

Vermont Community Broadband Board Draft Meeting Minutes
112 State Street, 3rd Floor,
Giga Conference Room
Montpelier, VT
November 22, 2021

I. Call To Order – 12:04pm

II. Roll call completed by Patty Richards.

Patty Richards, Chair (In-person)
Holly Groschner (In-person)
Brian Otley (In-person)
Laura Sibilia (Remote / (In-person)
Christine Hallquist - staff (In-person)
Robert Fish - staff (In-person)

III. Agenda change request

Patty Richards requested an agenda change to limit the agenda to two items; the proposed construction grant RFP and the Outside Plant Requirements.

The issue of DV Fiber make-ready was discussed as to whether it should be on the agenda. The Board recommends that staff authorize DV Fiber to allow for the granting of funds not including the make ready-construction funds that were part of the original approval.

Board allowed for DVFiber to speak on the issue of make-ready construction funding available in the pre-construction grants. DVFiber requested that the VCBB consider the proposal that was submitted to the Board. DVFiber indicated that they may not sign the agreement if make-ready construction is not included.

The Board responded that the VCBB will draft a grant agreement that does not include the make-ready construction funds and DVFiber can make the decision of whether to sign when the agreement is received.

Holly Groshner moved that the agenda be approved with only the construction grant RFP and the Outside Plant requirements as topics This was a special meeting only for those items. Brian Otley seconded. Motion passed.

If there is time available, other items can be taken up. to go into an executive session to discuss “personnel matters”.

Brian Otley moved to approve the agenda as is, and Patty Richards seconded. Motion passed.

IV. Outside Plan Requirements

The proposed outside plant requirements were presented. Those requirements were as follows:

Vermont Community Broadband Board Outside Plant Design (OSP) Requirements (Proposed)

This document covers the Construction Grant requirements. All entities applying for grants must comply with the following

1. Grantee must provide before construction begins a clear constructable design with standards that cover the following:
 - a. Fiber sparing and reservation recommendations to assist with outside plant equipment and fiber sizing
 - b. Optical extents (Budgets)
 - c. Account for future and/or unplanned growth including public safety and mobile wireless. A minimum of 36 (3 tubes) of spare is required. The smallest size number of fibers on a route will be 48. This does not apply to post splitter fiber (end runs and driveways)
 - d. Power supply and back-up requirements for active locations
2. Grantee design must include every demand point and include:
 - a. Assigned specific and accounted for PON splitter and OLT port for every identified demand point so that provisioning and activation can be done with minimal truck rolls or future design requirements.
 - b. Drop distance and route for every demand point should be known so that the impact to the material requirements and optical budget is understood.
 - c. Identification of slack budgets and loop locations.
3. Grantee's design deliverables must include detailed planned optical measured loss (dB) calculations. These planned losses will be compared to actual losses during construction to ensure they fall within the Optical Extents budget.
4. Grantee's detailed splice diagrams must be geospatially accurate and provide estimated measured loss at every connection point so that network performance can be assured and documented.
5. Grantee must propose integration locations for:
 - i. Geographic redundance
 - ii. Connections with adjacent CUD networks
 - iii. Connections with private networks, including leased fiber routes
6. Grantee must provide before construction begins all design mapping deliverables in a single GIS (ESRI Preferred) format including:
 - a. Online and downloadable field engineering data

- b. Online and downloadable detailed construction maps
 - i. Bills of materials linked to location
- c. As-builts reported monthly

A sub-group of the board was assigned to develop this document and was recommended to be approved by the Board. A question was asked if the Board has received feedback. Generally, the CUDs supported the proposal, however the one request was to use numbers instead of bullets.

The question was asked if we have standards set for the items in this document. Staff agreed to include the reference standards in the final document.

A discussion ensued regarding the back-up power requirements for end user connections. The requirement for power supply back-up requirements does not include consumer premises. The consensus was that this should be part of the Internet Service Provider responsibility.

The board requested that the staff include the requirements related to the CUDs being the Provider of Last Resort in the construction grant for Voice over IP.

The Board wanted to know what the slack budgets should be. It will vary according to the design. The Board stated that this will require an engineer to sign off on the designs.

The Board requested more specificity regarding the integration locations.

The Board requested that staff restructure the language in number 6; also as-builts will be reported quarterly. The entire section is not “before construction begins”. It should be called “grant reporting requirements.”

The issue of how to include the customer drops in the design and bill of materials. The question is whether to use a commercial standard or leave it up to each CUD to decide. A recommendation was to develop a minimum standard. The Board recommends that staff develop that minimum standard.

The Board requested that the staff put the revised standard out for comment from the CUDs.

V. Review of construction grant - Body of proposed grant



**Vermont Community
Broadband Board (VCBB)112
State Street**

Montpelier, VT 05620-2601

**Contact: Robert Fish, Rural Broadband Technical Assistance
Specialist, 802-522-2617,robert.fish@vermont.gov.**

Broadband Construction Grant Program

ISSUE DATE: _____

RESPONSES WILL BE ACCEPTED ON A ROLLING BASIS

OVERVIEW

The Vermont Community Broadband Board (“Board”) invites applications from Eligible Applicants for funds to finance the broadband projects eligible providers that are part of a universal service plan. Service providers must achieve speeds of at least 100/100 Mbps symmetrical.

Background

OVERVIEW: Vermont was awarded \$1.05 billion in Coronavirus State and Local Fiscal Recovery Funds (Recovery Funding) as part of the federal American Rescue Plan Act of 2021. The Governor’s Recovery Plan is focused on transparent investments in key infrastructure needs, including housing, broadband, wastewater and sewer systems, climate change prevention and mitigation, and economic development. The explicit objective of this Plan is to provide long term economic recovery opportunities to communities statewide, with a focus on those regions or counties struggling the most with job losses and declines in demographics and income levels.

