

# VERMONT DEPARTMENT OF PUBLIC SERVICE

## REQUEST FOR PROPOSALS

COVID-19 Emergency Connectivity Initiative and Get Vermonters Connected Now Initiative

### REQUEST FOR PROPOSAL OVERVIEW

This request for proposal (“RFP”) is issued by the Vermont Department of Public Service (“Department”) in response to the COVID-19 Public Health Emergency. The RFP invites sealed bids from broadband *Internet Service Providers* (hereinafter “Respondents”) to extend broadband service to “underserved” locations throughout Vermont, as defined in 30 V.S.A. § 7515b(a), as amended by H.966. The intent of this program is to address the lack of connectivity experienced by Vermonters, especially children, patients, and teleworkers, during the COVID-19 Emergency.

This RFP seeks proposals for two programs: the Connectivity Initiative and the Get Vermonters Connected Now Initiative. The successful Respondents will submit bids to serve designated underserved locations with broadband service at speeds of at least 25 megabits per second (Mbps) download and 3 Mbps upload (“25/3 Mbps”). Awards will be made as grants reimbursing the Respondent for actual expenses incurred. H.966, which establishes the “Get Vermonters Connected Now Initiative” (“GVCNI”) is funded by the Coronavirus Relief Fund and subject to its restrictions. H. 966, through the GVCNI directs the Department to prioritize underserved locations with K-12 students, teleworkers, and those with identified telehealth needs. The Department will publish a list of prioritized addresses and will periodically update that list during the RFP process.

**Background:** The Department is an executive branch an agency charged with representing the public interest in energy, telecommunications, water, and wastewater utility matters. The Department is responsible for “solicit[ing] proposals from service providers . . . to deploy broadband”<sup>1</sup> to eligible locations throughout Vermont. These designated locations are eligible for funding through the Vermont Universal Service Fund’s Connectivity Fund. In conjunction with this RFP, the Department is publishing a list of locations eligible to receive support from the

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<sup>1</sup> See 30 V.S.A. § 7515b(b).

Connectivity Fund. **There is \$12 Million available for grants, which will be distributed in three funding rounds of \$4 Million each, beginning July 30, 2020.**

**RFP Overview:** The Department seeks proposals from broadband service providers to provision broadband Internet service to underserved locations on the Department’s list of eligible locations. The Department has identified each underserved location by street address and its E-911 site ID number. Respondents 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 Respondent. The Respondent will then be required to offer broadband service at speeds of at least 25/3 Mbps at each location identified in the grant award. Respondents are required to offer, either directly or through an affiliate, retail service to those locations. The Department anticipates selecting more than one proposal, but selection will be dependent on available funding and the quantity and quality of submissions. Proposals will be accepted in three rounds beginning July 30, 2020. Proposals not selected for awards will roll over and be considered for funding in subsequent funding rounds. This RFP includes two different types of projects, those funded through the “Get Vermonters Connected Now Initiative” and those funded through the “Connectivity Initiative.” Both the Connectivity Initiative and GVCNI projects must complete construction and provide service to end users by December 30, 2020. The Department is required to make payments to providers no later than December 20, 2020.

**Eligible Locations:** The Department is authorized by law to publish annually a list of census blocks eligible for Connectivity Initiative funding based on the Department’s mapping data.<sup>2</sup> The Department has released a list of eligible census blocks totaling 69,899 statewide. **H.966 directs the Department to prioritize locations with K-12 students, those with telehealth needs, and teleworkers. To that end, the Department is collecting address data on these constituent groups and will prioritize projects seeking to serve these locations. The Department will publish a list of H.966 GVCNI prioritized addresses and will periodically update that list during the RFP process.**

All locations included in this round of funding are considered “conditionally eligible.” A Conditionally Eligible Location is any location that has not been verified to be served or unserved at 25/3 Mbps or may be eligible for service through another federal or state funded program. Prior to issuing an award, the Department may verify that locations included in proposals are in fact not served at 25/3 Mbps. More information on the Connectivity Initiative, including a map of eligible locations, can be found by visiting the Department’s website at <http://publicservice.vermont.gov/>

**Get Vermonters Connected Now Initiative:** H.966, Section 13(c) establishes the Get Vermonters Connected Now Initiative (“GVCNI”). GVCNI provides financial assistance to Internet service providers to offset the customer costs of fiber-to-the-premises installations, which include underground conduit installations, where required, and service drops. The Department will prioritize projects involving installation of underground conduit, where required, that would result in broadband access to low-income households with remote learning, telehealth, and telework

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<sup>2</sup> <https://publicservice.vermont.gov/content/broadband-availability>

needs.

