

Vermont Community Broadband Board
Accountability Policy
Affordability Policy and Procedural Obligations of Grantees

1. Purpose: The VCBB adopts this policy to fulfill the Legislative directive of affordable universal broadband service and to meet the VCBB's statutory obligation to establish policies that provide broadband construction grant criteria, that among other criteria, provide consumers with affordable broadband service. The VCBB's policy seeks to balance VCBB's grantees' sustainable business plans with their obligations to provide affordable broadband service.¹

2. Affordability Policies:

a. Grant Conditions to Include Affordability: The policy of the VCBB is to include obligations to perform practices and provide service options that promote affordability, as enumerated below, in its grant awards or agreements. Practices and service terms to promote affordability stated in each grant apply to all locations in the grantee's service territory in which grant funds are used for construction.

b. Construction and Design: VCBB awards grants for the construction of broadband networks serving all Vermont locations regardless of resident income or property value. Funded network designs must therefore achieve universal service and progress the construction of the grant-funded network without regard to property value or household income.

i. Inclusive design. Locations developed as low-income housing will be served by the grantee's construction unless already served. Overbuilding existing broadband service otherwise allowed by grant rules shall not avoid routes serving less profitable locations unless no efficient and economically reasonable route is available.

ii. Prioritizing On-Grid and Year-Round Locations. The VCBB's affordability policy prioritizes grant investment in serving habitable year-round locations, and with respect to ARPA-funded projects, those that are identified as E911 addresses served by the electric grid.² For purposes of this policy, habitable year-round structures are (a) accessible by vehicles licensed for public road use, (b) served by a potable water source, (c) closed to the elements with doors and windows, and (d) served by an operable heat source.

c. Affordability Planning: In making grant awards, the VCBB will consider whether the business model of the grantee/applicant reflects feasible steps to efficiently build and install broadband service and minimize the cost of retail service to the consumer, including but not limited to

¹ Federal funding under the Broadband Equity Access and Development Program (BEAD) was authorized by the Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (November 15, 2021), also known as the Bipartisan Infrastructure Law. It's criteria for affordable service and sustainable business practices vary from those described in Act 71. The Board seeks to set an affordability policy that can be met by projects funded under either source.

² 30 VSA §8082(7).

grantee's network design, bulk cost reductions, revenue reinvestment, and public funding.³ Grantees business model must document and incorporate the annual income range of consumers in the grantee's service area and projected grant-funded network take rates and revenues, as well as the range and average service pricing. The business plan must be approved by the board of the VCBB and periodically reviewed for consistency with this policy, the approved model, and for accuracy of its assumptions.

d. Affordability in Operations: The affordability best practices described in this subsection 2.d, referred to as Grantee Affordability Initiative (GAI), are to be implemented by the grantee (where necessary, in coordination with the network operator) within twelve months of offering service to any customer on a grant-funded network. The GAI includes grant conditions that promote retention of low income consumers in the grantee's service area, an objective of publicly funded broadband to meet both affordability and digital equity objectives.⁴ VCBB GAI grant conditions specifically include:

- i. **Cost of Service and Net Income.** Annual evaluation of grantee's cost to provide service, the net income, after debt service, and grantee's plan to use net proceeds to sustain or lower rates, especially for income-qualified consumers;
- ii. **Digital Equity Plan.** Development of a digital equity plan with a three-year forecast to be updated annually, that reports the average household income and change in population in the service area,⁵ the take rate of the grantee's broadband service, and the implementation of a digital education outreach initiative (provided directly or indirectly) for consumers in the provider's service territory or district including, for example, technical skills development, budgeting for digital services, support in useful applications, and advice for safe use of web-based resources.
- iii. **Government Subsidy Services.** Prompt enrollment by the grantee or its operator and active participation in any government-funded subsidy programs that reduce consumer cost of broadband applicable to the grantee's service area, such as costs of installation, service, equipment or devices, including (a) public promotions to qualified consumers of any subsidy programs in which the provider is participating by the most effective means reasonably designed to reach consumers in the funded network service area, (b) coordination with key community institutions and social service agencies to promote affordable and subsidized service plans, (c) training of grantee's customer service representatives to integrate subsidies and low-cost service

³ Under VT-BEAD, subgrantees must demonstrate a commitment to reinvest revenue into increasing efficiency and ensuring that rates remain affordable over the lifetime of the funded network or 20 years, whichever is greater. By way of example, this commitment could be demonstrated through a business plan that limits the network's profit in favor of reinvestment, or through a commitment to a stable or decreasing price for service throughout the life of the funded network or 20 years, whichever is greater.