(REQUIRED LANGUAGE)

As provided by Sec. 2 § 8086 of Act No. 71, which became law on June 8, 2021, the purpose of the Broadband Construction Grant Program (“Program”) is to provide grants to Eligible Providers (“Providers”) for construction costs related to broadband projects providing service of at least

100/100 Mbps that are a part of a universal service plan and meet other criteria as specified in Act No. 71 as well as those criteria established by the Vermont Community Broadband Board.

Note: The Program is funded by the American Rescue Plan Act of 2021 (ARPA). All ARPA funded projects must either address the impacts of the COVID-19 pandemic or promote sustained economic recovery. Additional state and federal guidelines may impact the administration of this grant program. The Board reserves the right to make changes to this Program as necessary to ensure compliance with any state and federal guidelines, including revocation of grant awards.

Definitions

“Eligible Provider” means: (A) a communications union district; (B) a small communications carrier; or (C) an Internet service provider working in conjunction with a communications union district to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in the district. Note: Under Act 71, Municipalities are not considered an eligible applicant, but are encouraged to actively work with a provider to apply for funding.

A “Small communications carrier” means a carrier: (A) a carrier that has elected to be regulated under subsection 227d(a) or (B) an Internet service provider that operates in not more than five counties

“Universal service plan” means a plan for providing each on-grid unserved and underserved location in a communications union district or in a municipality that was not part of a communications union district prior to June 1, 2021 access to broadband service capable of speeds of at least 100 Mbps download and 100 Mbps upload.

“Underserved Locations” means a location that only has access to a reliable, wireline broadband connection capable of speeds of at least 4

*Mbps download and 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload.*¹

“Unserved Locations” means a location that only has access to a reliable, wireline broadband connection capable of speeds of less than 4 Mbps download and 1 Mbps upload.

“Viable Business Plan” means a business plan for the proposed broadband project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.

“Incidental Overbuild” means overbuilding addresses areas currently serviced by a reliable wireline connection of at least 25/3 Mbps. Point to Point Fiber without last-mile drops crossing those areas does not count as overbuild. As a rule, any overbuild of served addresses that is less than 20% of the total number of addresses passed will be considered incidental

¹ The Interim Final Rule for State and Local Recovery Funds defines “unserved or underserved households or businesses” to mean one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speeds and 3 Mbps of upload speeds. The IFR provides that a recipient may use Coronavirus State and Local Fiscal Recovery Funds to make investments in broadband infrastructure that are designed to provide service to unserved or underserved households or businesses. The use of “reliably” in the IFR provides recipients with significant discretion to assess whether the households and businesses in the area to be served by a project have access to wireline broadband service that can actually and consistently meet the specified thresholds of at least 25Mbps/3Mbps—i.e., to consider the actual experience of current wireline broadband customers that subscribe to services at or above the 25 Mbps/3 Mbps threshold. Whether there is a provider serving the area that advertises or otherwise claims to offer speeds that meet the 25 Mbps download and 3 Mbps upload speed thresholds is not dispositive. . In evaluating such data, recipients may take into account a variety of factors, including whether users actually receive service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make the user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier). <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>
Item 6.11

since the project is “designed to” provide service to unserved and underserved households.²

“Vermont Community Broadband Board Outside Plant Design (OSP) Requirements” means standards developed by the Vermont Community Broadband Board as outline in Addendum 1. (see pg 19)

Funding

The amount of funding available will be established through the legislature. The maximum available per CUD and for non-CUD areas has been determined using an analysis of road segments. For this initial launch of the Construction Program, the following percentages will guide Board decisions on the allocation of funds. The Board reserves the right to adjust this as additional information becomes available. These percentages should be viewed as guidance only.

The Vermont Department of Public Service conducted an analysis showing 18,679 total road miles in Vermont. The Department then classified all road segments by whether they have access to service from fiber, cable, whether there are any E-911 addresses on those road segments. The resulting mileage (served or with no addresses) was subtracted from the total road mileage in each town or CUD.

The result is the following breakdown. Funding distribution will mirror the % of underserved roads.

	<u>% of underserved roads</u>
<u>Addison</u>	<u>8.98%</u>
<u>CV</u>	<u>9.70%</u>

² For broadband infrastructure investments, what does the requirement that infrastructure “be designed to” provide service to unserved or underserved households and businesses mean? [6/17] Designing infrastructure investments to provide service to unserved or underserved households or businesses means prioritizing deployment of infrastructure that will bring service to households or businesses that are not currently serviced by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed. To meet this requirement, states and localities should use funds to deploy broadband infrastructure projects whose objective is to provide service to unserved or underserved households or businesses. These unserved or underserved households or businesses do not need to be the only ones in the service area funded by the project. <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf> Item 6.8.

DV	10.40%
EC	8.07%
Lamoille	5.87%
NEK	24.75%
NW	7.85%
Otter	4.87%
SoVT	4.60%
No CUD	14.91%

This formula is subject to change based on new data and is for informative purposes only. The formula may also be used to analyze proposed projects in individual towns in Non-CUD areas.

Applicants will be allowed up to 18 months of construction funds.

RFP Overview:

The Board seeks proposals from Eligible Providers to provision broadband Internet service to each Unserved and Underserved Location included in a Universal Service Plan. The Board has identified each Unserved and Underserved Location by street address and its E-911 site ID number. These locations are shown at ([link to new broadband planning map](#)).