The Department may disburse an award for advance payment of capital costs provided that the Department determines such funding is necessary for project commencement. The Department may retain an award of financial assistance, or a portion thereof, until it determines that eligible expenses have been incurred and properly documented.

Awardees may seek advance payment of funds in accordance with the language set forth by H.966 Section 13(c). In their proposals, Respondents must indicate which portions of the proposed project will require payment in advance. Additionally, in their proposals, Respondents must provide an anticipated “in-service” date for each GVCNI proposed project.

**Satellite Service:** Satellite service providers interested in responding are encouraged to review 30 V.S.A. § 7515b(a), which defines an “unserved location” as one being served exclusively by satellite or dial-up service.

**Data Caps and Throttling:** The Department will not award funds to Respondents who, as part of their basic internet subscription package offered to eligible addresses identified for funding through this program, provide less than 500 GB of un-throttled data per month. Respondents whose basic internet subscription package offered to eligible addresses identified for funding through this program provides less than one (1) Terabyte of monthly un-throttled data will have their proposals penalized in scoring.

**Wireless and DSL:** For wireless and DSL providers, the grantee must provide proof of deployment in the form of a speed test performed at each funded location, demonstrating service at 25/3 Mbps, regardless of whether a customer has elected to subscribe at that location. If the company does not provide a speed test result for a location, it will forfeit the funding for that location on a pro-rata basis. If it fails to provide speed test data showing throughput of at least 25/3 Mbps for more than 15% of the locations in the grant, it will forfeit the entire grant funding. If the grantee was provided funds before deployment, this provision may require the awardee to reimburse these funds.

**VELCO & FirstNet:** Respondents should indicate whether they plan to coordinate with existing stakeholders and initiatives, including VELCO and FirstNet, to leverage private and public assets to the greatest extent possible.<sup>3</sup>

## RFP PROCESS

**Work to be Performed:** The Department, through this RFP, intends to extend broadband service to locations identified in the Department’s current list of eligible addresses. To that end, the Department seeks proposals to serve every identified underserved location in eligible areas. The Respondent will be required to take whatever steps are necessary, including constructing, laying

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<sup>3</sup>See H.966, Section 13(l).

conduit, leasing, or purchasing facilities, to serve these locations with broadband Internet access at speeds of at least 25/3 Mbps. Respondents will be required to complete construction and offer service to those locations prior to December 30, 2020.

**Respondents should clearly identify those elements of their project(s) for which they seek funding through the Connectivity Initiative and that for which they seek funding through GVCNI.**

Respondents 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](https://aoa.vermont.gov/sites/aoa/files/Bulletins/Bulletin_5_eff12-26-14.pdf).

**Communication Regarding this RFP:** Department staff will not communicate directly with Respondents 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 [psd.telecom@vermont.gov](mailto:psd.telecom@vermont.gov) or to the following mailing address:

Connectivity Initiative  
Department of Public Service  
112 State Street, Floor 3  
Montpelier, Vermont 05602

Respondents 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 Department, to all who have submitted a notice of intent to the Department.

The Department reserves the right to revise any part of this RFP at any time prior to the deadline for submission. The Department will post any changes to its website. It is the obligation of Respondents to check the Department’s website for updates and changes.

**Notice of Intent to Respond:** Respondents should notify the Department of their intent to respond to this RFP by sending an email with a subject of “Intent to Respond: RFP – CI 2020” by July 21<sup>st</sup>, 2020 at 4:30 p.m. to [psd.telecom@vermont.gov](mailto:psd.telecom@vermont.gov). Failure to notify the Department does not disqualify a Respondent from bidding, but will mean said Respondent will not directly receive updates or notices from the Department regarding the RFP.

**RFP Timetable:** The RFP process will adhere to the following schedule:

July 17, 2020	Request for Proposals issued
July 21, 2020	Notice of intent due to the Department by 4:30 p.m.
July 21, 2020	Questions (if any) due in writing from Respondents

July 22, 2019            Written answers to Respondents' questions distributed to all Respondents who have filed notice of intent

July 30, 2020            Round 1 Proposals accepted no later than July 30, 2020 by 4:30 p.m.  
Round 2 Proposals Accepted no later than August 14, 2020 by 4:30 p.m.  
Round 3 Proposal accepted no later than August 21, 2020 by 4:30 p.m.

**Proposal Pricing:** Respondents must be able to provide a total, "not-to-exceed," turn-key price for the project. Estimated costs will not be accepted. The Department may, at its discretion, review proposals under a cost per-location basis. Price estimates will not be accepted.

**Proposal Submission:** Proposals will be received in three rounds, starting July 30. Decisions will be made after submission deadlines. Proposals should be sent via email to [psd.telecom@vermont.gov](mailto:psd.telecom@vermont.gov) in PDF format. **Proposals should be accompanied by a spreadsheet of proposed addresses, along with E-Site ID's (E-911 locations).**

It is the responsibility of the Respondent to assure delivery of proposal(s) on or before the due date and time.

