(a)(6)(D)(facilitate partnerships); 30 V.S.A. § 8086(b)(1)(leveraging private resources); and 30 V.S.A. § 8087 (b)(2) (assisting CUDs in developing private partnerships).

- ii. Demonstrate sustainable usability and scalability for the life of the installed asset⁸; and
- iii. Promote use of public broadband assets that can be shared by multiple service providers and that can support a variety of purposes.⁹
- iv. The definition of fixed broadband under the Act includes retail service by wire or radio that delivers service at speeds of at least 100/100 Mbps. It is the policy of the VCBB to prioritize the funding of fiber networks that use existing infrastructure, including utility poles and power in the public right of way and along easements, as a means of ensuring it is delivering broadband projects consistent with the objectives of Act 71.¹⁰

b. Design Standards: This policy supplements the construction standards specified in VCBB's Construction Grant RFP and Outside Plant Design Standards (OSP Requirements¹¹).

- i. Commercial Off-the-Shelf Standards: To facilitate interoperability and interconnection, Grantee shall design and construct networks using commercial off-the-shelf equipment, protocols and systems. The policy is intended to enable Grantees the flexibility to choose from a variety of manufacturers and design their networks to meet their specific needs and objectives, while also facilitating continuity of service in the event an alternate operator assumes operation of the network. Grantees shall identify proprietary components and demonstrate that such components will not adversely impact interoperability, resiliency, or scalability.
- ii. Resiliency: Network design will address resiliency ensuring continued operation for the expected life of the installed asset, in adverse as well as growth scenarios.
 - 1. Backup power– Active nodes. Optical Line Terminals (OLTs) should be designed to avoid power interruptions, and have at least a 4-hour battery backup at the OLT and the capability for emergency generator backup. Backup power should be tested as part of a preventive maintenance program.
 - 2. Security – As set forth in the Construction RFP, designs, monitoring and reporting must demonstrate 1) compatibility with current industry practices and applicable standards and statutes; and 2) how the Grantee will adapt to emerging security practices and standards.

⁸ See 30 V.S.A. § 8086(c)(2) (design should promote network resiliency and interoperability).

⁹ 30 V.S.A. § 8086(b)(7).

¹⁰ Whereas Act 71 only concerns grid concerns on grid locations, other relevant broadband grant programs, such as the BEAD program, also provide funding for off-grid addresses.

¹¹ The OSP Requirements are located at <https://publicservice.vermont.gov/vt-community-broadband-board-vcbb/outside-plant-design-osp-requirements>.

3. Cybersecurity- The Grantee must maintain an operational cybersecurity plan reflecting conformity to the latest applicable National Institute of Standards and Technology (NIST) framework, or a comparable standard framework and must be reevaluated annually.

iii. Usability and Scalability:

1. All assets shall be designed and architected as appropriate for the immediate anticipated customer needs, and expandable to accommodate future growth to the greatest reasonable extent of the expected life of the asset for that region or network segment.
 - a. Grantee shall provide written substantiation of all proposed deviations from the OSP Requirements and, if necessary, obtain an exception or waiver pursuant to the Exceptions and Waiver provision below.

iv. Performance monitoring and reporting:

1. Upon completion of construction, Grantee must demonstrate that the network is operating as designed and the speed delivered to the customer meets the requirement of 100Mbps/100Mbps and further aligns with the specific requirements of customer subscriptions. Grantee must be able to demonstrate annually that the network is operating as designed to enable service at 100mbps/100mbps to all customers and further aligns with the specific requirements of this policy.

- c. **Construction Standards:** Grantee shall maintain a safety program in accordance with OSHA requirements¹². Grantee shall maintain construction oversight for field construction activities.

- i. Project management metrics: VCBB staff shall meet monthly with Grantees to address construction progress and any potential issues relating to the construction or the project in general. During those meetings, Grantees shall provide Staff with any information, preliminary or otherwise, that may tend to indicate successes or challenges in the project plan. The meeting will address the following issues, among others:

¹² See <https://www.osha.gov/stateplans/vt>.

1. The initial grant request and financial construction forecast and the project baseline schedule;
 2. Forecasted and actual:
 - a. Miles under construction/miles lit10;
 - b. Cost per mile completed;
 - c. Number of addresses passed;
 - d. Average cost per passing;
 - e. Total number Unserved/Underserved addresses completed; and
 - f. Average cost per customer drop.
- ii. Implementation: The VCBB or its designee shall review the construction design to ensure compliance with this policy prior to grant approval and the commencement of construction.
1. Exceptions and Waivers: Grantees may request exceptions to this policy at any time. For such exceptions, Grantee shall provide a restatement of policy, or a design rationale, or a remediation plan, along with a statement of how the requested exception remains consistent with the State's goals in bringing service to unserved and underserved locations in a manner that assures long-term functionality.
 2. Final Inspection – A final inspection will be conducted by the VCBB within 30 days of completion of agreed upon project areas prior to the release of final payment and close-out.
 3. Duration: The provisions of the VCBB Construction Standards Policy, as qualified herein, shall apply to all projects that are the subject of a grant awarded by the VCBB for the entire respective federal interest period.¹³

¹³ The federal interest period extends to December 31, 2034 under ARPA (see p.3, <https://home.treasury.gov/system/files/136/SLFRF-and-CPF-Supplementary-Broadband-Guidance.pdf>) and ten (10) years from the closeout of BEAD grants (see p.9, https://broadbandusa.ntia.doc.gov/sites/default/files/2023-12/BEAD_Policy_Notice_of_Uniform_Guidance_Part_200_Exceptions_Related_Issues.pdf).