Applicants will be responsible for constructing, leasing, or purchasing facilities necessary to provision service to every underserved residential and business location proposed to be served by Applicant. The Applicant will then be required to offer broadband service at speeds of at least 100/100 Mbps at each location identified in the grant award. Applicants are required to offer, either directly or through an affiliate, retail service to those locations

Applicants are committing to serving all underserved addresses as identified in the proposed Universal Service Plan for a Communications Union District or a non-CUD town that is eligible for funds under ACT 71.

Applicants who expect to take more than 18 months to complete the entire universal service project are required to break projects into smaller discrete sections that can be funded on an individual basis.

A successful Applicant can return to the Board and seek additional funding after 12 months or upon completion of the initial phase of the project.

Applicants should request a total, not-to-exceed price for the portion of the Universal Service Plan that can be completed within 18 months. **The Board will award up to the CUDs share of the available funds.**

Eligibility

The Board will only consider applicants and projects that mean the following conditions:

- (A) Applicant is considered an “Eligible Provider.”
- (B) Applicant has produced and shared a Universal Service Plan. This plan must detail the Eligible Providers approach for providing service to all unserved and underserved location in a town or Communications Union District. The approach may be phased and must contain binding commitments to provide or cause to be provided service to every on-grid unserved and underserved location.
- (C) Project shall provide service of at least 100/100 Mbps to all underserved addresses within 18 months of approval of the application.
- (D) Applicant has a viable business plan for its proposed project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.
- (E) The proposed project does not conflict with or undermine the Universal Service Plan of an existing Communications Union District. If a non-CUD eligible applicant is applying to provide service to a member town in a Communications Union District, a letter of collaboration from the Communications Union Districts must be included in the application package.³
- (F) The proposed project involves only the Incidental Overbuilding of addresses currently served by a reliable, physical connection of at least 25/3.
- (G) All projects must adopt an industry-accepted engineering standard that promotes network reliability, resiliency, and interoperability. All projects must also follow the design standards set by the Vermont Community Broadband Board Outside Plant Design (OSP) Requirements. The applicant must certify their wiliness to follow the guidelines.
- (H) All projects must provide broadband service that complies with the consumer protection and net neutrality standards established.
- (I) **The Applicant must agree to provisions contained in Act 71. These include provisions that prohibit the sale or transfer of grant-funded network assets without the prior written approval of the Board and allow for the recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the**

³ Act 71 prohibits the Board from awarding a grant to an eligible provider who is not a communications union district unless the Board determines that the provider’s universal service plan does not conflict with or undermine the universal service plan of an existing communications union district.

terms and conditions of a grant. This includes if the Applicant presents a phased plan for construction and fails to provide universal service to all addresses in the community.⁴

- (J) The Applicant must agree to following the applicable Treasury Guidance on the eligible uses and other guidance related to the American Rescue Plan State and Local Fiscal Recovery Funds. In cases of conflicting legal opinions, the opinion of the State Vermont Department of Finance and Management and the State’s consultants shall take precedence. Failure to follow the guidance may result in a suspending the agreement or disallowing an expense.⁵

RFP PROCESS

Work to be Performed: The Board, through this RFP, intends to extend broadband service to locations identified in the Board’s current list of eligible addresses. To that end, the Board seeks proposals to serve every identified underserved and underserved location in eligible areas. The Applicant will be required to take whatever steps are necessary, including constructing, laying conduit, leasing, or purchasing facilities, to serve these locations with broadband Internet access at speeds of at least 100/100Mbps. Applicants will be required to complete construction and offer service to those locations prior within Eighteen Month (18) of approval of the Application.

Applicants shall be subject to transparency and reporting requirements including, but not limited to, reporting, tracking, and documentation of incurred costs, and access to records in accordance with the State of Vermont Agency of Administration’s Bulletin No. 5 (“Bulletin 5”), available at https://aoa.vermont.gov/sites/aoa/files/Bulletins/Bulletin_5_eff12-26-14.pdf.

Communication Regarding this RFP: Board staff will not communicate directly with Applicants about the substance of the work to be performed but will answer procedural questions about the RFP. All communications concerning this RFP should be sent by email to vcbb@vermont.gov.

Applicants who have questions concerning the substance of the RFP should follow the RFP Timetable below. All submitted questions will be distributed, along with answers from the Board, to all who have submitted a notice of intent to the Board.

⁴ Please see

<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT071/ACT071%20As%20Enacted.pdf>

⁵ Please review the rules and FAQ at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

The Board reserves the right to revise any part of this RFP at any time prior to the deadline for submission. The Board will post any changes to its website.

Notice of Intent to Respond: Applicants must notify the Board of their intent to respond to this RFP by sending an email with a subject of “Intent to Respond: RFP – Act 71 Construction – Town/CUD” to vcbb@vermont.gov. The Notice to Respond must provide full contact info and information on the proposed service area (town or Communications Union District) to which the applicant will be proposing a Universal Service Plan. Upon receipt, the Applicant will be provided with a unique login to upload or create plans for review by the VCBB. The Notice of Intent to Respond must be received at least five (5) business days before the submission of an application.

Questions: Upon submission of Notice of Intent, the Applicant is permitted to post questions related to the RFP. The questions will be posted a website. It is the obligation of Applicants to check the Board’s website for updates and changes.

Proposal Submission: Proposals will be accepted on a rolling basis starting January 15, 2021. Decisions will be made at a future Vermont Community Broadband Board Meeting. Proposals should be sent via email to vcbb@vermont.gov in PDF format. Proposals should be accompanied by a spreadsheet of proposed addresses, along with the E-Site ID’s and design ShapeFiles presenting their project. Applicants must also provide detail designs demonstrating compliance with the Vermont Community Broadband Board Outside Plant Design (OSP) Requirements. All data and designs must be uploaded to _____ using the login provided upon submission of a Letter of Intent to apply. It is the responsibility of the Applicant to assure delivery of proposal(s) on or before the due date and time.