**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 Respondent and Department that shall be in accordance with Bulletin 5. Respondent shall not commence work on its proposed project until an agreement is in place. Construction of the project must be completed by December 30,<sup>4</sup> 2020. The Department shall pay for projects substantially completed by December 20, 2020.

**Oral Presentations/Site Visits:** Respondents may be asked to make oral presentations or to make their facilities available for a site inspection by the Department. Any clarifications to a bid response

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<sup>4</sup> The Department has some discretion to allow extensions of time beyond December 30, 2020. Guidance released by the United States Department of Treasury states as follows: "[I]n recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient's control." *Coronavirus Relief Fund Guidance for State, Local, and Tribal governments*, June 30, 2020. Nevertheless guidance also provides restrictions on expenditures related to broadband that still apply: "the cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments." *Coronavirus Relief Fund Frequently Asked Questions*, July 8, 2020 at 7. <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf> (Last visited July 10, 2020)

resulting from these sessions will be in writing and will be incorporated in the bid response. The decision by the PSD to invoke this provision will be made after careful consideration of the health and safety risks of making such a visit. Staff will follow all official guidance concerning the COVID-19 health emergency.

## **ELEMENTS OF PROPOSAL**

In response to this RFP, each bidder is required to submit a proposal organized into five clearly identified sections:

1. Transmittal letter
2. Certification
3. Index
4. Elements of Proposal
  - A. General Information
  - B. Project Description
    - i Connectivity Initiative Request
    - ii Get Vermonters Connected Now Request
  - C. Price Proposal
5. Attachments (if applicable)

**Respondent Certifications:** Respondents shall certify the following:

1. Each person signing a proposal certifies that he or she is the person in the Respondent'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. Personnel: Respondents shall not knowingly engage on a full-time, part-time, or other basis (except on a volunteer basis) during the period of each contract or agreement, with any Department personnel or third party involved in the preparation of this RFP, or the selection and/or award of any contract or agreement.

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

### *1. Responding Company*

If a Respondent 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 a Respondent company is independently owned, the name, main office address, and tax identification number of the bidding company shall be provided in the proposal(s).

2. *Broadband Service History*

Respondent shall indicate experience provisioning broadband Internet to residential and business customers. Respondent should be able to demonstrate a history of deploying broadband technologies in rural or other hard to serve areas.

3. *Subcontractors*

Planned use of subcontractors shall be clearly explained in the proposal(s), including terms of any subcontract. Respondents 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 Department will be with the Respondent.

4. *Contract Management*

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

5. *Non-Collusion*

Respondents 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 Respondent and was not knowingly discussed prior to submission, directly or indirectly, with any other Respondent or with any competitor; and no attempt was made by the Respondent to induce any other person, partnership, or corporation to submit or withhold a proposal for restricting competition.

6. *Financial History*

The Department 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.

**Project Description:** The Project description must contain the following information:

1. Each proposal should identify the eligible locations that the Respondent intends to serve;
2. Each proposal should identify the anticipated "in service" date (by location) the Respondent proposes;
3. Each proposal should define the type of technology that will be deployed;
4. Each proposal should list all retail prices for service and include all tiers of service. Prices should include additional fees (such as data overage charges, and equipment rentals) that could be assessed against consumer accounts;
5. 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. The minimum and maximum data transfer rates of the broadband service;
7. A copy of the terms and conditions that will govern Respondent's retail broadband Internet service. The terms and conditions should include time frames for setting up service once it is ordered and repair and/or restoration of service in the event of an outage; and
8. Any information the Respondent deems relevant to demonstrate the technical, financial, and economic feasibility of the project.

**Project Price:** The proposal should clearly state a total, not-to-exceed price. The Department will use this price in scoring and comparing competing proposals. The Department will award up to \$2 million per project. Respondents seeking to do large projects are encouraged to break projects into smaller, discrete sections that can be funded on an individual basis.

## PERFORMANCE

The Respondent 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 at least one year from entering into an agreement with the Department, the Respondent must perform the following:

1. Offer broadband Internet access service with speeds of least 25/3 Mbps. The Respondent may also offer broadband service at lower tiers of service, but consumers must be able to purchase broadband service at speeds of at least 25/3 Mbps. Speed guarantees are subject to verification by the Department once service is offered.
2. Offer service to the identified locations at the same rates and terms and conditions offered to Respondent'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. Offer a minimum of 500 GB of un-throttled data per month to every eligible location identified in the award for a period of at least five (5) years from the date the service is offered to eligible locations.
5. 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.