⁴ The VCBB does not require grantees to measure or monitor the disposable income of customers or to mandate service selections based on income.

⁵ Using the most recent income and population statistics used by the State of Vermont (generally based on the most recent U.S. Census Bureau report).

offerings in all sales communications, and (d) incorporate information regarding public subsidy eligibility in customer late payment notices and service termination communications.⁶

3. Annual Report: It is the policy of the VCBB to monitor grantee’s progress of achieving affordable service on networks funded by grants awarded by the VCBB. As a condition of each grant, Grantees will produce for the review of the VCBB a report for each calendar year by or before October 1 that demonstrates performance of the GAI. The annual report must be delivered with a confidential statement (to protect proprietary information) for the VCBB’s review that includes the information required at subsection 2.c, and 2.d, and numeric data for the reporting period for the (wholly or partially) funded network:

- (a) the rate tiers offered to consumers,
- (b) the total number of customers accessing the funded network in each rate tier during the reporting year,
- (c) the number of customers that received subsidized service (if any) during the reporting year, by subsidy program,
- (d) the number of customers receiving subsidies, if any, that terminated service during the reporting year (subsidy churn),
- (e) the average cost to customers of initiating and installing service with and without any applied subsidization,
- (f) the average cost to the grantee (or its network operator), if any, to subsidize or defer customers charges for installation and initiation of service in the reporting year, and
- (g) the total amount of service subsidy payments received by or due to the provider for the grant-funded network during the reporting year.

The numeric reporting measures (a) through (g) are referred to as the “Affordability Impact Measurements” (AIM). Notwithstanding the confidentiality statement, the AIM and the GAI data may be aggregated and used anonymously to demonstrate and report the impact of publicly funded network infrastructure and affordability measures.

4. Enforcement. This policy is intended to endure past current Act 71 funding and apply under future funding such as VT-BEAD. This policy is intended to be applied to all funded grants except to the extent that a provision of this policy conflicts with the requirements of the funding program (including but not limited to the VT-BEAD affordability requirements). A grant recipient or eligible grant recipient may request the Board determine whether a provision of the policy conflicts, as written or applied, with the requirements of the funding program, and the Board will promptly

⁶ Regarding low-income qualified consumers: The VCBB anticipates that public broadband subsidies will identify qualifications for consumers. To reduce risk associated with maintaining confidential consumer information and to ensure equitable treatment among consumers, the VCBB recommends that grantees that choose to develop and implement an income-based subsidy use an objective measure established in an existing subsidy program administered by a third party, such as by proof of participation in specified state or federal low-income subsidies.

determine whether the particular provision of the policy conflicts, and should either not apply or be modified.

The VCBB or its successor may determine, upon review and deliberation, whether a grantee or its provider has failed to meet the obligations of this affordability policy, and determine the applicable remedies available under the terms of the grant for the breach of the grant agreement.

a. Design Review and GAI Administration. At any time during or after construction of a broadband network funded by a grant awarded by the VCBB, the VCBB, upon its own investigation, or upon a complaint of a third party, may take necessary steps to receive credible information to determine grantee's compliance with this policy. The Chair of the VCBB or the executive of its successor, may determine whether information of non-compliance is sufficient to hold a hearing before the full board (or its successor) to determine whether the grantee is in violation of a grant agreement, including but not limited to this affordability policy.

b. Service Complaints. The VCBB, upon its own investigation, or upon a complaint of a third party, may receive credible information of the lack of affordability or cost-effectiveness of services offered by a grantee, including but not limited to complaints received by the Vermont Department of Public Service, Consumer Affairs and Public Information Division (CAPI), which is charged with hearing consumer complaints regarding utility services. The Chair of the VCBB, or the executive of its successor, may determine whether such information is sufficient to hold a hearing before the full board to determine whether grantee is in violation of a grant agreement, including but not limited to this affordability policy.

5. Duration. This policy applies to all network projects that are the subject of a grants awarded by the VCBB and the conditions of this affordability policy are applicable to each grant for a period from the date of the grant agreement to December 31, 2034, or for ten years after the year in the grant is closed out, ending on December 31 of that year, whichever is longer.