Oral Presentations/Questions/Site Visits: Applicants may be asked to answer written questions in advance of the Board Meeting, make oral presentations to the Board, or to make their facilities available for a site inspection by the Board. Any clarifications to a bid response resulting from these sessions will be in writing and will be incorporated in the bid response. Applicants are expected to attend the Board Meeting(s) where the application will be deliberated on by the Vermont Community Broadband Board.

Other Considerations: The Board reserves the right to conduct additional research into the Applicant before deciding on an application. This may include consultations with the Public Service Board, Public Utilities Commission, and leaders and residents of communities in which the applicant currently or proposes to provide service.

Timeline: The Board will begin reviewing submissions starting on the next Board Meeting after January 15 and at subsequent board meetings. To be reviewed an Application must be submitted at least 10 business days before the Board Meeting.

Term of Agreement: Any agreement resulting from this RFP will be for a term of six (6) years to commence on the execution of an agreement between the Applicant and Board that shall be in accordance with Bulletin 5. Applicant shall not commence work on its proposed project until an agreement is in place. Construction of the project must be completed **within 18 months.**

ELEMENTS OF PROPOSAL

In response to this RFP, each bidder is required to submit a proposal organized into eight clearly identified sections. Applicant shall follow the order of the questions in their response:

Part 1: Transmittal letter

Part 2: Applicant certification

Part 3: General Information

Part 4: Proposed Universal Service Area

Part 5: Project Description

Part 6: Act 71 Considerations

Part 7: Attachments

Part 8: Project Plans and Data

Part 1: Transmittal Letter

1. Official name and full contact information for the Applicant and any collaborators
 - Communications Union Districts – The name, main office address, and a complete contact info. A Communications Union District must also detail the partner(s) who will act as the Internet Service Provider (ISP) for the network construction.
 - Other Eligible Applicant -- If an Applicant is owned or controlled by a parent company, the name, main office address, and parent company's tax identification number shall be provided in the proposal. If an Applicant company is independently owned, the name, main office address, and tax identification number of the bidding company shall be provided in the proposal(s). If the Applicant is proposing to

serve a town currently a member of a Communications Union District, the provider must explain the relationship with the Communications Union District.

2. DUNS # and SAM #

Part 2: Applicant Certification

Applicant Certification: Applicant shall certify in writing an understanding of the following conditions:

1. Each person signing a proposal certifies that he or she is the person in the Applicant's organization responsible for, or authorized to make, decisions as to the prices quoted and that he or she has not participated, and will not participate, in any action contrary to the non-collusion requirements of this RFP.
2. Each person signing the proposal certifies that the Applicant organization is an Eligible Provider as defined in Act 71.
3. Each person signing the proposal certifies that the Applicant organization has a Universal Service Plan for the entire town or Communication District in which the project will serve. Each person signing acknowledges that the Universal Service commitment is binding and that while plans may be revised, a failure to connect or cause to be connected all on grid unserved and underserved locations to service of at least 100/100 Mbps within three (3) years for an individual town or five (5) years for an entire Communications Union District for reasons other than a failure by the Board to provide funds as outlined in the Universal Service Plan cost estimate may result in a forfeiture of assets built using funds received as a result of this Application. Delays resulting from force majeure will be considered.
4. Each person signing the proposal certifies that the Applicant organization will comply with the Vermont Community Broadband Board Outside Plant Design (OSP) Requirements.
5. Each person signing the proposal certifies that the project when completed will offer broadband service that complies with consumer protection and net neutrality standards.
6. Each person signing the proposal certified that the sale or transfer of any project funded by the Vermont Community Broadband Fund is prohibited with the prior written approval from the Board.
7. Each person signing the proposal agrees to follow the applicable Treasury Guidance on the allowable uses and requirements for usage of American Rescue Plan State and Local Fiscal Recovery Funds. In cases of conflicting legal opinions, the opinion of the State Vermont Department of Finance and Management and the State's consultants shall take precedence. Failure to follow the guidance may result in a suspending the agreement or disallowing an expense.
8. Each person signing the proposal affirms that the final network will be reviewed by the VCBB before the project is deemed complete and final payment is made.
9. Applicant shall affirm that each proposed bid price has been arrived at

independently without collusion, consultation, or communication with any other bidder or with any competitor; the said bid price was not disclosed by the Applicant and was not knowingly discussed prior to submission, directly or indirectly, with any other Applicant or with any competitor; and no attempt was made by the Applicant to induce any other person, partnership, or corporation to submit or withhold a proposal for restricting competition

Part 3: General Information

General Information: The elements of Applicant's proposals should be presented in the same order as shown in these sections.

1. *Responding Eligible Entity and Brief History of the Eligible Entity and Partners.*

- Applicant shall provide a brief history. The history should include maps detailing where the company currently provides service or the towns that are included in the Communications Union District.
- Applicant shall indicate their experience or their partner(s)'s experience provisioning broadband Internet to residential and business customers. Applicant should be able to demonstrate a history of deploying broadband technologies in rural or other hard to serve areas.

2. *Subcontractors*

Planned use of subcontractors shall be clearly explained in the proposal(s), including terms of any subcontract. Applicants must include a copy of any proposed subcontract(s) with the proposal(s), if available. All subcontracts must comply with the certification requirements in Section III. The primary contractor(s) shall be responsible for all contract performance, whether or not subcontractors are used. The only contact with the Board will be with the Applicant.

3. *Contract Management*

Applicants shall state how the contract(s) or agreement(s) will be managed to assure compliance and the satisfaction of the Board. Responsible individuals or entities should be identified by name, title, and description of function.