## PROPOSAL REVIEW AND SELECTION

**Review Criteria:** Proposals will be reviewed by Department staff using the scoring matrix provided. Selection of the winning proposal(s) will be made based on the sole opinion of the Department that the proposal(s) submitted promote the general good of the State. Under 30 V.S.A. § 7515b, the Department is required to "give priority to proposals that reflect the lowest cost of providing services to identified locations." However, H.966 directs the Department to consider the following:

- (1) Any new services funded in whole or in part by monies from this Program shall be capable of speeds of at least 25 Mbps download and 3 Mbps upload; however, when the technology is feasible, priority shall be given to services that are capable of 100 Mbps symmetrical service.

- (2) The [Department] Commissioner shall prioritize projects involving installation of underground conduit, where required, that would result in broadband access to low-income households with remote learning, telehealth, and telework needs.
- (3) The Department will lend preference to projects that target E-911 locations identified through a Department of Public Service surveys as having an unmet need for broadband to promote distance learning, telehealth, and telework during the public health emergency.
- (4) The Department will lend preference to projects designed to serve economically challenged households or communities.
- (5) The price to consumers of services.
- (6) The proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service.
- (7) Whether the proposal would use the best available technology that is economically feasible.
- (8) The availability of service of comparable quality and speed.
- (9) The objectives of the state's Telecommunications Plan.<sup>6</sup>

The Department reserves the right to make a selection without further discussion of proposals received. Therefore, it is important that each proposal be submitted in the most complete and accurate manner possible.

**Partnerships:** The primary consideration under statute is cost per address. Therefore, in an effort to maximize effectiveness of this RFP, the Department will favorably consider proposals that utilize alternative funds as a match. Such matching funds can include private, local, state, or federal funding sources. Respondents shall itemize their own contribution and that of third parties in their proposal.

**Rejection of Proposal:** The Department 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 Respondents:** Upon completion of the evaluation process, the Department may select one or more Respondents with which to simultaneously negotiate grant agreements, 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 Department is successful in negotiating with one or more Respondents, the Department will issue a notice of award. In the event the Department is not successful in negotiating a grant agreement with a selected Respondent, the Department reserves the option of negotiating with another Respondent or choosing not to issue an award.

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

<sup>6</sup> See 30 V.S.A. § 7515b. The Vermont Telecommunications Plan is available at [://publicservice.vermont.gov/publications-resources/publications/telecom\\_plan](http://publicservice.vermont.gov/publications-resources/publications/telecom_plan).

**Connectivity Advisory Board Recommendation:** Prior to issuing a final award, the Department will notify the Telecommunications & Connectivity Advisory Board of the pending grant awards.

**Grant Award:** The basis for the selection of the winning respondent(s) will be made based on the sole opinion of the Department 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 Department 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 Respondent or an officer of the Respondent legally authorized to execute contractual obligations.

**Limited Liability:** The Department assumes no liability with respect to this RFP or any matters related thereto. All prospective Respondents and their assigns and successors, by their participation in the RFP process, shall indemnify, save and hold the Department 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 Respondent to the Department and any action brought by an unsuccessful prospective Respondent.

**Agreement Cancellation:** The Department 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 Department and Respondent 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 Department and the State of Vermont. All submitted responses may be reviewed by any person after the grant agreement has been signed. The Department 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 Respondent does not eliminate this right.

**Warranty:** As a condition of delivery of the grant funds, Respondent warrants to the Department that:

- (i) the facts and estimates provided in its response to the Connectivity Initiative request for proposal are, to the best of Respondent's knowledge, correct and true;

- (ii) grant funds are economically necessary to fulfill Respondent's proposal, build, or produce the grant project, and operate the required services to the locations listed in Respondent's proposal, and;
- (iii) Respondent does not already provide service of at least 25/3 Mbps to the locations listed in the Respondent's proposal.

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

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

**Equal Opportunity:** Any respondent submitting a proposal shall be an Equal Opportunity Employer. During the duration of the performance of the grant agreement, the selected Respondent(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 Department (through COVID-Response Accelerated Broadband Connectivity Program) will pay for actual work performed and expenses incurred under a project up to the specified grant amount. Payment will be made after a project is completed and the Department has received certification from the Respondent(s) that service is available and being offered to every location identified in the award, and the speed of service is at least 25/3 as independently verified through a speed test. Payment will be made within 30 days of Department receipt of the certification from Respondent.

**Other Terms and Conditions:** Respondent will be responsible for all other terms and conditions listed in the Bulletin 5 model Grant Agreement, Attachment A – Scope of Work To Be Performed, Attachment B – Payment Provisions, Attachment C – Customary State Grant Provisions, and Attachment D – Other Provisions.

**Attachments:** Attachments B, C, D, and sample scoring matrix are attached to this RFP.