4. *Financial History*

The Board requests permission to view the responding entity's financial information, as well as financial information for any subcontractor that is expected to receive more than ten (10) percent of the value of each award.

5. **General Project Description**

- Applicant will include a Statement of Need and include relevant data to demonstrate that need and cite the source of the data.
 - Population Served including number and demographic

characteristics of those served.

- Results including a description of the measurable proposed impacts of the project, with at least three (3) performance measures that will be tracked and reported wherever possible, include baselines and goals for each performance measure.
- Evaluation describing the data collection, analysis, and quality assurance measures you will use to assure ongoing, effective tracking of contract requirements and outcomes.
- Equity Impact describing how this project will help build a just, equitable and sustainable COVID-19 recovery and how disproportionate impacts of inequities are addressed.
- Budget including all proposed project revenues by funder and expenditures.
- Special Considerations describing any other information that might assist the State in its selection.

Part 4: Proposed Universal Service Area

1. Proposed Service Area

Applicant shall detail the town(s) in which they propose providing universal service. The Applicant should describe the demographics, including the overall density of the underserved areas and whether the area includes any Qualified Census Blocks. The Applicant should also provide a map showing current coverage in the proposed Universal Service Area and the total number of underserved addresses.

2. Universal Service Plan

Successful Applicants will provide a plan to provide directly or cause to provide 100/100 Mbps service to all on grid unserved or underserved locations within 5 years. Applicants providing direct service to all locations should present a phased approach for serving all locations in the town(s) or Communications Union District. Applicants not serving all locations directly must provide commitment letters from partners who will provide service to all remaining locations. For example, an incumbent telephone company that provides service to 90% of the town, must provide a letter of commitment or jointly apply with another entity demonstrating that all remaining on grid unserved and underserved locations will be served and how. Preference will be given to Applicants submitting joint applications covering an entire community within the allowable timeframe. Applicants should attach any document support their commitment to universal service.

3. *Estimated Cost for Universal Service Area*

Applicants must be able to provide a total estimate for the serving the entire proposed Universal Service area. The Applicant should describe how the estimate was arrived upon and factors that will influence the final cost to serve the entire Universal Service Area. Included in the cost estimate will be the number of underserved and unserved locations that service will be offered to. This will result in an average cost per location.

4. *Other Funding Sources for the Project*

Applicant should detail any additional financial support to be provided to this Universal Service Project. This includes any federal grants or contracts; contributions from communities to be served; or private capital to be investment by the Applicant.

5. *Community Engagement*

Applicant shall detail all efforts to engage the local community in the proposed project.

Part 5: Project Description

The Project description must contain the following information:

1. *Eligible Locations to Be Served:* Each proposal should identify all locations, underserved or otherwise, that the Applicant intends to serve in this phase of construction and the expected “in service date.”
2. *Not to Exceed Price:* A total, “not-to-exceed,” turn-key price for the proposed project. The Board, at its discretion, review proposals under a cost per location basis. This figure shall include the price of drops based on assumed take-rates. These take-rate assumptions shall be included in the grant application.
3. *Timeline:* While the proposed funding should be a for specific phase of the universal service project (unless the project can be completed in a single phase in the next 18 months), the proposal should detail the timeline for this phase and for the additional phase of the proposed universal service project.
4. *Retail Pricing:* Each proposal should list all proposed retail prices for service and include all tiers of service. Prices shall include additional fees (such as equipment rentals) that could be assessed against consumer accounts. Applicant must also include details about affordability plans.
5. *Additional Services:* Each proposal should describe what, if any, additional services will be offered using the facilities deployed through the proposed project (e.g. voice, video, etc.);

6. *Detailed Project Budget - Applicant shall provide a detailed budget outlining line item estimates for each activity.*
7. *Other Information:* Any information the Applicant deems relevant to demonstrate the technical, financial, and economic feasibility of the project and project team.

Part 6: Act 71 Considerations

Act 71 requires the Board to evaluate how proposed projects addresses a variety of issues when reviewing Construction Grant proposals. Please explain how your proposal addresses the following concerns.

1. Collaboration and Coordination

The VCBB seeks projects that leverage existing public and private resources and assets. Please highlight any collaboration or coordination between the applicant and the following entities:

- a) Other CUDs
- b) Utilities serving the district. For example, have you contacted the utility regarding the make-ready tariff reduction? Are you coordinating with the utility's construction schedule to reduce costs? How many addresses in your district are eligible for the reduced tariff?
- c) Incumbent telephone, cable providers, or another internet service provider
- d) Other entities. This would include Libraries, Public Safety, Agency of Transportation, Housing Organizations, Local Development Districts, Regional Planning Commissions, School Districts, and other community anchor institutions.

2. Resiliency and Redundancy

Applicant shall describe steps being taken to ensure a resilient and redundant network that is interoperable with other networks and capable of support future growth.

3. Overbuilding

Applicants must provide the percentage of addresses to be served by this project that already have access to a reliable wire-line connection that reliably achieves speeds of at least 25/3 Mbps. Applicants should explain why the overbuild is necessary and incidental to the overall objective of the project.

The Broadband Construction program created by Act 71 § 8086 f(2) allows the Vermont Community Broadband Board to:

“provide a grant to an eligible provider that enables the provision of broadband service in a geographic area currently served, provided that: (1) the proposed

project is a cost-effective method for providing broadband service to nearby unserved and underserved locations that is capable of speeds of at least 100 Mbps download and 100 Mbps upload; (2) any overbuild is incidental to the overall objectives of the universal service plan required for funding under this Program.”

4. *Sustainability*

Applicant shall describe in detail how they plan to fulfil their Universal Service Proposal within the required timeframe. Applicant shall describe all other sources of funding and the status.

5. *Affordability*

Applicant shall also certify they are participating in the Federal Emergency Broadband Benefit or subsequent program. If they are not participating, the Applicant should explain the reasons and other steps they are taken to ensure their network is affordable to all Vermonters.

Part 7: Attachments

1. **Viable Business Plan**

Applicants are required to provide viable business plan for the proposed broadband project, which takes into consideration network engineering and design, labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses.

2. **Letters of Support**

Applicants are encouraged to include letters of support from communities to be served. While not required, this demonstrates community buy-in and public engagement.

3. **Response to Service Quality Complaints**

The Board will review complaints and service quality investigations involving the Applicant. The Applicant is advised to respond to preemptively.

4. **Requests for Confidentiality**

Applicant should include a memo detailing materials that it requests to be held confidential by the Vermont Community Broadband Board (VCBB) and include an explanation as to why such material should be exempted from disclosure under the Vermont Public Records Act (1 V.S.A. §§ 315 et seq.). Applicant must mark all pages or sections that are covered by the exemption. For example, use bold redheaders and footers on pages that should be excluded from public inspection and records requests.

Part 8: Submission of Detailed Project Plans

1. **Maps and Spreadsheets**

Applicants are required to provide a map and accompanying spreadsheet showing the

project address, E-Site ID, current level of service, and expected date that service will be available.

2. **Detailed Project Plans**

All projects will be reviewed by the Board's Fiber Optics Engineer. The Applicant is required to uploading all project plans to _____. The plans must provide all information to verify the applicant is in compliance with the Vermont Community Broadband Outside Plan Design Requirements. The Applicant will be provided with a unique login upon receipt of a Notice to Respond.

PERFORMANCE

The Applicant will be obligated to take whatever steps are necessary, including constructing, leasing, or purchasing facilities, to extend service to every location identified in the grant agreement.

Within Eighteen (18) months from entering into an agreement with the Board, the Applicant must perform the following:

1. Offer broadband Internet access service with speeds of least 100/100 Mbps. The Applicant may also offer broadband service at lower tiers of service, but consumers must be able to purchase broadband service at speeds of at least 100/100 Mbps. Speed guarantees are subject to verification by the Board once service is offered.
2. If applicable, offer service to the identified locations at the same rates and terms and conditions offered to Applicant's existing customers.
3. Offer retail broadband service to every eligible location identified in the award for a period of at least five (5) years from the date service is offered to eligible locations.
4. File progress reports. Reporting will include quarterly progress during the construction/installation phase of the project and annually thereafter in accordance with Bulletin 5. Quarterly reports and the final project report will include expenditures and specific activities.
5. Once addresses begin to be connected provide monthly updates via the online portal detailing service availability at each address in the project.
6. **Network Performance and Monitoring**
Applicants will be required to include a network performance monitoring and reporting plan as part of the application. This plan will identify how performance will be monitored, reported and respond to involving the management of the links between network head-ends, devices and users. The purpose is to identify congestion, maximize throughput, and improve network performance. The plan will include the use of automated network monitoring tools and network monitoring software along with analytical reporting tools that gather network data, identify and measure network

performance variables, perform a network performance assessment, and diagnose and report network performance issues.

PROPOSAL REVIEW AND SELECTION

METHOD OF AWARD: Awards will be made in the best interest of the State. All other considerations being equal, priority will be given first to those projects in regions or counties struggling the most with job losses, declines in demographics and income levels. Priority will also be given to those projects developed in coordination with other planned infrastructure development for the greatest transformative impact. Qualitative determinations will be made regarding community need and community impacts. Scoring will not be numerical. Upon the determination that the Applicant is eligible for consideration, the Board shall give priority to broadband projects that:

- (A) Leverage existing other resources and assets, including
 - Partnerships between a communications union district and a distribution utility.
 - Community contribution of Local Fiscal Recovery or Other Funds
 - Concurrent state, federal, or local construction projects
 - Private funding contributed by the operator
- (B) Demonstrate project readiness and Community Support.
 - Phased approach to achieving universal service in an **entire town** and/or a Communications Union District.
 - Demonstrated community support
 - Timeline for the provision of service
 - Opportunities for Coordinated Projects
- (C) Support low-income or disadvantaged communities.
 - Does the project include Qualified Census Blocks? (https://www.huduser.gov/portal/sadda/sadda_qct.html)
 - Equity Impact: Has the Applicant provided detailed demographic information that demonstrates the areas to be served support low-income or otherwise disadvantaged communities?
- (D) Promote geographic diversity of fund allocations.
 - **The Board shall seek to fund projects throughout the State. The Board may implement a formula to ensure this grant program benefits all areas in the state.**
- (E) provide consumers with affordable service options;

- Service rates in comparison with neighboring areas
- Participation in the Federal Broadband Subsidy Program (or subsequent programs)
- Low-income programs
- How affordability is being integrated into network design

(F) include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.

- Does the project create a public broadband asset that is economically sustainable and will ultimately be eligible for financing in the private or municipal bond market?
- Does the Applicant's Service Provider Agreement provide for allowing competition on the network after a period of years?
- Does the Applicant Service Provider Agreement enable the ending of contractual relationships with a provider if the service quality is deemed inadequate?
- Does the Applicant's proposal allow for additional public uses of the infrastructure beyond residential and commercial broadband?
- Does the design include extra capacity for future growth and public uses?

(G) Quality of Service

- The VCBB will Review previous complaints made to the Public Service Board or Public Utilities Commission regarding service quality. It is advised that the applicant perform this review prior to submission of the application with an explanation of any and all complaints.
- Eligible providers should include references or letters of support from the communities they serve or plan to serve.
- The Board may seek comment on applications from communities in the proposed service area.
- Cost per address with consideration given to higher costs related lower density

Selection without Future Discussion: The Board reserves the right to select without further discussion of proposals received. Therefore, it is important that each proposal be submitted in the most complete and accurate manner possible.

Rejection of Proposal: The Board reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received, and to accept any portion of a proposal if deemed in the best interest of the State and in accordance with the applicable provisions of law.

Negotiations with Applicants: Upon completion of the evaluation process, the Board may select one or more Applicants with which to simultaneously negotiate grant agreements for the provision of service in a proposed Universal Service area, based on the evaluation, findings and

other criteria deemed relevant for ensuring that the decision made is in the best interest of the State of Vermont. In the event the Board is successful in negotiating with one or more Applicants, the Board will issue a notice of award. In the event the Board is not successful in negotiating a grant agreement with a selected Applicant, the Board reserves the option of negotiating with another Applicant or choosing not to issue an award.

⁵<https://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0966/H-0966%20As%20Passed%20by%20Both%20House%20and%20Senate%20Official.pdf>

⁶ See 30 V.S.A. § 7515b. The Vermont Telecommunications Plan is available at [://publicservice.vermont.gov/publications-resources/publications/telecom_plan](https://publicservice.vermont.gov/publications-resources/publications/telecom_plan).

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Grant Award: The basis for the selection of the winning Applicant (s) will be made based on the sole opinion of the Board that the proposal(s) submitted will promote the general good of the State and are in accordance with Vermont law.

TERMS AND CONDITIONS

Binding Offer: A proposal submitted in response to this RFP shall constitute a binding offer, until approval by the Board of a finalized agreement to be drafted in accordance with Bulletin 5. Acknowledgment of this condition shall be indicated by the signature in the Transmittal Letter of the Applicant or an officer of the Applicant legally authorized to execute contractual obligations.

Limited Liability: The Board assumes no liability with respect to this RFP or any matters related thereto. All prospective Applicants and their assigns and successors, by their participation in the RFP process, shall indemnify, save and hold the Board and its employees and agents free and harmless from all lawsuits, causes of action, debts, rights, judgments, claims, demands, accounts, damages, costs, losses and expenses of whatsoever kind in law or equity, known and unknown, foreseen and unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including but not limited to the notification of a Applicant to the Board and any action brought by an unsuccessful prospective Applicant .

Agreement Cancellation: The Board reserves the right to cancel any agreements resulting from this RFP, for cause, as will be defined in the Terms and Conditions of the final agreement.

Agreement Modification: Any Federal Communications Commission (FCC) decisions; administrative, judicial or legislative decisions; or changes in technology or market conditions that necessitate modification of the agreement between the Board and Applicant shall be provided for in the agreement.

Governing Law: The laws of the State of Vermont shall govern in connection with this RFP and the formation, performance, and the legal enforcement of any resulting contract or agreement.

Proposal Ownership: All deliverables submitted as a response to this RFP shall become the property of the Board and the State of Vermont. All submitted responses may be reviewed by any person after the grant agreement has been signed. The Board reserves the right and sole discretion to use any or all information/material presented in reply to this RFP, including the right to destroy any information. Disqualification of a Applicant does not eliminate this right.

Warranty: As a condition of delivery of the grant funds, Applicant warrants to the Board that:

- (i) the facts and estimates provided in its response to Broadband Infrastructure Program request for proposal are, to the best of Applicant 's knowledge, correct and true;

- (ii) grant funds are economically necessary to fulfill Applicant 's proposal, build, or produce the grant project, and operate the required services to the locations listed in Applicant 's proposal, and;
- (iii) Applicant does not already provide service of at least 100/100 Mbps to the locations listed in the Applicant 's proposal.

Secondary Public Funding Resources: Applicant shall attest that it has not received support from additional federal or state program for any of the locations awarded to Applicant under any other round of grant funding. Furthermore, Applicant shall attest that it will not seek additional federal or state support for any of the locations awarded to Applicant under any round of support for the duration of the grant award. Applicants may only apply secondary public funding sources to awarded locations upon prior written approval from the Board. The Board reserves the right to withdraw or reclaim funding for any location found to be counted toward Applicant's federal Universal Service obligations.

News Releases: News releases pertaining to this RFP, grant award, or the project shall not be made without prior documented approval from the Board.

Equal Opportunity: Any Applicant submitting a proposal shall be an Equal Opportunity Employer. During the duration of the performance of the grant agreement, the selected Applicant (s) will be expected to comply with all federal, state, and local laws respecting nondiscrimination in employment.

Funding: All Grant awards are subject to the availability of funding.

Payment: The Board will pay for actual work performed and expenses incurred under a project up to the specified grant amount. Payment will be made on a performance schedule detailed to be detailed in the grant agreement

ADDENDUM:

Vermont Community Broadband Board Outside Plant Design (OSP) Requirements a

This document covers the Construction Grant requirements. All entities applying for grants must comply with the following

- Grantee must provide before construction begins a clear constructable design with standards that cover the following:
 - Fiber sparing and reservation recommendations to assist with outside plant equipment and fiber sizing
 - Optical extents (Budgets)
 - Account for future and/or unplanned growth including public safety and mobile wireless. A minimum of 36 (3 tubes) of spare is required. The smallest size number of fibers on a route will be 48. This does not apply to post splitter fiber (end runs and driveways)
 - Power supply and back-up requirements for active locations

- Grantee design must include every demand point and include:
 - Assigned specific and accounted for PON splitter and OLT port for every identified demand point so that provisioning and activation can be done with minimal truck rolls or future design requirements.
 - Drop distance and route for every demand point should be known so that the impact to the material requirements and optical budget is understood.
 - Identification of slack budgets and loop locations.

- Grantee's design deliverables must include detailed planned optical measured loss (dB) calculations. These planned losses will be compared to actual losses during construction to ensure they fall within the Optical Extents budget.

- Grantee's detailed splice diagrams must be geospatially accurate and provide estimated measured loss at every connection point so that network performance can be assured and documented.

- Grantee must propose integration locations for:
 - Geographic redundance
 - Connections with adjacent CUD networks
 - Connections with private networks, including leased fiber routes

- Grantee must provide before construction begins all design mapping deliverables in a single GIS (ESRI Preferred) format including:
 - Online and downloadable field engineering data
 - Online and downloadable detailed construction maps
 - Bills of materials linked to location
 - As-builts reported monthly

VI. Review of construction grant– Discussion

Page one is okay.

On page two, the Board discussed the requirement for Business Plans. It was agreed that the Business Plans need to be updated in anticipation of construction grants. The estimated cost of make ready work will need to be included. The business plans, either the CUDs, CUD partners, or towns working with telecommunication partners, will be evaluated for sustainability.

Incidental overbuild was then discussed. The Federal Infrastructure bill states that up to 20% addresses will be able to be picked up when a network is constructed to serve underserved locations. ECFiber was allowed to weigh in on this issue. ECFiber believes that incidental overbuild should be evaluated based on miles, not addresses. The Board consensus is that incidental overbuild will be evaluated by each phase, or grant application based on locations served.

The Board looked at the proposed allocation table that was included in the proposed RFP. Staff then presented a chart showing the differences between CUD share by underserved addresses (below 25/3 and wireline connections), total highway miles, and highway miles with served areas removed to show the differences in percentages, as follows:

CUD	Underserved	Road Miles	Cable areas removed
Addison	13.5%	9.0%	9.0%
CVFiber	9.7%	12.0%	10.5%
DVFiber	10.4%	13.0%	13.5%
ECFiber	8.1%	6.0%	10.0%
Lamoille	5.9%	6.0%	8.5%
NEK	22.2%	26.0%	24.8%
Northwest	11.5%	11.0%	7.8%

Otter Creek	5.8%	9.0%	4.9%
Southern Vermont	4.2%	7.0%	4.6%

The Board agreed that the table included in the proposed construction RFP was good.

The time period for each phase of grant was discussed. The recommended time period is 18 months. The Board is concerned that a CUD could come in and request a large enough percentage of the total grant money available that it would not leave enough for other CUDs. It was agreed that the 18 month period for the grant application should be good.

A Board member expressed concern that the term Universal Service Plan has not been defined. It was agreed that this will be evaluated on a case-by-case basis.

The question of how the CUDs determine that collaboration with non-CUD towns ensued. It was agreed that this would be evaluated on a case-by-case basis.

Staff recommended that the question on how to deal with the problem of the language of ACT 71 that requires the state to take over a network in the unlikely event of CUD failure. It was agreed that the Legislative Working Group of the Board will take this issue and recommend a solution.

The Board agreed that Section I on page 5 should be deleted.

The Board agreed to take a break at 2:31pm. Board resumed meeting at 2:38pm.

The Board then expressed their right to evaluate contractors where necessary. Accountability of sub-contractors was then discussed. The board then worked on the language of Contract Management (section 3 on page 10). The Board recommended that the staff come up with new language for this section based on the Outside Plant Requirements.

3:09 pm the board lost the quorum. A recommendation was made to conclude the meeting as a member will not return until 3:30pm. It was recommended that the board table the discussion until the next meeting. The Board is stopping at section 5 bullet 2.

Public comments were then allowed;

Michael Loucy from Burlington Telecomm discussed concerns about supply chain issues and suggested that the Board consider these issues as part of the grants.

David Jones from DVFiber raised concerns about the requirement that the Board has placed to respond to the construction RFPs due to the level of detail preferred.

Magna Dodge from DVFiber expressed concern about applying for grants without knowing the true material costs. She requested the Board come up with a time-line for applications and consider allowing CUDs to stage their applications.

A Board member returned, and the board resumed with a quorum at 3:17pm.

Christa Shute from NEK Broadband expressed agreement on the concerns raised above. NEKs concern is that they could lose the 2022 construction season. They would like an application that allows the purchase of materials and make ready construction that is broken out from the larger application.

Will Anderson from VCUDA spoke and stated that the organization will come up with a response to the RFP design in the next few weeks. VCUDA wants the ability to apply for make-ready early. VCUDA encouraged the Board to reconsider DVFiber's proposal.

David Jones from DVFiber then spoke and reiterated its concern that make-ready construction funds need to be allowed in the pre-construction grant. DVFiber suggested that the make-ready be enabled in phases. As soon as the CUDs have a coherent set of poles established, they want to be able to get the work started.

Christa Shute from NEK Broadband spoke and indicated that they already have applied for poles. NEK Broadband if the CUD is demonstrating the order of events, the areas that the applications are going in for, they would like to be able to access make-ready construction to get through at least a quarters worth of work. The CUDs would like to apply for make ready, however the entire RFP would be too cumbersome to get through in a short period of time.

VCUDA then requested the Board rescind the requirement for make-ready construction to be part of the construction grant.

The Board re-stated that the intent is for make-ready construction to be part of the construction RFP. The Board suggested that the CUDs can consider some make-ready costs in the pre-construction grants as long as it is within the overall pre-construction allocations by CUD. The Board requires that the CUDs stay within the overall \$30 million budget.

The Board recommends that staff come back with a proposal at the next meeting.

Motion to Adjourn. Holly motioned, Patty seconded. Motion passed. Meeting adjourned at 4:02